

86-00023
OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

OCT 23 1985

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Honorable L. V. Brown
Mayor
Town of Powell
Route 2, Box 98
Fyffe, Alabama 35971

Municipalities - Roads,
Highways and Bridges -
Right-of-way

State Highway Department is to
make rules and regulations
regarding parking on
right-of-way of state highway
going through Town of Powell.

Dear Mayor Brown:

Reference is made to the request by the Town of Powell
for an opinion from the Attorney General regarding parking on
the right-of-way of a state highway. The following question
was presented:

"WHEREAS, a question has arisen
regarding the control of the parking of
automobiles along Alabama Highway #35
within the corporate limits of the Town
of Powell, and,

WHEREAS, the Mayor and Town
Council, as the governing body of said
Town of Powell are unsure as to what
authority, if any, they have over the
control and regulation of this
automobile parking,

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"BE IT HEREBY RESOLVED BY THE MAYOR AND TOWN COUNCIL, as the governing body of the Town of Powell, that in accordance with the provisions of Section 36-15-18, Code of Alabama 1975, the Mayor and Town Council request an opinion of the Attorney General of Alabama regarding this question."

Code of Alabama 1975, Section 23-1-59(b) provides:

"The highway department may prescribe any reasonable rules and regulations so as to prevent unnecessary trespassing upon or injury to any of the public roads, bridges or highways of the state upon which state money may be expended or appropriated or upon any part of the right-of-way of any of the public roads or highways in the state upon which state money may be expended or appropriated."

This provision gives the State Highway Department the authority to prescribe rules and regulations regarding the right-of-ways of state highways. My research does not reveal any authority for municipalities to adopt rules and regulations regarding such right-of-ways. Therefore, the State Highway Department is to make any rules and regulations regarding parking on the right-of-way of the state highway going through the Town of Powell.

Any rules or regulations promulgated by the State Highway Department regarding parking on the right-of-way of the state highway in question should be enforced by the state troopers. The state troopers may call on the municipal law enforcement officers for assistance in enforcing such rules and regulations.

I hope that your question has been sufficiently answered.

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If our office can be of assistance to you in the
future please let us know.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

BY:

A handwritten signature in cursive script that reads "Lynda Knight Oswald". The signature is written in dark ink and is positioned above the typed name of the signatory.

LYNDA KNIGHT OSWALD
ASSISTANT ATTORNEY GENERAL

CAG:lo:w