

**SUBSTITUTE NO. 1 TO ORDINANCE NO. 15-057**

**AN ORDINANCE TO AMEND CHAPTER 37 OF THE CITY CODE REGARDING  
OUTSTANDING AND OVERDUE CITATIONS.**

**Rev. #1  
#4135**

**WHEREAS**, it is a necessary function of City government to regulate and enforce parking restrictions throughout the City; and

**Sponsors:**

**WHEREAS**, policies and procedures are in place to govern when a vehicle – the owner of which has not satisfied overdue citations – can be immobilized or towed; and

**Council  
President  
Gregory**

**WHEREAS**, it has long been the practice of the City Finance Department to only calculate an unpaid fine towards immobilization and/or towing eligibility until the designated appeal window for the citation has passed – a policy that allows an alleged violator reasonable time to receive the violation notice and either pay or appeal the citation; and

**Council  
Member  
Shabazz**

**WHEREAS**, the City Council seeks to formalize this long-held policy through amending the City Code, and to make other minor housekeeping adjustments and updates.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Chapter 37 of the City Code is hereby amended by deleting the stricken language and by adding the underlined language as follows:

Sec. 37-125. – Outstanding and overdue citations.

- (a) The department of public safety shall provide the license registration numbers of motor vehicles which have outstanding and overdue traffic citations issued to such motor vehicles for violations incurred under 21 Del. C., this chapter, any law of the state, or any ordinance of the city or other provision of this Code or regulation issued by the city government and which citations total in amount \$200.00 or more in unpaid fines and/or total in number five or more traffic citations. The amount owed in unpaid fines will be calculated in conjunction with any outstanding and overdue traffic citations issued to the owner on currently or previously owned motor vehicles. An unpaid fine will not be calculated towards immobilization and/or towing eligibility until the designated appeal window has passed. If any such vehicle is found parked on the streets of the city, it shall be towed and impounded as provided in section 37-121(a) or immobilized in such manner as to prevent its operation; provided, however, that no such vehicle shall be immobilized by any means other than by the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.

- (b) In any case involving immobilization of a vehicle pursuant to this section, the police officer or parking regulation enforcement officer or authorized scofflaw enforcer shall cause to be placed on such vehicle, in a conspicuous manner, notice sufficient to warn any individual to the effect that such vehicle has been immobilized and that any attempt to move such vehicle might result in damage to such vehicle.
- (c) Any vehicle remaining immobilized and not released for up to 36 hours or constituting a wrecked or abandoned vehicle under section 37-123 hereof, shall be towed and impounded, but only at the specific direction of the authorized towing contractor and upon the towing contractor having verified that the vehicle is to be towed by reference to the state-issued vehicle license plate and registration tags, if any, or by reference to the vehicle identification number of the vehicle to be towed, or by observation that the vehicle is in fact immobilized and not released, or that the vehicle is considered to be abandoned under section 37-123 hereof. Any such vehicle remaining immobilized and not released may be towed within less than such 36 hours if any of the following extenuating circumstances or conditions are met and the towing contractor has been so advised by the city's finance department, or by the city's authorized scofflaw enforcer(s), or by the city's police department, or by the city's office of public safety:
- (1) The same vehicle has been immobilized on one or more previous occasions and on such occasion(s) the "motor vehicle boot" was unlawfully removed;
  - (2) The owner of the motor vehicle has made fraudulent use of a credit card or issued a bad check in payment of any traffic citation issued by the city;
  - (3) The vehicle is parked in a tow-away zone or is otherwise parked unlawfully;
  - (4) The motor vehicle owner has failed to make timely payments under any time-to-pay agreement regarding parking tickets or red light camera citations with the city or has otherwise breached any such agreement with the city;
  - (5) The motor vehicle owner has failed to return a "motor vehicle boot" from a previous immobilization of any motor vehicle of that same owner; or
  - (6) The owner of the motor vehicle has outstanding, overdue and unpaid citations for violations of Chapter 37 of the City Code totaling in amount more than \$500.00 in motor vehicle immobilization booting fees.

Any vehicle so impounded or immobilized shall not be released to its lawful owners, any provision in this chapter to the contrary notwithstanding, until all unpaid traffic citations, including red light camera citations, issued to such vehicle have been discharged either by payment of all fines and costs assessed thereon or by action of the court having jurisdiction thereof. It shall be unlawful for any person to tow any immobilized vehicle except at the specific direction of the city towing contractor above referenced. It shall be unlawful for any person to remove an immobilization device, commonly known as a "motor vehicle boot", or having unlawfully removed such "motor vehicle boot" not to return it to the proper city officer, except as such removal may be done in accordance with the authority of the towing contractor. In any instance in which a "motor vehicle boot" has been removed other than by or at the direction of the towing contractor, there shall be a rebuttable presumption that the registered owner of the motor vehicle is responsible for the missing or stolen "motor vehicle boot". Any violation of this section constituting an unlawful towing of an immobilized vehicle, or an unlawful removal of a "motor vehicle boot", or a failure to return to the city any "motor vehicle boot" that has been removed from a motor vehicle shall be punishable upon

conviction by a fine in an amount of not less than \$515.00 plus court costs; in addition, any and all such unpaid traffic citations issued to the vehicle that was immobilized by the subject immobilization device shall be paid.

- (d) The owner of such impounded or immobilized motor vehicle shall redeem it only pursuant to the provisions of section 37-131. The owner of such impounded or immobilized motor vehicle shall redeem it only on payment of the sum of \$100.00 for the costs of immobilizing or towing and releasing such vehicle and shall sign a receipt for such vehicle. The owner of an immobilized vehicle which was subsequently towed and impounded shall be subject to a release fee of \$25.00 or more. ~~\$40.00 plus~~ An additional fee for towing and storage may be charged.
- (e) The provisions of section 37-121 relating to an owner or person in charge being willing, if present, to remove such vehicle before being towed or immobilized shall not apply to violations under this section. Once the department of finance ~~public works~~ has obtained the license registration number of any motor vehicle in accordance with this subsection, the motor vehicle may be immobilized and/or towed and impounded at any time until and unless all unpaid traffic citations issued to such motor vehicle have been discharged, as well as any other fines for any other parking violations which the vehicle owner may owe to the city, notwithstanding any intervening discharge of ~~one or more but less than all~~ such unpaid traffic citations by payment of fines and costs, ~~or by action of the municipal court.~~
- (f) The director of finance shall be authorized to enter into an agreement with the owner of any motor vehicle subject to the provisions of this subsection for scheduled regular payments of fines and costs over a period of time not to exceed three months in order to discharge all unpaid traffic citations issued to the owner of such motor vehicle. Any such agreements entered into prior to the effective date of the ordinance from which the amendments herein set forth regarding the department of transportation derive and for which payments are still due as of such date shall continue in effect and such scheduled payments shall be made to the department of finance.

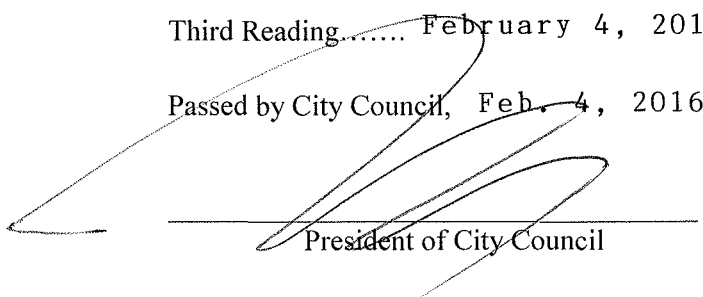
**SECTION 2.** This Substitute Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading..... December 3, 2015

Second Reading.... December 3, 2015

Third Reading..... February 4, 2016

Passed by City Council, Feb. 4, 2016



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President of City Council

ATTEST: Marikele Seijo  
City Clerk

Approved as to form this 2nd  
day of February, 2016.

Dana Shatt  
Assistant City Solicitor

Approved this 8 day of Feb, 2016.

Deann C. Williams  
Mayor

**SYNOPSIS:** This Substitute Ordinance amends Chapter 37 of the City Code by formalizing a policy that has already been in place regarding unpaid fines related to parking and traffic violations. The provision makes clear that an unpaid fine will not be considered towards boot eligibility until the designated appeals period has passed – during which time a violator has the option to either pay or appeal a fine. The ordinance also includes minor amendments to reflect new practices and to update various provisions.