

CITY OF MILWAUKEE

Form CA-43

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Assistant City Attorneys

June 4, 2003

To the Honorable Committee on
Public Safety
Room 205 - City Hall
200 East Wells Street
Milwaukee, WI 53202

Re: Offenses for Which A Parked Vehicle Can Be Towed

Dear Committee Members:

On May 16, 2003, our office received File 030165, regarding "an ordinance relating to the offenses for which a parked vehicle may be towed." Specifically, this ordinance proposes to add the parking of a motor vehicle on private property without permission of the owner of the property to the list of offenses for which a vehicle may be towed.

It is our opinion that the ordinance as drafted is not legally sufficient. This particular City ordinance must be expressly authorized and in strict conformity with state law. (See §349.03 and §349.06 Wis.Stats.). The state enabling legislation for towing vehicles provides in part:

349.13 Authority to regulate the stopping, standing or parking of vehicles.

...

Public Safety Committee

June 4, 2003

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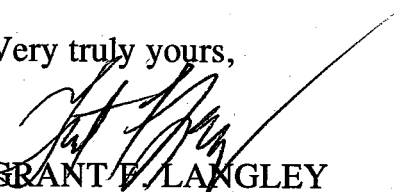
349.13(3) Whenever any traffic officer finds a vehicle standing upon a highway in violation of a prohibition ... under Ch. 346 ... the traffic officer is authorized to move the vehicle ...

349.13(3m) No vehicle involved in trespass parking on a private parking lot or facility shall be removed without the permission of the vehicle owner, except upon the issuance of a repossession judgment or upon formal complaint and a citation for illegal parking issued by a traffic or police officer.

Accordingly, a vehicle may only be towed upon the issuance of a parking citation and:
1) if it is standing upon a highway (City street) in violation of a parking prohibition; or
2) if it is on a private parking lot or facility and the property owner files a formal (written) complaint. The ordinance in this file proposes to delete the current "standing upon a highway" requirement and fails to mention the private parking lot and formal complaint requirements. This proposal also repeals §105-65-2, which is the section of the ordinance by which a vehicle may be towed upon formal complaint from private property. Therefore, we are unable to sign off on this proposal.

If our assistance is needed in redrafting this ordinance, please do not hesitate to contact our office.

Very truly yours,



GRANT E. LANGLEY
City Attorney



HAZEL MOSLEY
Assistant City Attorney

HM/ms

c: Mr. Ronald Leonhardt
1132-2003-1590/68124