

CITY OF MILWAUKEE

Form CA-43a

GRANT F. LANGLEY
City Attorney

LINDA ULISS BURKE
Special Deputy City Attorney



HAZEL MOSLEY
DAVID J. STANOSZ
KURT A. BEHLING
MELANIE R. SWANK
JAY A. UNORA
EDWARD M. EHRLICH

Assistant City Attorneys

For: Common Council
4-23-02

On: Public Safety
Item number 1
FN 011504

OFFICE OF CITY ATTORNEY ORDINANCE ENFORCEMENT DIVISION

205 Police Administration Bldg.
749 W. State Street
Milwaukee, Wisconsin 53233
Telephone (414) 286-2676
TDD 286-5439
FAX (414) 286-2128

Kathy Marguardt

April 18, 2002

Alderman Marvin Pratt, President
Common Council
200 East Wells Street
Milwaukee, WI 53203

RE: ISSUANCE OF CITATIONS BY POLICE OFFICERS/FILE NUMBER 011504

Dear Alderman Pratt:

Thank you for holding this matter over from the last council meeting. It is our opinion the proposed changes authorizing the police department to issue citations for the parking of motor vehicles on various areas of residential properties are legal and enforceable, but unnecessary.

Section 800.02 of the Wisconsin Statutes sets forth the form of citation, complaint, summons and warrant in municipal ordinance violation cases. Subsection (2)(a) sets forth the requirements for citation form as follows:

The citation shall be signed by a peace officer or endorsed by a municipal attorney, or, if applicable, signed by a conservation warden. In addition, the governing body of a municipality authorized to adopt the use of citations may designate by ordinance or resolution other municipal officials who may issue citations with respect to ordinances, which are directly related to the official responsibilities of the officials. Officials granted the authority to issue citations may delegate, with the approval of the governing body, the authority to employees.

April 17, 2002

In the case of the City of Milwaukee, all Milwaukee Police Department officers are peace officers. Members of the Milwaukee Police Department may sign all citations. It is only other departments that have enforcement responsibilities that need specific ordinance authority to write citations.

Additionally, the Milwaukee City Charter section 22-08 sets forth the powers and duties of the Milwaukee Police Department members. This section gives the Police Department officers the authority to arrest every person found violating any law of the state or ordinance of the City.

With regard to the ordinances at issue here, section 295-75-1.5g requires that vehicles be parked in whole on paved or approved surfaces. This violation is enforced by the Department of Neighborhood Services. The city has given the department authority to write citations in section 200-19-3. Due to the grant of authority in state law and city charter, however, police officers may write the citation without a specific ordinance or resolution granting the authority.

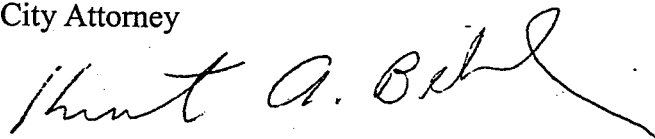
Similarly, section 105-64-4 of the Milwaukee Code of Ordinances sets forth the citation procedure for violations of vehicles parking on private property. The reassignment of the parking checkers to the Department of Public Works necessitated the creation of sub. 4. Without that paragraph, which authorizes the Commissioner of Public Works or the Commissioner's designee to issue citations for vehicles parked on private property, only police officers could issue such tickets.

Based upon these statutes and ordinances, it is our opinion that the Milwaukee Police Department already has the authority to issue the citations referred to in the attached proposed ordinance. We believe that the addition of this language is unnecessary to the code and may create confusion.

Very truly yours,



GRANT F. LANGLEY
City Attorney



KURT A. BEHLING
Assistant City Attorney

KAB/ms

cc: Ron Leonhardt
Ald. Suzanne Breier