

## **Implementation Of Medan Mayor Regulation Number 26 Of 2024 Concerning Guidance For Implementing Subscription Parking Services On The Road Side From A State Constitutional Law Perspective**

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### **Abstract**

*One of the public policies in the form of regional head regulations of the Regent/Mayor is the Medan City Mayor Regulation Policy (Perwal) Number 26 of 2024 concerning the Implementation of Subscription Parking on Public Roadsides. The regulation implements a roadside subscription parking system in the capital city of North Sumatra Province by subscription starting July 1, 2024. The amount of the subscription parking fee is IDR 90,000/year for two-wheeled vehicles, IDR 130,000/year for four-wheeled vehicles, and IDR 168.000,000/year for trucks/buses. This study uses the Empirical Juridical Type of legal research method, namely research that focuses on examining theory and practice in positive law. is research that places law as a social phenomenon. The data collection method used is by interview. This study refers to primary and secondary data (field and library data). The public supports the subscription parking program to maximize the acquisition of Regional Original Income (PAD) from the parking sector, but the process, substance and implementation must not violate the rights of citizens, especially if it conflicts with applicable laws and regulations.*

**Keywords:** *Bylaw, Subscription Parking on the Side of the Road, Constitutional Law*

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## **INTRODUCTION**

Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945 Amendment to the Fourth), states that: "The State of Indonesia is a Unitary State in the form of a Republic". This statement has been in effect since the formation and enactment of the 1945 Constitution of the Republic of Indonesia. This provision conveys the message that the Unitary State of the Republic of Indonesia was built within a unitary state framework. Furthermore, Article 18 of the 1945 Constitution of the Republic of Indonesia states, "The Unitary State of the Republic of Indonesia is divided into provincial regions and the provincial regions are divided into districts and cities, each of which has a regional government, which is regulated by law". On that basis, the state forms regions or areas which are then given power or authority by the central government to manage various interests of its people, it is assumed that the state is the source of its power. Regional regulations are one of the vital regulatory instruments for implementing the vision, mission, and programs that have been determined by the regional head. Thus, regional regulations are basically a description of the vision, mission, and program of a regional head in running his government. In the hierarchy of laws and regulations, regional regulations are one of the legislative products whose existence is recognized constitutionally.

Regional Regulations that cannot be implemented can in principle be categorized as "Problematic Regional Regulations". This category will arise when there are difficulties in implementing the regional regulation in question, or even when a regional regulation cannot be implemented at all. In practice, Regional Heads often stipulate Regional Head Regulations (Regent/Mayor Regulations) as an instrument that ensures that the objectives of a regional

regulation are achieved. Regional head regulations are actually not known in the types and hierarchies as referred to in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, but the existence of regional head regulations is widely known as a form of regional head policy to implement a regional regulation.

Even though it is not mentioned in the hierarchy of the laws and regulations, it does not mean that the existence of the regent/mayor's regulations is without legal basis. This is as regulated in Article 8 paragraph (1) of Law Number 13 of 2022 which reads: Types of Laws and Regulations other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, People's Representative Council, Regional Representative Council, Supreme Court, Constitutional Court, Audit Board, Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions of the same level that are formed by Law or the Government on the orders of Law, the Provincial People's Representative Council, Governor, Regency/City People's Representative Council, Regent/Mayor, Village Head or equivalent. One of the public policies in the form of regional head regulations of the Regent/Mayor is the Medan City Mayor's Regulation Policy (Perwal) Number 26 of 2024 concerning the Implementation of Subscription Parking on the Side of Public Roads, both in terms of process, substance and implementation, is classified as an act of maladministration. It is called an act of maladministration because the Medan City Government has acted or committed an unlawful act and violated ethics in the public service administration process.

The process and substance of the creation of Perwal Number 26 of 2024 clearly violate legal norms because in terms of the material content of Perwal Number 26 of 2024, especially when it concerns restrictions on a person's rights, it should only be regulated through a Regional Regulation (Perda), not just through a Mayoral Regulation (Perwal). Moreover, philosophically and legally, the Mayoral Regulation does not have a strong legal basis and is not in accordance with the order of legislation, so it is not binding on the community. In addition, regarding the imposition of obligations on the public/citizens, there should be approval from the people through the legislative institutional mechanism/Medan City DPRD. Quoted from the Antara.com website, the Chairman of the Medan City DPRD Hasyim admitted that he had never ratified the Medan City Regulation on Subscription Parking launched by Medan Mayor Bobby Nasution on the 434th Anniversary of Medan City on July 1, 2024. According to him, subscription parking is regulated in Mayoral Regulation (Perwal) Number 26 of 2024 concerning Guidelines for the Implementation of Subscription Parking Services on the Side of the Road. "There is no regulation regarding subscription parking, and it is regulated by the Mayor's Regulation. There is no coordination, no approval from the DPRD. Until today, the DPRD has never knocked the gavel to ratify subscription parking.

The legislative institution/DPRD of Medan City should be an institution that has the authority (bevoegdheid) and is given a mandate in order to carry out government duties (bestuurzorg) for the benefit of government administration services must take action based on public law. The Medan City DPRD must not allow maladministration to occur within the Medan City Government and the DPRD's duty is to ensure that the use of executive authority remains subject to legal principles/public policy. Normatively, Perwal Number 26 of 2024 has been proven to be contrary to higher laws and regulations or contrary to the public interest and/or public service ethics, so that the Perwal must be revoked and not re-enacted. The public supports the subscription parking program to maximize the acquisition of Regional Original Income (PAD) from the parking sector, but the process, substance and implementation must not violate the rights of citizens, especially if it is contrary to applicable laws and regulations.

Based on these phenomena, the author is interested in studying these problems by connecting them with how the roadside parking system in the capital city of North Sumatra

Province is regarding the implementation of its functions when viewed from the perspective of Constitutional Law. Therefore, the author raises a research title, namely: "Implementation of Medan Mayor Regulation Number 26 of 2024 concerning Guidelines for the Implementation of Subscription Parking Services on the Roadside from the Perspective of Constitutional Law".

## **RESEARCH METHODS**

This study uses the Empirical Juridical Type of legal research method, namely research that focuses on examining between theory and practice in positive law. is a study that places law as a social phenomenon. The data collection method used is by interview. This study refers to primary and secondary data (field and library data) related to the Problematics of the Process and Substance of the Making of Medan City Regulation Number 26 of 2024 Concerning the Implementation of Subscription Parking on the Side of Public Roads

After the primary data and secondary data are collected, editing and classification are carried out and then data analysis is carried out. In this writing, the author uses qualitative analysis to analyze the data. Where qualitative analysis is a way of analyzing data sourced from legal materials based on concepts, theories, laws and regulations, doctrines, legal principles and opinions of experts and the author's own views, especially those related to the Problematics of the Process and Substance of the Making of Medan City Regulation Number 26 of 2024 Concerning the Implementation of Subscription Parking on the Side of Public Roads and This data analysis is used to explain the mechanism for processing the data so that it becomes information or material used in research. The analysis process is carried out carefully to obtain valid and reliable research results.

## **RESULT AND DISCUSSION**

In Article 1 paragraph (1) of Law Number 13 of 2022 concerning the Formation of Legislation, it states that the Formation of Legislation is the creation of Legislation that includes the stages of planning, drafting, discussion, ratification or determination, and promulgation and Legislation is a written regulation that contains generally binding legal norms and is formed or determined by state institutions or authorized officials through procedures stipulated in the Legislation. Meanwhile, Article 1 paragraph (7) states that Regional regulations are laws and regulations formed by regions consisting of provinces and regencies/cities. Regional regulations are made by the Regional People's Representative Council (DPRD) with the joint approval of the regional head. For provincial regulations, they are formed by the provincial DPRD with the joint approval of the governor. Meanwhile, district or city regulations are made by the district/city DPRD with the joint approval of the regent/mayor.

The draft of the Provincial Regulation may originate from the provincial DPRD or the governor. In addition, the draft of the provincial regulation may be submitted by members, commissions, joint commissions, or supporting bodies of the provincial DPRD that specifically handle the field of legislation. The draft of the provincial regulation is accompanied by an explanation or statement and/or academic paper. The stages of drafting the Perwal are as follows:

- a. Preparation of an explanation or statement and/or academic paper containing at least the main ideas and material content to be regulated in the Perwal prepared by the Examiner

- b. The legal bureau of the provincial/city government harmonizes the academic paper received by the provincial/city regional work unit which is carried out in a harmonization meeting involving stakeholders
- c. In preparing the draft Perwal, the drafting team may invite researchers and/or experts from universities or community organizations as needed.
- d. The draft Perwal that has been prepared is given a coordination initial by the drafting team and the initiator.
- e. Harmonization, rounding and consolidation of the concept coordinated by the head of the legal bureau and may involve vertical agencies from the ministry of law.
- f. The draft Perwal is initialed with the approval of the initiator and the head of the provincial regional work unit and submitted by the regional secretary to the governor.

The Draft Mayoral Regulation that has been discussed must receive a coordination initial by the Head of the Initiating SKPD, Head of the Legal and Human Rights Section, and the Assistant to the Government, and the Regional Secretary submitted to the Mayor for signing. The Mayoral Regulation is an implementing regulation of Regional Regulations, Mayoral Policies and/or higher Legislation in the context of organizing Regional Government. The content of the material is regulatory, generally binding, sourced from executive power, applies continuously, is stated in chapters and/or articles. uses whole numbers, does not use the consideration "Read", has a Title name, does not include "Cop", and is signed by the Mayor. Parking problems in big cities in Indonesia, including Medan City, have become a problem that requires serious handling. With the increasing number of motorized vehicles, the need for safe and orderly parking areas is becoming increasingly urgent. Unclear parking rates, vehicle security, and disputes between vehicle users and parking attendants are some of the problems that often occur. To answer this challenge, the Medan City government issued Medan Mayor Regulation No. 26 of 2024 concerning Guidelines for the Implementation of Subscription Parking Services on Public Roadsides

However, these hopes did not go according to expectations. In reality, the policy that has been implemented since June 1, 2024, is still reaping polemics and even conflicts in society. Moreover, the Medan City Transportation Agency seems to be 'forcing' Medan City residents who have 4-wheeled and two-wheeled vehicles to buy the barcodes that are being sold. The amount of the Medan City subscription parking fee is IDR 90,000/year for two-wheeled vehicles and IDR 130,000/year for four-wheeled vehicles and IDR 168,000,000/year for trucks/buses. Therefore, the Mayor of Medan, Bobby Nasution was asked to cancel the Mayor's Regulation (Perwal) Number 26 of 2024 concerning the Implementation of Subscription Parking on the Side of Public Roads. This policy is considered to have caused a lot of polemics in the field, both between Transportation Agency officers, parking attendants and drivers.

legal, economic and social issues. One of them and the most principle is related to the Perwal which is intended to regulate a person's rights so that it is irrelevant if it is only regulated at the Perwal level, if there is content that regulates the limitation of a person's rights, it must be regulated in the form of a Regional Regulation. Then he continued, the Perwal also, if viewed from the material of its content, regulates the burden of a coercive nature on the community as stated in Article 8 paragraph (2) letter c of Medan City Regulation Number 26 of 2024 concerning Guidelines for the Implementation of Subscription Parking Services on the Side of Public Roads which reads: "Prohibiting vehicle users who have not subscribed from parking on the side of public roads and requiring vehicle users who have not subscribed to subscribe".

If so, there should be public approval, either through the Medan City DPRD or the public testing process so that the implementation of checks and balances in the government system is fulfilled, not by unilaterally and arbitrarily the Medan City Government imposing its own will. If the Medan City Government still forces its will by continuing to implement the

Subscription Parking Regulation, it is clearly a form of maladministration, because the implementation of subscription parking is not based on a valid legal basis, aka an illegal levy. For that, the Community asks the Medan City Government to immediately revoke the Subscription Parking Regulation and if it wants to implement such a policy, it should be regulated in a Regional Regulation made together with the Medan City DPRD and involve elements of the Community in the study, discussion and socialization.

Regency/City Regional Regulations are Legislation established by the Regency/City Regional People's Representative Council with the joint approval of the Regent/Mayor. This is as regulated in Article 8 paragraph (1) of Law Number 13 of 2022 which reads: Types of Legislation other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, People's Representative Council, Regional Representative Council, Supreme Court, Constitutional Court, Audit Board, Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions of the same level established by Law or the Government on the orders of Law, the Provincial People's Representative Council, Governor, Regency/City People's Representative Council, Regent/Mayor, Village Head or equivalent. Article 8 paragraph (2) states: "The Legislation as referred to in paragraph (1) is recognized and has binding legal force as long as it is ordered by a higher Legislation or is established based on authority".

Based on the results of the Author's interview with one of the Parking Officers in Medan City, he provided information regarding Complaints from the Community and Business Actors in Medan City Due to the Implementation of Subscription Parking Services on Public Roadsides by saying: "The officer explained that if you park on the side of the road, you must use a subscription parking sticker, even if you are a newcomer. "Same Mbak (in all parking locations on the side of the road, you must use a subscription parking sticker) throughout Medan City, Mbak parks as long as there is this parking lot (sticker) it's okay (safe)". Because all vehicles, even if they are newcomers, if they park on the side of the road in Medan City, they are required to use a subscription parking sticker. If they don't want to use a subscription sticker, just leave their car at their hotel. Then the Author tried to interview the people around Medan City who happened to be Ojol Drivers who complained about the Policy of the Medan City Government with the Enactment of Medan City Mayor Regulation Number 26 of 2024, he said "We Ojol are asked to buy a subscription parking sticker because it has been in effect since the beginning of July. We, the ojol drivers, refuse to buy stickers as a requirement for parking on the side of the road in Medan City on the grounds that they do not have a fixed monthly income".

The Ojol drivers explained that the amount of the subscription parking fee, which is IDR 90,000/year for two-wheeled vehicles, IDR 130,000/year for four-wheeled vehicles, and IDR 168,000,000/year for trucks/buses, is too expensive for those who do not have a fixed monthly income.

Then the author also tried to interview residents outside Medan City/Newcomers who admitted that they came to Medan only to attend a family party and then they stopped at this shop only to buy souvenirs to take home. Then officers from the Medan City Transportation Agency came and told them that they had to buy an annual subscription parking sticker for IDR 130,000. For them, the cost was not commensurate with the infrequent parking frequency. Then residents outside Medan City/Newcomers said "the parking price here is even more expensive than the price of the souvenirs we bought".

Then the person said, "This is not coercion, this is mandatory, this is the government's order, if you don't have a barcode, you have no right to park here, because we don't accept cash." Then the resident asked again, "So I'm not allowed to park in Medan?" The person answered again, "No." Then the residents outside Medan City/Newcomers who were disappointed and

annoyed, moved back towards Perbaungan, "So what I was looking for on Jalan Pandu didn't get bought."

The polemic of subscription parking on the side of the road is getting hotter, not only between vehicle owners and Medan Transportation Agency officers but has spread to the legislative body, namely the Medan DPRD. In terms of regulations, the basis of the subscription parking policy is questionable because in Regional Regulation No. 1 of 2024 concerning Regional Taxes and Levies there is no term for subscription parking.

Regional Regulation No. 1 of 2024 only regulates the rates for parking services outside the road and the rates for parking services on the side of public roads and does not 'recognize' or regulate subscription parking. And regarding the subscription parking policy, it is regulated in Perwal No. 26 of 2024 even though it is not regulated in Perwal No. 1 of 2024. In the author's opinion, Perwal No. 26 of 2024 does not have legal force. This is because the Perwal is a derivative of the Perda while the Perda for Subscription Parking does not yet exist. By prohibiting parking in Medan City for vehicle owners from outside the City who are not willing to pay the subscription parking levy is very wrong.

In Article 1 paragraph (13) of Medan City Regulation No. 1 of 2024, it explains "Regional Tax, hereinafter referred to as Tax, is a mandatory contribution to the Region owed by individuals or bodies that is mandatory based on the Law, without receiving direct compensation and is used for Regional needs for the greatest prosperity of the people". Then in paragraph (33) of the Regional Regulation it explains "Parking Services are services for providing or organizing parking spaces outside the road and/or services for parking vehicles to be placed in parking areas, both those provided in connection with the main business or those provided as a business, including the provision of Motor Vehicle storage".

Parking Service Retribution on the Side of Public Roads is a Regional Retribution or Levy levied on the use of parking services on the side of public roads determined by the Regional Government in accordance with the provisions of laws and regulations. Meanwhile, Article 1 paragraph (11) of Perwal No. 26 of 2024 explains that Parking Retribution on the Side of Public Roads is a levy as Payment for Parking services. Furthermore, in article (14) of the Mayor's Regulation, it states that Subscription Parking is the increase in parking fees with a predetermined amount of money for a period of 1 (one) year.

## CONCLUSION

Based on the results of the study related to "Implementation of Medan Mayor Regulation Number 26 of 2024 concerning Guidelines for the Implementation of Subscription Parking Services on the Side of the Road from the Perspective of Constitutional Law". The following conclusions can be drawn:

Procedures and Formation of Medan City Mayor Regulation Number 26 of 2024 Concerning the Implementation of Subscription Parking on the Side of Public Roads Based on the Provisions of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation is Planning, Preparation, Discussion, Determination/Enactment and Promulgation

The Polemics that Occur in the Community Due to the Existence of Medan City Mayor Regulation Number 26 of 2024 Concerning the Implementation of Subscription Parking on the Side of Public Roads is Medan City Mayor Regulation Number 26 of 2024 concerning Guidelines for the Implementation of Subscription Parking Services on the Side of Public Roads, not in accordance with the basis for its formation and its contents, the Implementation of Medan City Mayor Regulation Number 26 of 2024 is Considered Legally Flawed Because it was not

preceded by the Regional Regulation and ratified by the Medan City DPRD, Many Complaints from the Community and Business Actors in Medan City Due to the Implementation of Subscription Parking Services on the Side of Public Roads due to Consumers coming from Parking outside Medan City is prohibited if you do not have a Subscription Parking Sticker/Barcode and Medan City Mayor Regulation Number 26 of 2024 is in conflict with Medan City Regional Regulation No. 1 of 2024 concerning Regional Taxes and Retributions

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