



Law Enforcement and Protection in The Management of Incidental Parking in Medan City

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Abstract - This study aims to conduct a comprehensive analysis of law enforcement and legal protection in the management of incidental parking in the city of Medan. Incidental parking refers to temporary and unscheduled parking services that are often subject to legal challenges related to governance, security, and the protection of users' rights. Through a normative juridical approach, this study examines the level of compliance with applicable regulations, including local regulations and laws that govern parking systems in urban areas. The research also delves into the practical implementation of these regulations, identifying gaps and challenges that exist within the current system. Several key issues are highlighted, including the lack of effective supervision, inconsistencies in tariff setting, and limited transparency in the management of incidental parking services. These problems can create uncertainty and potential injustice for the public, particularly for service users who often encounter arbitrary practices. Furthermore, the study evaluates the extent to which consumer rights are protected in incidental parking scenarios, examining the legal mechanisms in place to safeguard these rights and the role of local government authorities in ensuring compliance with legal standards. The findings reveal significant weaknesses in law enforcement within the incidental parking management system in Medan, particularly in relation to regulatory oversight and enforcement. The study emphasizes the need for stronger, more effective supervision and enhanced regulatory frameworks to address existing deficiencies. In order to achieve better public protection, the local government is urged to implement policies that increase transparency, ensure fair pricing, and improve accountability among parking service providers.

Keywords: *Incidental Parking, Enforcement, Protection, Medan City*

I. INTRODUCTION

The parking issue in urban areas, especially in large cities like Medan, has become an increasingly complex problem that requires serious attention. The rise in the number of motor vehicles, limited parking space, and a lack of public awareness regarding parking regulations have led to various issues such as traffic congestion, obstruction of access, and discomfort for other road users. In this context, effective law enforcement is a key factor in managing incidental parking to ensure compliance with existing regulations and improve public service quality. So that in order to successfully organize it, there are many needs for public facilities and facilities as a means of supporting the smooth running of activities. As with the need for public toilet infrastructure, public eating places and public parking spaces are often needing that are often sought after to meet the needs of the community. The most urgent need is public parking facilities, because during the implementation of activities, people want their personal vehicle transportation to be maintained safely. (S, 2018)

Parking is a state in which the vehicle stops or does not move for a while and is abandoned by the driver. The implementation of parking spaces can be done for free/free or

paid. The place used as a parking lot can belong to individuals or business entities or even local governments whose direct attribution is used as regional revenue. (Sanjaya, 2024). The Medan City Government's efforts in providing parking facilities are evidenced by the issuance of Medan City Regional Regulation Number 1 of 2024 concerning regional taxes and regional levies. This is to improve services in the provision of parking lots, development, and arrangement of parking areas to be better in accordance with current conditions. Regarding the definition of Parking according to Traffic Law Number 22 of 2009 article 1 paragraph (15) reads "Parking is a state of stopping or not moving for a while and abandoned by the driver".

Meanwhile, the definition of incidental parking according to the Medan City Regulation Number 2 of 2014 concerning regional levies in the field of transportation article 1 paragraph (45) reads "incidental parking is parking on the side of a public road organized by the local government inactively (permanently) or impermanently due to an interest or crowd". (City, 2014). For the community, parking is a general necessity that functions to serve and provide comfort to vehicle owners who use their vehicles. According to its function, parking spaces are provided because there is a demand along with the increase in the use of vehicles to make it easier to get access to a place, one of which is the existence of incidental parking. In general, the definition of incidental parking is a parking lot on the side of a public road that is organized by the Regional Government on an irregular or non-permanent basis due to an interest or crowd. This incidental parking often causes problems, such as reducing the capacity of the road because it is usually done by taking part of the road body, making the road narrower.

The provision of incidental parking lots is an attractive business idea for the public to open illegal or unofficial parking lots. Especially when he uses strategic and well-designed private land to become a parking lot without obtaining permission from an agency. In addition, by only being held at any time is the main cause of the emergence of illegal or unofficial parking. The lack of awareness and understanding of the vehicle owner community about official and unofficial instationary parking is also the cause of the rise of illegal parking, because they feel it is more important to park their vehicles close to their destination location. The implementation of incidental parking in Medan City can be found such as in the Kesawan area, Jalan Nibung Utama, Jalan Ahmad Yani, Jalan Gedung Arca, Jalan Gatot Subroto, Jalan City Hall and Jalan Pengadilan where in these locations often hold cultural festivals, *car free days*, music concerts, the North Sumatra Fair (PRSU) and several *events* Other. Therefore, the implementation of incidental parking is very necessary because in the implementation of *the event* it brings in a lot of visitors, so that the available parking lot cannot accommodate the volume of visitor vehicles.

In the implementation of incidental parking in several places that have been determined, unique problems have arisen, not only disturbing the smooth flow of traffic and also disturbing road users when using the shoulder of the road but also encouraging the emergence of illegal or fake parking attendants to open unofficial incidental parking lots. (Muhammad Yusuf Rahman, 2020) Sometimes it is not uncommon for illegal parking attendants to replace parking tickets with tickets that they make themselves without the approval of the authorities, which results in parking levy rates becoming unreasonable, even though for the problem of the amount of incidental parking levy rates both on the side of public roads and in special parking places, there are provisions that regulate and are contained in the first appendix of the Medan City Regulation Number 2 of 2014, where the parking fee must comply with the provisions of the highest tariff limit that has been set by the Mayor. It is further clarified in each attachment that the attachment is differentiated based on the area, type, nature of use, and period of use.

Illegal parking attendants in the city of Medan cannot be left alone because they can harm the general public, but until now it is still seen that there are still many vehicles parked on the side of the road. This is due to several factors, including the lack of maximum regulations to handle the problem of parking violations, the lack of maximum law enforcement in implementing these regulations and the low level of sanctions so that it has not caused a deterrent effect for illegal parking violators. Law enforcement is a process to realize the wishes of the law into reality, what is meant by the wishes of the law here are none other than the thoughts of the law-making body formulated in the legal regulations. Then regarding the law enforcement process, which extends to the making of laws, the formulation of the mind of the

lawmaker (law) which is poured into legal regulations will also determine how law enforcement is carried out. (Raharjo, 2009) In addition, there are 3 (three) elements that must be considered in law enforcement, (Mertokusumo, 2019) namely regarding legal certainty (*rechtssicherheit*), usefulness (*zweckmassigkeit*), and legal justice (*gerechtigkeit*). If the authorized apparatus or law enforcement officials can meet these three elements, then it can be said that law enforcement is running well.

On the other hand, the Medan City Government only provides legal protection in the management of parking in public yards, while for public and incidental parking, legal protection is not given to parking service users for loss or damage, this is explained in the Medan City Regional Regulation Number 1 of 2017 Article 32C where parking lot operators are obliged to be responsible for the loss of lost vehicles due to the negligence of parking lot operators. (Government, 2017) It is explained in article 28D paragraph (1) of the second amendment of the 1945 Constitution that " *everyone has the right to fair legal recognition, guarantee, protection and certainty as well as equal treatment before the law*". (Constitution, 1945) Therefore, legal protection should be given to parking service users and can be provided by reporting all forms of actions and can be provided by reporting all forms of violations, whether criminal violations, civil violations, or violations that can harm themselves to the authorities.

Looking at the state of incidental parking, both incidental public roadsides and special incidental parking places in Medan City have many problems such as illegal or unofficial parking lots accompanied by fake parking attendants who arbitrarily increase incidental parking rates to be unnatural. This certainly causes the comfort of parking users to be disturbed and the quality of service provided by the Medan City Regional Government regarding Incidental Parking becomes ineffective and doubtful. From some of these incidents, it raises a question mark about how clear the legal protection and law enforcement are in the management of incidental parking Therefore, legal protection should be given to parking service users and can be provided by reporting all forms of actions and violations, both criminal violations, civil violations, or violations that can harm themselves to the authorities.

It is possible to see what previous research has to do with the problem that the researcher will do. First, the Journal of Adhistya Gst Ngr Prawiradika, Dewa Gede Sudika Mangku, and Nengah I Suastika, *Law Enforcement Against Vehicle Parking Violations in Public Places Reviewed from Regional Regulation No. 6 of 2009 concerning Public Order in Buleleng Regency*, Ganesha Singaraja University of Education in 2020. (Adhistya Gst Ngr Prawiradika, 2020) The type of research used in this journal is empirical legal research that analyzes and reviews law enforcement against vehicle parking violations in public places in Regional Regulation Number 6 of 2009 concerning public order in Buleleng Regency in the Community. The purpose of this research is to find out how the Implementation of Buleleng Regency Regional Regulation Number 6 of 2009 concerning Public Order Related to Vehicle Parking in Public Places. the results of this research shows that the Implementation of Regional Regulation No. 6 of 2009 concerning Public Order related to vehicle parking in public places has been running but has not been maximized because there are still various problems that must be solved.

Furthermore, the Journal of the Firman Freaddy Busroh Journal, Akrim Mualif Alfatiri, Wawan Indrawan, Joni, Firmansyah, *law enforcement against the crime of illegal barbers in the city of Palembang*, the 2024 Youth Pledge College of Law. (Busroh, 2024) The research methodology employed in this publication is the empirical normative approach method, which is a kind of legal research in which primary or field data is used to supplement secondary data as beginning data. Primary data, secondary data, and a variety of books and references are the data sources used in this study. Data is gathered by observation, interviews, and documentation. The goal of this research is to talk about the part associated organizations play in keeping Palembang a friendly city despite the growing number of parking attendants. The findings of this study demonstrate that the growth in illegal parking attendants is caused by a lack of community awareness of the law as well as deficiencies in the enforcement of the relevant authorities. Who imprint their vehicles in a hurry, especially on the road, this can harm themselves and cause congestion?

Finally, the journal of Law Enforcement Against Illegal Parking in Tourist Areas, Faculty of Law, Muslim University of Indonesia, 2020; Muhammad Yusuf Rahman, Baharuddin Badaru, Andika Prawira buana. This journal uses the Sociological Jurisdictional Approach Method as its research methodology. This sociological legal method looks at societal issues or their practical applications and then connects them to relevant legal and regulatory frameworks. In his research, he discusses parking levies that should be a source of local income and increase community prosperity are actually hindered due to parking that does not have a permit (illegal). On the other hand, it also explained in providing solutions for parking that does not have permits in tourism areas.

II. METHOD

This study uses a field research approach, by conducting direct observations and interviews with relevant stakeholders involved in the management of "incidental parking in Medan City. (Arikunto, 2013). The source data used by the researchers are primary data and secondary data. Primary data sources are data obtained directly from researchers at the research site through interviews. In this case, the author conducts a direct interview at the Medan City Transportation Office or related parties which can be a source for research with the author's research theme. Meanwhile, secondary data sources, namely supporting data taken from library materials related to the problem being researched. Secondary data includes books, research results in the form of reports, theses or journals related to incidental parking. The data analysis method used by the researcher in this study is the qualitative descriptive analysis method. Regarding descriptive data analysis, it is a method used to analyze data by describing through words and used to interpret and interpret the written and oral results of the observed sources. (Moleong, 2018) Meanwhile, qualitative data analysis is data that is described using words or sentences to obtain conclusions.

III. RESULT AND DISCUSSION

1. Law Enforcement in the Management of Incidental Parking in Medan City

A. Definition of Law Enforcement

The goal of law enforcement is to bring the concepts of justice, legal certainty, and social benefits to life. In order to guarantee that legal norms serve as instructions for participants in traffic or legal relations in the lives of society and the state, law enforcement is essential. Society and the law are two more inextricably linked concepts. The social structure known as society is where laws are enacted. In addressing law enforcement efforts or strategies, it is essential to enhance the role of law enforcement officers. It often happens that some legal regulations cannot be implemented effectively due to certain law enforcement individuals who do not carry out legal provisions as they should.

The loss of justice in law enforcement occurs due to a weak understanding of the law, economic conditions, and a lack of empathy among law enforcement officials. In Medan, several sources have mentioned that the enforcement of parking regulations sometimes favors individuals or influential business actors, resulting in unequal treatment towards smaller parking operators. The law tends to be used as a means to fulfill the interests of state authorities. When cases involve the common people, law enforcement officials can hurt the feelings of these individuals, ultimately leading to a loss of trust in law enforcement. Law enforcement officials are vulnerable to engaging in bribery practices, making the law in this country susceptible to being traded.

B. Law Enforcement Efforts in the Management of Incidental Parking in Medan City

The city of Medan is the number 3 largest city in Indonesia, it is undeniable with many events/festivals, concerts or, cultural events that can attract visitors from outside the city, therefore the need for parking lots is very important for vehicle parking for visitors, in answering this problem incidental parking spaces are needed, in addition to being able to increase the original income of the region, Incidental parking is also to reduce congestion around the road where incidental events are held. In the enforcement of incidental parking management, there are already procedures before parking is established, namely article 128 paragraphs (1), (2)

and (3) of Regional Regulation number 9 of 2016 The implementation of parking managers is obliged to carry out a series of regulations regulated in the Regional Regulations of the city of Medan by carrying out licensing procedures and applying for a parking officer appointment letter from the Medan City Transportation Agency government. With that, the agreement along with the rights and obligations given by the government have legal consequences for parking managers.

As for if there is an individual or a group that wants to work on parking management, either special parking or public parking managed by the local government, then the local government is willing to cooperate with third parties through auctions and appointments in accordance with applicable provisions and regulations. (Government, 2017). Third parties who have collaborated with the local government in the management of incidental parking are called mandatory levies Therefore, the Medan City Government provides sanctions either criminal sanctions or fines to third parties, who obtain permits for the management of General, Special and Incidental Parking if they do not carry out their obligations so that they harm regional finances, this is written in PERDA No. 1 of 2024 article 106 *"Mandatory Levies who do not carry out their obligation to pay for the services used/enjoyed, thereby harming the Regional Finance, are threatened with imprisonment or fines in accordance with the provisions of Article 183 of Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments."*

According to Mr. Muhammad Zein Lubis, S.T as the Inspector of Parking Sub-Coordinator for parking at the Medan City Transportation Agency in an interview said that law enforcement in parking management has been carried out well, because every incidental event the Transportation Department always supervises the parking attendant and also helps in smoothing the traffic flow around the incidental event, and if indications of violations are found such as illegal parking or vehicles that Parking vehicles beyond the specified limit, the transportation agency will take firm action against the perpetrators of the violation. This effort can be carried out according to the procedure contained in article 118 paragraph (1) of Regional Regulation Number 9 of 2016 *For security, smoothness, order, and traffic safety, the Regional Government can move vehicles, lock and lock/deposition vehicle wheels on the road.*

Article 118 paragraph (2) The removal of vehicles, locking, and locking/discharging of vehicle wheels as referred to in paragraph (1) shall be carried out in ha): a. vehicles that should be suspected of being involved in crimes; b. vehicles that stop or park in prohibited places and are declared by traffic signs: and c. use parking spaces or public parking lots for more than two hours without any reason can be accounted for so that they can cause losses to other road users. The government's handling of parking violations is essentially part of public policy so it must have an impact that can be enjoyed. Parking violators as a group must really understand the purpose of the program and comply with existing regulations.

2. Legal Protection in Accidental Parking in Kota Medan

A. Definition of Legal Protection

Protective measures, both written and oral, that are intended to prevent and repress legal concerns are collectively referred to as legal protection. That is, legal protection can be understood as a distinct explanation of the role that law plays, since law is a notion in and of itself. Establishing fairness, stability, utility, and tranquility. (Suyadi, 2022) Often referred to as a means of legal protection, the application of legal protection requires a location or container. Legal protection facilities are classified into two categories: Preventive Legal Protection facilities and Repressive Legal Protection facilities. Protective measure against litigation: Before a government decision is finalized, parties to the case are given a chance to voice any objections or concerns. Although the intention is to avoid conflicts, preventative legal protection allows the government to function freely since it encourages the government to exercise caution when using its discretion to make judgments. As far as preventive legal protection is concerned, Indonesia has no particular regulations in place.

The goal of repressive legal protection is to settle conflicts. This category of legal protection includes the management of legal protection by the Indonesian Administrative Court and General Court. The idea of human rights recognition and protection is the foundation upon

which the principle of legal protection against government actions rests. This is because, as Western history demonstrates, the concepts of human rights recognition and protection were initially focused on the boundaries and allocation of responsibilities between the state and the community. The idea of the state of law is the second tenet that supports the legal system's defense against governmental action. Human rights are recognized and protected, and this is linked to the objectives of the state of law. Human rights are recognized and protected first.

B. Legal Protection Efforts in the Management of Incidental Parakeets

Every year the volume of vehicles in the city of Medan is increasing, along with the increase in the number of vehicles, the need for land/parking lots is increasingly needed, especially incidental parking lots when motorcyclists park their vehicles, they are entitled to get tickets or are entitled to electronic payments. Parking tickets can be used by vehicle owners as proof that the vehicle owner parked/left his vehicle in a predetermined place, As for the method of collecting incidental parking levies, each vehicle owner must park his vehicle in the parking lot that has been provided, then the vehicle owner will be given a ticket or electronic payment option, as proof that he has left his vehicle. However, in the field, the incidental jukir does not provide tickets and states that parked vehicles will be maintained as best as possible.

In incidental parking tickets, the amount of parking levy rates is regulated as stated in article 10 paragraph (2) of Medan City Regional Regulation Number 2 of 2014 "The structure and amount of incidental parking service rates on public roadsides are determined as follows:

- a. truck vehicles with their hands, trailers or other similar vehicles, amounting to Rp 10,000.00/one parking;
- b. trucks, buses or other large/heavy equipment of the like, amounting to Rp 6,000.00/one parking;
- c. mini truck vehicles or similar Jain vehicles, amounting to Rp 5,000.00 / one parking;
- d. sedans, pick-ups, or other similar vehicles, amounting to Rp 4,000.00/one parking; and
- e. motorcycle vehicles, amounting to Rp 2,000.00/one parking.

According to Mr. Muhammad Zein Lubis, S.T as the Inspector of Parking Sub-Coordinator for parking of the Medan City Transportation Agency in an interview said that often when an incidental event is held, the event manager does not provide a statement to the transportation agency to secure parking, so it is not known who will be responsible when there is a loss or damage to the parking consumer vehicle, and as a result the Transportation Department was forced to take responsibility for the loss of the vehicle. The lack of public understanding of incidental parking causes losses to themselves, often people equate incidental parking with public parking, even though incidental parking only exists when incidental events are held, after the event is over, the parking lot no longer exists. In addition, the incidental parking location has been determined by the transportation office, if it is outside the designated location, the parking lot can be said to be illegal.

PERDA number 1 of 2017, namely in article 32C, it is explained that "*parking lot operators are obliged to be responsible for the loss of vehicles lost due to the negligence of parking lot operators*" is considered one of the legal umbrellas for victims who have lost their vehicles, but parking attendants or parking managers do not guarantee the loss of motor vehicles that are parked incidentally because they refer to PERDA Number 2 of 2014, However, the regional regulation does not regulate who is responsible, while the obligation of the management is only to provide services and receive payment of levies for the services they provide. This was justified by Mr. Muhammad Zein Lubis, S.T as the Inspector of the Special Parking Sub-Coordinator for the parking sector of the Medan City Transportation Agency that.

Regional Regulation Number 1 of 2017 cannot be used as a legal basis for people who have lost their vehicles when carving their vehicles in the Incidental parking lot and asking for responsibility to the Transportation Agency, because the Regional Regulation should apply to vehicles parked in the yard, Now the matter of the courtyard is the responsibility of the Dispenda, not the Transportation Office, because the public roadside and incidental parking are included in the levy while the courtyard is included in the tax and the responsible is the Dispenda. This raises a question mark to whom the victim asks for responsibility and legal

protection When the vehicle is lost, in the end the victim must report to the police and need to wait a long time to wait for the certainty of the lost vehicle. The Medan City Government should issue a PERDA which will be used as a legal basis for the party responsible for incidental parking, because incidental events can boost the regional economy with the arrival of domestic and foreign tourists, because when security alone cannot be accounted for, the community will be reluctant to come to the event and will also reduce the sense of trust in the Medan City Government. Legal protection for vehicles parked in incidental parking areas in Medan is part of consumer protection. According to Article 1, number 1 of Law No. 8 of 1999 on Consumer Protection, this effort ensures legal certainty to protect consumers and prevent arbitrary actions that harm business actors. Such arbitrariness can lead to legal uncertainty.

Therefore, in order for all efforts to provide guarantees of legal certainty, the measure is qualitatively determined in the consumer protection law and other laws that are also intended and still valid to provide consumer protection, both in the field of Private Law (Civil) and the field of Public law (Criminal Law and State Administrative Law) this clarifies the position of the Consumer Protection Law including in the case of general disputes in which business actors and The government can provide protection in the service sector to consumers who use public parking facilities by paying a levy. Articles 29 and 30 of the 1999 Consumer Protection Law state that the government is responsible for fostering the implementation of consumer protection that guarantees the acquisition of consumer rights and business actors and the implementation of consumer and business actors' obligations. The government is obliged to supervise the implementation of consumer protection and the implementation of the provisions of laws and regulations supported by the community and non-governmental organizations.

IV. CONCLUSION

Based on the explanation of the results of the provisional research by the researcher, it can be concluded that:

1. Implement a policy requiring the publication of data on parking revenue and its usage to ensure accountability. In the enforcement of the law on the management of incidental parking in the city of Medan, which is expected to be in accordance with existing local regulations, it has not been properly implemented by the authorized officials, this is because there are still illegal parking attendants and dishonest managers who take advantage of the situation of incidental events, namely by increasing parking rates, using sidewalks that can interfere with road congestion and can also interfere with the smooth flow of traffic. communication and inconsistency between authorized officials from law enforcement in the implementation of incidental parking, for example disagreement regarding the authority in the implementation of
2. Legal protection in the management of incidental parking is still not well realized by the authorized officials, this occurs because of the absence of a clear standard clause between parking operators and parking lot users, even more so because of the disagreement of officials who have the authority to organize incidental parking. management of incidental parking in the city of Medan, which causes the non-fulfillment of the provision of legal protection facilities for consumers who lose their vehicles. with the non-implementation of the provision of legal protection in the implementation of incidental parking in the city of Medan, of course, will cause a violation of rights and rights that should be given to incidental parking service users.

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