

**Staff Report**  
**TOWING AND STORAGE OF ILLEGALLY PARKED VEHICLES**  
**ON PRIVATE PROPERTY**

**January 25, 2011**

On June 8, 2010, the City Council referred a letter to staff in which there was a recommendation to change the city ordinance regarding towing of vehicles from private property. Following that referral, information about comparable tow ordinances was gathered from other communities. In addition, comments were collected from those involved in private property tows and associated complaints, as well as from the private towing companies in Ames. Staff then assembled ordinance information and developed the following review of the alternatives.

**Summary of Concerns**

The concerns described in the February 26, 2010 letter from Mr. Bob Goodwin include the following:

- The “towing service companies (are) towing vehicle(s) from commercial properties without the property owner’s or the person in control’s request or knowledge.”
- The difficulty of locating vehicles that have been towed. Vehicle owners have no way of knowing which company towed the car.

**Alternatives**

Improvements to the existing ordinance recommended by Mr. Goodwin included the following actions:

1. Require a police officer to issue a citation for illegal parking before a towing service can tow away the vehicle and put it into storage.

Staff Analysis: While the rationale for this requirement is presumably to ensure that the existing private property signage is sufficient, it will be costly and potentially add frustration for all customers. During peak periods, non-emergency police calls can see response delays of 45 minutes or more. The solutions to this could be reprioritizing parking calls or adding staff to this function, both of which are costly remedies. There may be other steps that can address these concerns more efficiently.

2. Require that a copy of the citation be mailed to the vehicle owner by the Police Department.

Analysis: Iowa Code section 556B.1 requires that the Sheriff be notified when real property (such as a vehicle) is removed from private property and the owner is not

present. While it is possible to add this as a local ordinance, most people want to recover their vehicle much more quickly than registered mail notification would allow. There may be alternatives that address this concern more efficiently. Since there is already a state code requirement to notify the registered owner, this requirement adds little unless there are new timelines imposed.

Staff did not locate model ordinance language in a survey of other Iowa communities. Beyond the state, however, communities have addressed these types of concerns with additional regulations. Alternatives three and four may introduce the accountability Mr. Goodwin recommends while also limiting the expense to the city.

3. Require signed authority to tow from commercial parking lots, to include name, address, and telephone number of party authorizing the tow along with basis for that authorization (property owner, tenant, resident, manager, etc.)

Analysis: Requiring a record of the party authorizing the tow introduces some accountability into the decision to tow from private property. While this proposal does not prevent property owners from delegating the authority to tow, it will require that someone on-scene be listed as a decision-maker in the tow process. Citizens who feel they have had their vehicle towed unfairly will have recourse with the individual who authorized the tow.

4. Tow companies removing vehicles from private property without the owner or operator present must notify the Police Department by fax or telephone within two hours of the completion of the tow.

Analysis: Many people call the Police Department when they find their car missing. If tow companies were to notify the Police Department of these tows in a timely manner, it would allow vehicle owners to know immediately which company had towed their vehicle. Notification of the Police Department that such a tow has occurred would also eliminate a number of stolen vehicle reports.

Other options employed by cities include more detailed signs and additional criteria that must be met prior to a tow. While these options may have merit, they also create additional expenses for property owners and tow companies.

### **Recommendation**

If the city is going to get more involved in private property tows, the two steps which would have the most cost effective impact are:

- the requirement for the property owner or agent to co-sign the tow and
- the requirement to notify the Police Department when a private property tow has been done.

The signature will identify the authorizing party and allow recourse for the vehicle owner if they feel the tow was not fair. The Police Department notification will assist vehicle owners in finding their vehicle more quickly and without the aggravation of having to call

all of the tow companies. An additional benefit to all parties will be to more quickly distinguish towed vehicles from stolen vehicles. Additional steps can be taken in the future if these two initial enhancements prove ineffective in addressing citizen concerns.

**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 18.19 AND ENACTING A NEW SECTION 18.19 THEREOF, FOR THE PURPOSE OF REGULATING TOWING FROM PRIVATE PROPERTY; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; 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 enacting a new Section as follows:

**“Sec. 18.19 PARKING ON PRIVATE PROPERTY.**

(1) It is unlawful for any person to park a vehicle on land owned or controlled by another without that person's invitation or consent.

(2) Prior to issuance of a parking citation for a violation of this section to any vehicle parked in a commercial, institutional or multi-unit residential parking lot, the parking lot shall be posted at each entrance with clearly visible signs indicating the parking restrictions applicable therein, including notice that violators may be towed.

(3) When towing any vehicle parked in a commercial, institutional or multi-unit residential parking lot, the following requirements apply:

(a) The lot shall be posted at each entrance with clearly visible signs indicating the parking restrictions applicable therein, including notice that violators may be towed, and

(b) The property owner or owner’s agent or other party initiating a tow shall co-sign the authorization for tow; and

(c) The towing company shall notify the Police Department by telephone, fax, or by face-to-face report made at the Police Department that a private property tow was done. This report shall be made within two hours of completion of the tow and shall include sufficient details about the vehicle towed and the location towed from as to allow the Police to respond to inquiries about the towed vehicle’s whereabouts.

Violations of this subsection shall be a municipal infraction punishable by a penalty of \$50 for a first violation, \$100 for a second violation, and \$250 for third and subsequent violations. Alternatively, a violation of this subsection may be charged by a peace officer as a simple misdemeanor.

(4) Any vehicle parked as prohibited by this section and parked in such a way as to block ingress or egress on a driveway owned or controlled by another may be removed by the police department or their agent and said vehicle impounded and held until the cost of such towing and storage shall be paid.

(5) Any violation of Section 18.19(1), (2) or (4) may be charged as set forth in Section 18.7.”

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 \_\_\_\_\_, \_\_\_\_\_.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor