



Office of the City Attorney

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March 3, 2026

Memorandum

To: Ordinance and License Committee
From: Michael Radavich, Assistant City Attorney
Re: Impounding Vehicles Used in Reckless Driving Incidents

A referral to the O&L Committee was recently made to discuss the possible adoption of Wis. Stat. §349.115 into our Municipal Code. That statute allows municipalities to adopt ordinances allowing vehicles that have been involved in reckless driving to be impounded, and it was amended recently by the Legislature to make it easier to do so. This proposal is to create subsection (7) of Mun. Code §7.12 to adopt §349.115. A draft ordinance is attached.

Before its recent amendment, §349.115(1) authorized ordinances that allow law enforcement to impound any vehicle used in a reckless driving offense at the time of issuing a citation, but only when the person cited was the owner of the vehicle and had a prior reckless driving conviction. But in response to increasing incidents of reckless driving, on November 1, 2025 the Legislature amended the statute to allow impounding a vehicle even if the driver has no prior conviction and is not the owner of the vehicle. Now, the statute allows a law enforcement officer the discretion to impound any vehicle used in the commission of reckless driving at the time of issuing a citation or making an arrest, period. The vehicle can remain impounded until the costs of towing and storage, as well as any outstanding fines or forfeitures owed by the vehicle's owner, are fully paid. Law enforcement officers must make a reasonable effort to determine whether the vehicle is stolen, and if so, to contact the owner. Additionally, §349.115(3) details when and how the City may dispose of impounded vehicles if they remain unclaimed. A copy of 2025 Act 46 is attached for your reference.

Reckless driving is a serious traffic offense. To cite or arrest for reckless driving, an officer should observe, or have evidence, that a person operated a vehicle in a manner constituting criminal negligence and that this criminal negligence endangered the safety of any person or property. Establishing criminal negligence is a high standard. In this context, criminal negligence means that the person's driving behavior created a substantial or unreasonable risk of death or great bodily harm to another person or property.

Law enforcement officers may exercise discretion on impounding a vehicle used in reckless driving, depending on the severity of the circumstances. Factors include the nature of the reckless driving behavior, the time and place of the driving, and the proximity to other people and property, among other things.

City of Waukesha, Wisconsin

Ordinance No. 2026 – _____

**An Ordinance Creating Subsection (7) of Section 7.12 of the Waukesha Municipal Code,
Regarding the Impounding of Vehicles Used in Reckless Driving Offenses**

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Subsection (7) of Section 7.12 of the Municipal Code is created, to read in its entirety as follows:

- (7) **Impounding Vehicles Used in Reckless Driving Offenses.** Pursuant to the authority of Wis. Stat. §349.115, law enforcement officers may, at their discretion, impound any vehicle used in the commission of reckless driving, as defined under Wis. Stat. §346.62, at the time of issuing a citation or making an arrest for the offense.
- (a) **Recovery of Impounded Vehicle.** The owner of the vehicle may recover an impounded vehicle after payment of reasonable costs of impounding the vehicle, including towing and storage costs, and payment of any outstanding fines or forfeitures.
- (b) **Identifying Stolen Vehicles.** Upon impounding a vehicle under this subsection, a law enforcement officer shall make a reasonable effort to determine if the vehicle has been reported stolen. If the officer determines that the vehicle has been reported as stolen, the officer or Police Department shall make a reasonable attempt to contact the owner. The Police Department shall return to its owner a vehicle reported as stolen and impounded under this subsection without payment of a fee or charge. If a vehicle reported as stolen remains unclaimed for more than 60 days after impoundment, the Police Department may dispose of the vehicle following the same procedure as provided for disposing of abandoned vehicles under Wis. Stat. §342.40.
- (c) **Disposing of vehicles.** A vehicle impounded under this subsection may be disposed of by following the same procedure as provided for disposing of abandoned vehicles in Wis. Stat. §342.40 if the vehicle remains unclaimed for more than 90 days after the disposition of the charge for which the vehicle was impounded.

Section 2. All ordinances or portions of ordinances inconsistent with this Ordinance are hereby repealed.

Section 3. This Ordinance shall be effective the day after its publication.

Passed the _____ day of _____, 2026.

Shawn N. Reilly, Mayor

Attest: Katie Panella, City Clerk

Publication date: _____

2025 WISCONSIN ACT 46

AN ACT to amend 349.115 (1) and 349.115 (3); to create 349.115 (1m) of the statutes; relating to: impoundment of vehicles used in certain reckless driving offenses.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 349.115 (1) of the statutes is amended to read:

349.115 (1) A political subdivision may, by ordinance, authorize a law enforcement officer, at the discretion of the officer, to impound any vehicle used in the commission of a violation of s. 346.62 or a local ordinance in strict conformity with s. 346.62 at the time of issuing a citation or making an arrest for the offense ~~if the person cited is the owner of the vehicle and the person has a prior conviction for a violation of s. 346.62 or a local ordinance in strict conformity with s. 346.62 for which a forfeiture was imposed that has not been fully paid.~~ The ordinance may provide for impoundment of the vehicle until the person fully pays the prior forfeiture amount and reasonable costs of impounding the vehicle, including towing or other transportation costs and storage costs, and any outstanding fine or forfeiture owed by the owner of the vehicle are fully paid.

SECTION 2. 349.115 (1m) of the statutes is created to read:

349.115 (1m) Upon impounding a vehicle under sub. (1), a law enforcement officer shall make a reasonable effort to determine if the vehicle has been reported as stolen. If the officer determines that the vehicle has been reported as stolen, the officer or political subdivision shall make a reasonable attempt to contact the owner. Notwithstanding sub. (2), the political subdivision shall return to its owner a vehicle reported as stolen and impounded under sub. (1) without the payment of a fee or charge. If a vehicle reported as stolen remains unclaimed for more than 60 days after impoundment, the political subdivision may dispose of the vehicle following the same procedure as provided for disposing of an abandoned vehicle under s. 342.40.

SECTION 3. 349.115 (3) of the statutes is amended to read:

349.115 (3) ~~Subject to sub. (1m),~~ a political subdivision that has impounded a vehicle under sub. (1) may dispose of the vehicle by following the same procedure as provided for disposing of an abandoned vehicle under s. 342.40 if the impounded vehicle remains unclaimed for more than 90 days after the disposition of the citation charge for which the vehicle was impounded.