

# CITY OF MILWAUKEE

Form CA-43

**GRANT F. LANGLEY**  
City Attorney

**RUDOLPH M. KONRAD**  
Deputy City Attorney

**PATRICK B. McDONNELL**  
**LINDA ULISS BURKE**  
Special Deputy City Attorneys



**OFFICE OF CITY ATTORNEY**  
800 CITY HALL  
200 EAST WELLS STREET  
MILWAUKEE, WISCONSIN 53202-3551  
TELEPHONE (414) 286-2601  
TDD 286-2025  
FAX (414) 286-8550

**BEVERLY A. TEMPLE**  
**THOMAS O. GARTNER**  
**BRUCE D. SCHRIMPF**  
**ROXANE L. CRAWFORD**  
**SUSAN D. BICKERT**  
**HAZEL MOSLEY**  
**HARRY A. STEIN**  
**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOUREN**  
**JOHN J. HEINEN**  
**MICHAEL G. TOBIN**  
**DAVID J. STANOSZ**  
**SUSAN E. LAPPEN**  
**DAVID R. HALBROOKS**  
**JAN A. SMOKOWICZ**  
**PATRICIA A. FRICKER**  
**HEIDI WICK SPOERL**  
**KURT A. BEHLING**  
**GREGG C. HAGOPIAN**  
**ELLEN H. TANGEN**  
**MELANIE R. SWANK**  
**JAY A. UNORA**  
**DONALD L. SCHRIEFER**  
**EDWARD M. EHRlich**  
**LEONARD A. TOKUS**  
**MIRIAM R. HORWITZ**  
**MARYNELL REGAN**  
**G. O'SULLIVAN-CROWLEY**  
**DAWN M. BOLAND**

Assistant City Attorneys

May 5, 2003

Honorable Common Council  
of the City of Milwaukee  
City Hall, Room 205

Re: File No. 030092 – ordinance relating to a PILOT program granting parking privileges to employees of elementary and secondary schools in commuter parking impacted areas

Dear Council Members:

The above-referenced substitute ordinance creates an exception to the posted parking time limitations for regular employees of an elementary school located in the St. Luke's Hospital commuter parking impacted area, amending §§ 81-83.5 and 101-27.8 of the Milwaukee Code of Ordinances (MCO.) Substitute 1 would allow the Milwaukee Police Department to issue permits to such employees to allow them to park on specified area streets in excess of the posted time limitations.

All City ordinances must be in strict conformity with state statutes. Section 349.03(1), Wis. Stats. Further, a municipality cannot rely on its police powers to "restrict the free use of all highways" as provided in § 349.03(2), Wis. Stats. In *Madison v. Reynolds*, 48 Wis. 2d 156, the Wisconsin Supreme Court held that the motor vehicle code contains express limitations on a municipality's police power to enact local traffic regulations. In other words, the traffic code is an express limitation on a city's general police powers as set forth in § 62.11(5), Wis. Stats.

Section 349.13(1g), Wis. Stats. specifically authorizes municipalities to enact ordinances which allows "persons whose residences abut a highway in a zone where the time of parking is limited by official signs, markers, or parking meters to park their vehicles in the highway zone without regard to the time limits posted." There is no similar provision for the type of exemption contemplated by the above-referenced proposed ordinance. Consequently, we do not believe that it is legal or enforceable.

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If you have any questions regarding this matter, please feel free to contact us.

Very truly yours,



GRANT F. LANGLEY  
City Attorney



MELANIE R. SWANK  
Assistant City Attorney

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