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City Attorney's Office

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ITEM# 33a

September 16, 2009

The Honorable Ann Campbell, Mayor,
and Members of the City Council
of the City of Ames, Iowa

Re: Sec. 18.7 of the Ames City Code and Proposed Changes

Dear Mayor Campbell and Council Members:

I am writing this letter regarding proposed changes to Section 18.7 of the Ames City Code. Section 18.7 deals with parking violations and the manner in which the city enforces those violations. There have been recent changes to the Iowa State Code which have impacted the city's ability to enforce parking violations pursuant to our municipal code.

Specifically, Section 321.236(1)(a) has changed and now reads:

Parking violations which are uncontested shall be charged and collected upon a simple notice of a fine payable to the city clerk.

and

The fine may be increased by five dollars if the parking violation is not paid within thirty days of the date upon which the violation occurred.

and

Violations of section 321L.4, subsection 2, shall be charged and collected upon a simple notice of a one hundred dollar fine payable to the city clerk.

These changes have preempted several of the provisions of Section 18.7 of the Ames Municipal Code as it now reads. Fine increases cannot be imposed until after thirty (30) days have passed, the handicapped parking violation can only be enforced through notice and fine payment, and "uncontested" parking violations are also limited to enforcement through notice and fine payment only.

In order for Section 18.7 to comply with the changes to Section 321.236 of the Iowa State Code, the city attorney's office proposes the following changes:

1. We recommend increasing the fine amounts listed in the ordinance by \$5.00 each and include a \$5.00 waiver if the fine is paid within the first seven days of the ticket.

Mike Wheelock, with Finance, has advised that the city saw a large increase in parking fine collections once fine schedules were set to increase after seven days of the date of the violation. This proposed change would essentially continue this practice while also complying with the new restrictions imposed by Iowa State law. The ordinance would now give a person the option of receiving a \$5 waiver if the fine is paid within the first seven days of the date of the violation.

2. Include language at the end of paragraph 1 of 18.7 which states that fines which are unpaid after 30 days will be deemed "contested" and may be prosecuted.

As a department, we have learned over the years that certain individuals do not respond to collection efforts by collection agencies. The only way to effectively collect parking fines from these people is to bring an action in court. We believe that this proposed change to 18.7 will enable the city to exercise this kind of discretion on a case by case basis and provide for more effective enforcement and collection of fines, while still complying with Iowa law.

3. Create a new paragraph which states that handicapped parking violations can only be enforced by notice and fine payable to the City of Ames Finance Department.

This will comply with the Iowa Legislature's changes to 321.236. This is now the only way that these parking violations can be enforced.

4. As a practical matter, we propose adding language to the payment section of 18.7 that says that fines can be paid online and that online payments are credited at the time of the transaction.

This language will create a distinction between the crediting of online payments and regular mail payments in such a way as to hopefully encourage individuals to make online payments, which is the preferred method of payment by the Finance Department. Online payments are credited immediately at the time of payment whereas mail payments are not credited until they are actually received by the Finance Department.

The City Attorney's office believes that these proposed changes to Section 18.7 are the best way to maintain the current practices of the city's enforcement activities while complying with the changes to state law.

Sincerely,

Kristine Stone
Assistant City Attorney

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 18.7 AND ENACTING A NEW SECTION 18.7 THEREOF, FOR THE PURPOSE OF CHANGING TO PARKING ENFORCEMENT TO CONFORM TO STATE CODE; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 18.7 and enacting a new Section 18.7 as follows:

“Sec. 18.7. PARKING VIOLATIONS; METHOD OF CHARGING; METHOD OF PAYING.

(1) Any violation of any parking regulations of this chapter, or of Section 22.8 (snow routes), may be charged by placing a notice of violation and fine on the vehicle so parked. The amount of the fine payable for each violation of Section 18.28 (overtime parking) shall be ten dollars (\$10.00). However, if the fine is paid within the first seven (7) days of the date of the violation, five dollars (\$5.00) of the fine amount will be waived. The amount of fine payable for all other parking violations, except Section 18.18(1) (handicapped parking), including snow route violations, shall be fifteen dollars (\$15.00). However, if the fine is paid within the first seven (7) days of the date of the violation, five dollars (\$5.00) of the fine amount will be waived. Any fines that remain unpaid after thirty (30) days from the date of the violation will be deemed contested and may be prosecuted.

(2) The amount of fine payable for violation of Section 18.18(1) (handicapped parking) shall be one hundred dollars (\$100.00) and shall only be enforceable by notice and fine payable to the City of Ames Finance Department.

(3) Payment may be made by depositing the required amount in the notice envelope and placing the envelope in one of the special containers provided for that purpose or by paying the amount due to the City of Ames Finance Department. Payment must be received in the Finance Department within the designated time. Placing payment in a drop box, the U.S. mail or any other method of paying does not constitute receipt in the Finance Department. However, online payments will be received at the time that the transaction occurs. For purpose of receiving such payments the director of the City of Ames Finance Department shall be designated a deputy city clerk. If such payment is not received in the finance department within thirty (30) days of the date of violation, the violation will be deemed contested and may be charged and prosecuted before the court the same as other traffic violations.

(4) Any vehicle parked in a location controlled by an operating parking station device shall be illegally parked unless a valid parking receipt is clearly visible on the dashboard from the front of the vehicle, as specified in Sec. 18.1(6). Any vehicle parked in a location controlled by an operating parking station device which displays a valid parking receipt shall be subject to an overtime parking violation upon expiration of the time indicated upon the parking receipt.”

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk
001026

Ann H. Campbell, Mayor