



**CITY OF LODI  
COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Re-introduce Ordinance Amending Lodi Municipal Code Chapter 9.08 "Offenses Against Property" by Repealing and Re-enacting Section 9.08.150 - "Vehicles."

**MEETING DATE:** March 3, 2004

**PREPARED BY:** Interim City Attorney

---

**RECOMMENDED ACTION:** That the City Council re-introduce Ordinance amending Lodi Municipal Code Chapter 9.08 to make parking without permission on private property an infraction and making towing permissive.

**BACKGROUND INFORMATION:** The Lodi Police Department has received numerous complaints from merchants along Kettleman Lane concerning cars parked in their customer lots for sale. These amendments are intended to make it easier for Lodi Police Department to respond and resolve the problem.

As you will recall, this Ordinance was adopted at the January 21, 2004 City Council meeting. Unfortunately, an error was made in the language which affects the way the Ordinance is carried out.

The language in the Ordinance as adopted reads as follows:

9.08.150 Vehicles. - No person shall stop, park, or leave standing a vehicle at any time within or upon any posted property without written permission of the owner, tenant, or the occupant in legal possession or control thereof. Vehicles parked in violation of this requirement **shall** be removed at the vehicle owner's expense. Violations of this requirement are deemed to be an infraction.

The language should have read "**may**" be removed. Leaving the word "shall" would require the Officers at the time of citing a vehicle to also take the time to have the vehicle towed tying up the Officers for approximately 45 minutes each time they cite a vehicle. Changing the language to "may" would allow the Officers to cite the vehicles one day and return a day or two later giving the owners the opportunity to remove their vehicle(s), and then proceed to have the vehicles towed that still remain.

**FUNDING:** None Required.

Respectfully submitted,

Handwritten signature of D. Stephen Schwabauer.

D. Stephen Schwabauer  
Interim City Attorney

---

APPROVED:

Handwritten signature of H. Dixon Flynn.

H. Dixon Flynn, City Manager

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI  
AMENDING TITLE 9 – PUBLIC PEACE, MORALS AND WELFARE,  
CHAPTER 9.08 “OFFENSES AGAINST PROPERTY” BY REPEALING AND  
REENACTING SECTION 9.08.150 OF THE LODI MUNICIPAL CODE  
RELATING TO VEHICLES

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

**SECTION 1.** Section 9.08.150 “Vehicles” of the Lodi Municipal Code is hereby repealed and reenacted to read as follows:

**9.08.150 Vehicles.**

No person shall stop, park, or leave standing a vehicle at any time within or upon any posted property without written permission of the owner, tenant, or the occupant in legal possession or control thereof. Vehicles parked in violation of this requirement may be removed at the vehicle owner’s expense. Violations of this requirement are deemed to be an infraction.

**SECTION 2.** All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

**SECTION 3.** No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 4.** Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

**SECTION 5.** This ordinance shall be published one time in the “Lodi News-Sentinel,” a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2004

\_\_\_\_\_  
LARRY D. HANSEN  
Mayor

Attest:

SUSAN J. BLACKSTON  
City Clerk

=====

State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held March 3, 2004, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER  
Interim City Attorney