



June 19, 2014

The Honorable President and Members
of the Baltimore City Council
Attn: Karen Randle, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



Re: City Council Bill 14-0350 – Public Towing – Maximum Fees

Dear President and City Council Members:

You have asked the Law Department to review City Council Bill 14-0350. The bill would set: (1) a maximum fee that can be charged per tow by an accident tow-truck operator; (2) a maximum daily storage fee for vehicles that have been towed under certain circumstances; and (3) a maximum fee that a vehicle's owner can be charged if the vehicle is moved under certain circumstances. Specifically, the bill places a cap of \$140 per tow on the fee charged to the owner of a disabled vehicle and a maximum storage fee of \$50 per day. (*See* proposed Article 31, Section 22-9 (b)(1) and (2)). The bill also places a cap of \$140 per tow on the fee charged to the owner of a vehicle that has been impounded. (*See* proposed Article 31, Sections 31-11 and 31-42(d)(3)).

The City's regulation of the towing of vehicles from City streets, which is for the purpose of protecting the public from predatory and unauthorized towers, is a valid exercise of its police powers found in Article II, Section 27 of the City Charter. *See* Baltimore City Charter, Article II, § 27 (City has authority to license and regulate businesses). *See also Verzi v. Baltimore County*, 333 Md. 411, 425 (1994) ("the prevention of fraud and ensuring a free flow of traffic are legitimate governmental objectives."); *Meyer v. St. Louis County*, 602 S.W.2d 728 (Mo. App. 1980) (holding that regulating towing business is a valid exercise of city's police power where objective is consumer protection from predatory towers). More specifically, local ordinances regulating the maximum fees chargeable for towing have been upheld as a proper exercise of police power. *See* cases collected at 97 A.L.R.3d 495, § 5(d) (Cum. Supp.). *See also Cade v. Montgomery County*, 83 Md. App. 419 (1990) (although not directly addressing rate structure which provided that rates which towing company could charge were limited to those maximum rates set by county executive, Court of Appeals concluded that comprehensive local ordinance regulating the towing of motor vehicles from private property without consent of vehicles' owners was proper exercise of police power), *cert. denied*, 320 Md. 350, *cert. denied*, 498 U.S. 1085 (1991).

←

Further, State legislation makes clear that Baltimore City may “adopt local laws or regulations relating to the registration or licensing of persons engaged in, or otherwise regulating in a more stringent manner, the parking, towing or removal, or impounding of vehicles.” Md. Code Ann., Transp. § 21-10A-01. State law further provides that “any political subdivision of this State may adopt ordinances or regulations that: “(1) [r]egulate the parking of vehicles; (2) [p]rovide for the impounding of vehicles parked in violation of the ordinances or regulations; (3) [r]egulate the towing of vehicles from publicly owned and privately owned parking lots; and (4) [p]rovide for the issuance of a citation by an officer for a violation of an ordinance or regulation that is adopted under this section.” Md. Code Ann., Transp. §26-301 (b). The Baltimore City Charter provides for the exercise of these powers in Article II, Section 34 (d) which states that the Mayor and City Council have the authority by ordinance, or such other method provided for in its Charter, “[t]o regulate the use of streets and public ways by persons, animals and vehicles; to prohibit the use of streets and public ways by any or all motor vehicles under such circumstances or upon such conditions as it may, from time to time, by ordinance, deem necessary or expedient in the interest of the public.” For these reasons, the Law Department approves Council Bill 14-0350 for form and legal sufficiency.

Sincerely,



Jennifer Landis
Special Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor’s Legislative Liaison
Elena R. DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Victor K. Tervalá, Chief Solicitor