



## Office of the City Attorney

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### Memorandum

March 9, 2016

To: Ordinances and Licenses Committee, Police Department  
From: Brian Running  
Re: Overnight Parking of Trailers with Disabled Tag

A referral was made to consider amending our parking ordinance, Mun. Code 7.04, to allow trailers belonging to persons having disabled or disabled veteran plates on their vehicle to park the trailers on City streets overnight. This referral arose from a situation in which a disabled citizen had received a parking ticket for leaving a trailer on the street overnight in a marked, disabled parking spot on the street in front of his house. Doing so was a violation of a several ordinances: Disabled parking spots can be used only by "motor vehicles" having a disabled or disabled veteran registration, and a trailer is not a motor vehicle and is not registered; parking a trailer on a City street for more than 2 hours without a street occupancy permit is prohibited; and parking on streets between 2 am and 5 am is prohibited without a permit.

The citizen uses the trailer to haul equipment related to his disability. He's unable to park it in his driveway because of the steep slope. My office and the Police Department agreed that an exception should be made for situations like this, and the committee authorized the revision of our code to allow for trailer parking on the street, provided a special permit is obtained from the Police Department, and the trailer is parked in a disabled parking spot adjacent to the owner's residence.

There is one hitch in this plan. As you know, the City gets its authority to act from the state legislature, and the City can't exceed the authority that's granted to it. The City gets its authority to regulate parking by Wis. Stat. §349.13. In a nutshell, it says that cities can create parking regulations that are stricter than the state's regulations (§349.13(1e)(a)), and it says that a city cannot create parking regulations that allow parking in places that are prohibited by state law (§349.13(2)).

Therefore, we can't create a parking ordinance that's less restrictive than state statute, and we can't create an ordinance that allows parking where state statute says we can't.

This referral would require us to create an ordinance that is both less restrictive than state statute and would allow parking where it's prohibited by state statute. Parking in disabled spots is limited strictly to motor vehicles having special disabled registration. Therefore, trailers are not permitted to be parked in a disabled spot. We can't override that state law with a local ordinance.

So, the best we can do in this case is to create an ordinance that creates an exemption from parking regulations for trailers owned by disabled individuals, but only for parking in spots that are not marked for disabled parking only.

Following is a draft of amended Mun. Code §7.04(6)(g) that would accomplish this, followed by a redline that shows changes from the present section. Note that this ordinance exempts disabled trailers only from overnight parking regulations, it's not an exemption from all parking regulations.

(g) **Exemptions.** The following will be exempt from the permit requirements, fees and restrictions set forth in sections (a) to (c) above: (Cr. #56-94)(Am. #\_\_-16)

(1) **Disabled or Disabled Veteran Registration Plates.**

- (i) Any motor vehicle bearing a special registration plate issued under Wis. Stat. §341.14(1) to a disabled veteran or on his or her behalf; if the motor vehicle is parked within 100 feet of the residence of the person for which or on whose behalf special registration plates are issued or within 100 feet from the residence the person for which or on whose behalf such plate or identification card is issued is visiting.
- (ii) Any motor vehicle bearing special registration plates issued under Wis. Stat. §341.14(1a), (1e), (1m), or (1q), or motor vehicle upon which a special identification card issued under Wis. Stat. §343.51 is displayed; if the motor vehicle is parked within 100 feet of the residence of the person for which or on whose behalf special registration plates are issued or within 100 feet from the residence the person for which or on whose behalf such plate or identification card is issued is visiting.

(2) **Disabled Trailer Tag.** Any trailer owned by the owner of a motor vehicle described in either subsection (g)(1) or (g)(2), above, bearing a disabled parking identification tag issued by the Police Department, if the trailer is parked within 100 feet of the owner's residence. Trailers bearing such a tag are also exempt from the restrictions and requirements of subsection (14). The Police Department shall issue a disabled parking identification tag to an applicant upon a showing satisfactory to the Police Department that the applicant has been issued special registration plates under Wis. Stat. §341.14(1), (1a), (1e), (1m), or (1q), and that the trailer is used for purposes related to the applicant's disability.

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(g) ~~(Cr. #56-94)~~ **Exemptions.** The following will be exempt from the permit requirements, fees and restrictions set forth in sections (a) ~~(-)~~ to (c) above: (Cr. #56-94)(Am. #\_\_-16)

(1-a.) Disabled or Disabled Veteran Registration Plates.

(i) Any motor vehicle bearing a special registration plate issued under ~~sec.~~ Wis. Stat. §341.14(1) ~~or (1r)(a)~~ to a disabled veteran or on his or her behalf;

~~1 b. Any motor vehicle bearing special registration plates issued under sec. 341.14(1a), (1e), (1m), (1q), or (1r)(a), or motor vehicle other than a motorcycle upon which a special identification card issued after July 1, 1994 under sec. 343.51 is displayed;~~

~~1 c. The exemptions of a. and b. apply only~~ if the motor vehicle is parked within 100 feet of the residence of the person for which or on whose behalf special registration plates are issued or within 100 feet from the residence the person for which or on whose behalf such plate or identification card is issued is visiting~~;~~.

~~2. (ii)~~ Any motor vehicle ~~registered in another jurisdiction upon which is displayed a bearing special registration plate, card or emblem~~ plates issued by the other jurisdiction designating the under Wis. Stat. §341.14(1a), (1e), (1m), or (1q), or motor vehicle as a vehicle used by a physically disabled person provided the upon which a special identification card issued under Wis. Stat. §343.51 is

displayed; if the motor vehicle is parked within 100 feet of the residence of the person for which or on whose behalf special registration plates are issued or within 100 feet from the residence the person issued for which or on whose behalf such plate, or identification card is issued is visiting.

- (2) Disabled Trailer Tag.** Any trailer owned by the owner of a motor vehicle described in either subsection (g)(1) or (g)(2), above, bearing a disabled parking identification tag issued by the Police Department, if the trailer is parked within 100 feet of the owner's residence. Trailers bearing such a tag are also exempt from the restrictions and requirements of subsection (14). The Police Department shall issue a disabled parking identification tag to an applicant upon a showing satisfactory to the Police Department that the applicant has been issued special registration plates under Wis. Stat. §341.14(1), (1a), (1e), (1m), or (1q), and that the trailer is used for purposes related to the applicant's disability.