

ORDINANCE NO. 5837

AN ORDINANCE TO CHANGE THE PROCESS FOR IMMOBILIZATION OF VEHICLES FOR OUTSTANDING PARKING VIOLATIONS BY AMENDING SECTION 10.44.150 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City of Rapid City has enacted an ordinance that provides for immobilization of vehicles for outstanding parking violations, which ordinance is codified in Section 10.44.150 of the Rapid City Municipal Code; and

WHEREAS, the ordinance currently provides that vehicles may be immobilized when there are 5 or more unsettled parking violations; and

WHEREAS, the ordinance currently provides a \$50 fee for immobilization; and

WHEREAS, the Common Council finds it is in the best interests of the City of Rapid City to also allow immobilization of a vehicle when outstanding violations total \$100 or more; and

WHEREAS, the Common Council also finds an increase in the immobilization fee is in the best interests of the City of Rapid City.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 10.44.150 of the Rapid City Municipal Code be amended to read in its entirety as follows:

10.44.150 Immobilization of vehicle for outstanding parking violations.

A. *Immobilization of motor vehicle.* A motor vehicle parked upon the public way or public place at any time may, by or under the direction of an officer or member of the Rapid City Police Department, be immobilized in such a manner as to prevent its operation

1. if there are 5 or more outstanding or otherwise unsettled parking violation notices, or warrants issued for the violations, pending against the owner of the motor vehicle; or
2. if the owner owes \$100 or more in fines and late fees for outstanding or otherwise unsettled parking violation notices.

A motor vehicle ~~with 5 or more outstanding or otherwise unsettled parking violation notices~~ parked upon private property may be immobilized pursuant to this Section if the owner or manager of the private property consents.

B. *Notice of immobilization.* Upon immobilization of the motor vehicle, the officer or employee shall cause to be placed on the vehicle, in a conspicuous manner, notice sufficient to warn any individual that the vehicle has been immobilized, and that any attempt to move the vehicle might result in damage to the vehicle.

C. *Release of immobilized vehicle– Post-immobilization hearing.* The owner of such immobilized vehicle, or other authorized person, shall be permitted to secure release of the vehicle upon:

1. Depositing the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled parking violation notice or warrant; and
2. The payment of the fees as required by subsection E. of this section.

The owner of an immobilized vehicle, or other authorized person, shall have the right to a post-immobilization hearing to determine the validity of such immobilization, towing, and any towing or storage charges. Such hearing must be requested within 15 days after the vehicle has been immobilized, and shall be scheduled by the Clerk of Courts for the Magistrate Court, Seventh Judicial Circuit, Pennington County, South Dakota. The post-immobilization hearing will not be determinative of or adjudicate any citation issued relative to any immobilized vehicle.

D. *Towing and impoundment for failure to pay fines.* The immobilizing device or mechanism shall remain in place for 48 hours, unless the owner has complied within subsection C. of this section. If the compliance has not occurred within 48 hours, the vehicle shall be towed or impounded. Towing and storage fees, as specified in subsection E. of this section, shall be paid, along with fees specified in subsection C. of this section, before the owner of the vehicle, or other authorized person, shall be permitted to repossess or secure the release of the vehicle.

E. *Immobilization, towing and storage fees.* The owner of an immobilized vehicle shall be subject to a fee of ~~\$50~~ \$100 for the immobilization. The owner of an immobilized vehicle which was impounded shall also be subject to a towing fee, plus a fee for storage.

F. *Enforcement.* The Chief of Police, along with the city's Traffic Engineer, shall have authority for implementing the parking enforcement provisions of this paragraph.

G. *Unlawful tampering.* It is unlawful for any person to remove or attempt to remove any immobilization device, or to move any immobilized vehicle from the place at which the immobilization device was affixed to the vehicle, before a release is authorized by the city.

H. *Hearing or trial.* Nothing in this section shall be construed to deprive any person of the constitutional right to a hearing or trial as to the violations charged.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)