

ORDINANCE NO.: 5059

AN ORDINANCE to create Sections 44-115 and 44-116 and to amend the Parking Violation Table contained in Section 44-1 of the Code of Ordinances of the City of La Crosse regarding the immobilization, removal, impoundment and disposal of motor vehicles based on non-moving violations and for unregistered vehicles.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Section 44-115 is hereby created to read as follows:

44-115 Immobilization; removal; impoundment; and disposal of motor vehicles based on nonmoving traffic violations.

(a) Definitions.

The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in This Subsection, except when the context clearly indicates a different meaning:

Habitual Parking Violator means a person who has received, more than 60 days previously, 5 or more citations for nonmoving traffic violations from the City of La Crosse that remain unpaid and for which the person has not scheduled an appearance in court in response to the citations.

Immobilization device means a device or mechanism which immobilizes a motor vehicle by locking around a wheel, thereby making the motor vehicle inoperable..

Nonmoving Traffic Violation is any parking of a vehicle in violation of a statute or ordinance.

Owner means a person who holds the legal title of a vehicle, except that if legal title is held by a secured party with the immediate right of possession of the vehicle vested in the debtor, the debtor is the owner for purposes of this chapter. Additionally, with respect to a vehicle that is registered, or required to be registered, by a lessee of the vehicle under this section, includes the lessee of the vehicle.

Parking Enforcer means a traffic officer or any other person who enforces nonmoving violations and who is employed by a municipality including, but not limited to all sworn police officers of the City of La Crosse.

Unregistered motor vehicle means any motor vehicle that is located upon a highway and that is not displaying valid registration plates, a temporary operation plate, or other evidence of registration as provided under Wis. Stat. § [341.18 \(1\)](#) for the vehicle's current registration period or for a registration period for the vehicle that expired within the immediately preceding 31 days.

(b) The City of La Crosse Police Department shall have the authority to immobilize, remove, impound, and dispose of vehicles owned by Habitual Parking Violators. The

Police Department shall have this authority if the City has cited the owner of the motor vehicle for 5 or more nonmoving traffic violations that, at the time of the vehicles immobilization or removal, occurred more than 60 days previously and for which the owner has neither paid the forfeiture for each of these violations nor scheduled an appearance in court in response to each of these citations.

- (c) The City of La Crosse shall comply with the following notice provisions before immobilization or removal:
- (1) The City has mailed to the last-known address of the owner at least one notice that specifies, for each citation counted under subsection 44-115(b), the date on which the citation was issued, the license plate number or vehicle identification number of the vehicle involved, the place where the citation may be paid, the amount of the forfeiture, and the means by which the citation may be contested.
 - (2) This notice shall also inform the owner that any motor vehicle owned by him or her may be immobilized with an immobilization device or removed and impounded if, within 60 days after the owner has received 5 or more citations and at the time the vehicle is immobilized or removed and impounded, the owner has neither paid the forfeiture for each violation that occurred more than 60 days previously nor scheduled an appearance in court in response to each citation issued more than 60 days previously for which the forfeiture has not been paid.
 - (3) This notice may be combined with any other notice provided by the City.
- (d) Any parking enforcer who discovers any motor vehicle parked either legally or illegally on any portion of the street, highway, or publicly owned or leased parking facility within the City limits may cause the vehicle to be immobilized with an immobilization device or removed to a suitable place of impoundment or both.
- (1) Upon immobilization or removal of the motor vehicle, the officer, or parking enforcer shall notify the City's Chief of Police of the location of the immobilized or impounded motor vehicle and the reason for the immobilization or impoundment. Upon causing the removal of the motor vehicle by a towing service, the officer or parking enforcer shall, within 24 hours of ordering the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle, unless the officer or parking enforcer is employed by the City and the City has entered into a towing services agreement which requires the City to provide notice to such owner and lienholders of the towing.
 - (2) The City may, in its discretion, contract with a 3rd party for the performance of services related to immobilization or removal of motor vehicles. The services shall be rendered only at the request of a parking enforcer.

- (3) Reasonable fees for immobilization, removal, towing and storage will be charged under this section and established by resolution.
- (e) Any parking enforcer or 3rd-party contractor must place in a highly visible location and a reasonably secure manner on the vehicle, at the time of the immobilization, a written notice that does all of the following:
- (1) Warns any driver of the vehicle that the immobilization device has been placed on the vehicle.
 - (2) Specifies, for each citation counted under subsection 44-115(b), the license number or vehicle identification number of the vehicle involved, the place where the citation may be paid, and the means by which the citation may be contested, or provides a telephone number at which an individual is available to provide this information 24 hours a day.
 - (3) States the amount of the removal fee under subsection 44-115(d)(3), if any, that is in addition to any amount required to be paid as specified in the notice under subsection 44-115(c)(1).
- (f) For any vehicle immobilized in a time-limited, legal parking space, the City shall be prohibited from issuing, after the vehicle's immobilization, any citation for a time-limited nonmoving traffic violation for the vehicle within the first 4 hours after the vehicle is immobilized.
- (g) If the vehicle is immobilized, the City, or its 3rd-party contractor, shall remove the immobilization device or provide sufficient information to allow the vehicle owner to remove the immobilization device without undue delay, not to exceed 3 hours, after receiving notice that the person has satisfied the requirements for release of the motor vehicle.
- (h) The Police Department or any 3rd-party contractor will provide, at the time of immobilization, a phone number and web address to gain compliance under this section to any vehicles under this section. The phone number will be monitored 24 hours a day and 7 days a week. The City shall accept payment in person during normal business hours at the City Treasurer's Office. The City shall also accept payment online and via telephone 24 hours a day 7 days of week. The City shall promptly confirm whether the requirements of release of a motor vehicle have been made and shall release any vehicle without undue delay, not to exceed 3 hours from confirmation of completion of the requirements.
- (i) Any motor vehicle immobilized or impounded under this section, shall remain immobilized or impounded until lawfully claimed or disposed of as provided in this subsection and subsection 44-115(k) or 44-115(l).

- (1) The owner of a motor vehicle that is immobilized under this section may secure release of the motor vehicle by doing all of the following:
 - i. Paying any removal fee provided under subsection 44-115(d)(3).
 - ii. Paying all forfeitures specified in each notice under subsection 44-115(c)(1) or scheduling an appearance in court in response to, or a combination of paying forfeitures and scheduling appearances with respect to, all citations counted under subsection 44-115(c)(1).
 - (2) The owner of a motor vehicle that is removed and impounded under this section may secure release of the motor vehicle by doing all of the following:
 - i. Paying any charges provided under subsection 44-115(d)(3).
 - ii. Paying all forfeitures specified in each notice under subsection 44-115(c)(1) or scheduling an appearance in court in response to, or a combination of paying forfeitures and scheduling appearances with respect to, all citations counted under subsection 44-115(c)(1).
 - (3) If an owner secures release of a motor vehicle under subsection 44-115(i)(1) or 44-115(i)(2) by scheduling an appearance in court and thereafter fails to appear or fails to comply with any court order with respect to any citation counted under subsection 44-115(c)(1) for which the forfeiture has not been fully paid, including failure to satisfy in full any court-ordered payment plan or other agreement approved by the court, the court may order a law enforcement officer, or an authorized employee or contractor of the City, to immobilize the motor vehicle involved in the nonmoving traffic violations or the City may cause the motor vehicle to be immobilized or removed and impounded as provided under subsection 44-115(b) and (c). If the court orders the motor vehicle immobilized, upon compliance with the court order, the court shall order a law enforcement officer, or an authorized employee or contractor of the City, to remove the immobilization device.
 - (4) Notwithstanding subsection 44-115(i), if any motor vehicle immobilized is an unregistered motor vehicle or an abandoned motor vehicle, the City may take action with respect to sections of this Code related specifically to unregistered motor vehicles or abandoned motor vehicles.
- (j) The owner of any motor vehicle immobilized or removed and impounded as provided under this section is responsible for all charges associated with immobilizing, removing, impounding, and disposing of the motor vehicle, as provided under subsection 44-115(d)(3). Charges not recovered from the sale of the motor vehicle may be recovered in a civil action by the City against the owner.
 - (k) Any motor vehicle in violation of this section may be immobilized with an immobilization device or impounded until lawfully claimed or disposed of under subsection 44-115(l) except that if it is deemed by a duly authorized City

representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the motor vehicle may be junked or sold by the City prior to expiration of the impoundment period upon determination by the City's Chief of Police having jurisdiction that the motor vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete motor vehicles in excess of 19 model years of age shall be disposed of in accordance with subsection 44-115(l).

- (l) Any motor vehicle which is impounded and not disposed of under subsection 44-115(k) shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of record, if known or readily ascertainable, to permit reclamation of the motor vehicle after payment of accrued charges and, for reclamation of the motor vehicle by the owner, in compliance with subsection 44-115(i). Such notice shall set forth the year, make, model, and serial number of the motor vehicle and the place where the motor vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the motor vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the motor vehicle under this section shall be considered a waiver of all right, title and interest in the motor vehicle and a consent to the sale of the motor vehicle. Each retained motor vehicle not reclaimed by its owner or lienholder may be sold. The City may dispose of the motor vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is considered inadequate by a duly authorized City representative, in which event all bids may be rejected. If all bids are rejected or no bid is received, the City may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the motor vehicle. Any interested person may offer bids on each motor vehicle to be sold. A public notice shall be posted at the Police Department. The posting of the notice at the Police Department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of a motor vehicle, the City shall supply the purchaser with a completed form designed by the department enabling the purchaser to obtain a regular certificate of title for the motor vehicle. The purchaser shall have 10 days to remove the motor vehicle from the storage area, but shall pay a reasonable storage fee established by the City for each day that the motor vehicle remains in storage after the 2nd business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the motor vehicle and the motor vehicle shall be considered to be abandoned and may be sold again. Any listing of motor vehicles to be sold by the City shall be made available to any interested person or organization which makes a written request for such list. The City may charge a fee for the list.
- (m) Within 5 days after the sale or disposal of a motor vehicle as provided in this subsection, the City shall advise the Wisconsin Department of Transportation of the sale or disposition on a form supplied by the Department of Transportation.
- (n) No unregistered vehicles shall be parked on any highway within the City of La Crosse. The City may cite, immobilize, remove, impound and dispose of unregistered

motor vehicles located upon a highway in accordance with the policies and procedures adopted under Wis. Stat. § 341.65, which is hereby adopted by reference.

- (o) No person shall tamper, remove, disconnect or otherwise circumvent the operation of an immobilization device except upon release of the motor vehicle to the owner or to make necessary repairs to a malfunctioning immobilization device.

SECTION II: Section 44-116 is hereby created to read as follows:

44-116 Immobilization; removal; impoundment; and disposal of motor vehicles based on unregistered motor vehicles.

- (a) Definitions.

The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in This Subsection, except when the context clearly indicates a different meaning:

Immobilization device has the same definition as provided in subsection 44-115(a).

Owner has the same definition as provided in subsection 44-115(a).

Parking Enforcer has the same definition as provided in subsection 44-115(a).

Unregistered motor vehicle has the same definition as provided in subsection 44-115(a).

- (b) It shall be unlawful within the City for an unregistered motor vehicle to be located upon a highway. The City shall have the authority to cite, immobilize, remove, impound, and dispose of unregistered motor vehicles as defined above located upon a highway.
- (c) No person shall tamper, remove, disconnect or otherwise circumvent the operation of an immobilization device except upon release of the motor vehicle to the owner or to make necessary repairs to a malfunctioning immobilization device.
- (d) Any parking enforcer, who discovers any unregistered motor vehicle located upon any highway may cause the motor vehicle to be immobilized with an immobilization device or removed to a suitable place of impoundment. Upon immobilization or removal of the motor vehicle, the parking enforcer shall notify the City's Chief of Police of the location of the immobilized or impounded motor vehicle and the reason for the immobilization or impoundment. Upon causing the removal of the motor vehicle by a towing service, the parking enforcer shall, within 24 hours of ordering the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle.
- (e) The owner of any unregistered motor vehicle is responsible for all costs of immobilizing, impounding and disposing of the motor vehicle. Costs not recovered

from the sale of the motor vehicle may be recovered in a civil action by the City against the owner. Whether or not the City recovers the cost of towing and enforcement, the City shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment. Reasonable fees for immobilization, removal, towing and storage will be charged under this section and established by resolution.

(f) Notwithstanding subsection 44-116(h), the owner of an unregistered motor vehicle that is immobilized with an immobilization device or impounded under this subsection may secure release of the motor vehicle by paying any forfeiture imposed for violation of the City ordinance and the reasonable costs of immobilizing or impounding the motor vehicle or both, and providing satisfactory evidence of one of the following:

(1) That the motor vehicle is currently registered in the State of Wisconsin.

(2) That a complete application for registration for the motor vehicle, accompanied by the required fee has been delivered to the Wisconsin Department of Transportation or deposited in the mail properly addressed with postage prepaid.

(3) That the motor vehicle is exempt from registration under Wis. Stats Ch 341.

(g) Any motor vehicle in violation of this Section may be immobilized with an immobilization device or impounded until lawfully claimed or disposed of subsection 116-44(h) except that if it is deemed by a duly authorized municipal representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the motor vehicle may be junked or sold by the City prior to expiration of the impoundment period upon determination by the City's Chief of Police that the motor vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete motor vehicles in excess of 19 model years of age shall be disposed of in accordance with subsection 116-44(h).

(h) Any motor vehicle which is impounded and not disposed of under subsection 44-116(g) shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of record, if known or readily ascertainable, to permit reclamation of the motor vehicle after payment of accrued charges and, for reclamation of the motor vehicle by the owner, in compliance with subsection 44-116(f). Such notice shall set forth the year, make, model, and serial number of the motor vehicle and the place where the motor vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the motor vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the motor vehicle under this section shall be considered a waiver of all right, title and interest in the motor vehicle and a consent to the sale of the motor vehicle. Each retained motor vehicle not reclaimed by its owner or

lienholder may be sold. The City may dispose of the motor vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is considered inadequate by a duly authorized City representative, in which event all bids may be rejected. If all bids are rejected or no bid is received, the City may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the motor vehicle. Any interested person may offer bids on each motor vehicle to be sold. A public notice shall be posted at the office of the Police Department. The posting of the notice at the police department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of a motor vehicle, the City shall supply the purchaser with a completed form designed by the Department of Transportation enabling the purchaser to obtain a regular certificate of title for the motor vehicle. The purchaser shall have 10 days to remove the motor vehicle from the storage area, but shall pay a reasonable storage fee established by the resolution for each day that the motor vehicle remains in storage after the 2nd business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the motor vehicle and the motor vehicle shall be considered to be abandoned and may be sold again. Any listing of motor vehicles to be sold by any the City shall be made available to any interested person or organization which makes a written request for such list. The City may charge a fee for the list.

- (i) Within 5 days after the sale or disposal of a motor vehicle as provided in this subsection, the City shall advise the Department of Transportation of the sale or disposition on a form supplied by the department.

SECTION III: The Parking Violation Table contained in Section 44-1 is amended to add immobilization processing fees, towing processing fees, daily storage fees and fee for non-registered vehicles parked on the street. The remainder of the Parking Violation Table shall remain unaffected.

Violation	Initial Forfeiture	After 10 Days & Before 46 Days	46 Days or After
§44-115(d)(3) Immobilization Processing Fee	\$150.00		
§44-115(d)(3) Towing Processing Fee	\$150.00		
§44-115(d)(3) Storage Fee	\$30.00 per day		
§44-115(d)(3) Tampering with immobilization device	\$300.00 plus applicable court costs.		
§44-116(b) Non-registered vehicles on street	\$100.00	\$150.00	\$200.00

SECTION IV: Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected.

SECTION V: This ordinance shall take effect and be in force from and after its passage and publication.

____/s/_____
Timothy Kabat, Mayor

____/s/_____
Teri Lehrke, City Clerk

Passed: 7/12/18
Approved: 7/16/18
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