

2024 PARKING CODE AMENDMENTS

The Flagstaff City Code, Title 9 Traffic, Chapter 9-01 Traffic Code, Section 9-01-001-0003 Stopping, Standing and Parking Restrictions, is hereby amended by deleting and adding provisions to the code as shown in redline below (new text is underlined and capitalized in red, and deleted text is shown as stricken):

9-01-001-0003 STOPPING, STANDING AND PARKING RESTRICTIONS

A. **Applicability:** The provisions of this chapter prohibiting the standing, stopping or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs or parking meters, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with directions of a police officer or official traffic-control devices.

Any stopping, standing, or parking restrictions provided in this chapter shall not apply to any police officer, peace officer, or parking enforcement agent when such stopping, standing, or parking is for the purpose of actual performance of law enforcement duty.

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the standing, stopping or parking of vehicles in specified places or at specified times.

B. **Persons Liable:** Whenever any vehicle shall be parked in violation of any of the provisions of any ordinance prohibiting or restricting parking, the person in whose name such vehicle is registered shall be responsible for such violation and is subject to the penalties therefor.

C. **Defense to Liability:** Subsection (B) of this section shall not prevent a person from presenting evidence in any prosecution of a parking violation that a vehicle was not illegally parked or that said vehicle was not registered to said person at the time of the offense, or that said vehicle had been stolen at the time of the alleged offense. Proof that a person other than the registered owner was operating the vehicle at the time of the violation shall not constitute a valid defense to the substantive offense.

D. ~~Duty to Document~~ **RESPONSIBILITY FOR ENFORCEMENT OF PARKING VIOLATIONS: THE CHIEF OF POLICE AND HIS AUTHORIZED AGENTS, INCLUDING THE OFFICE OF THE PARKING MANAGER (PARKFLAG), ARE RESPONSIBLE FOR PARKING ENFORCEMENT.** It is the duty of the Chief of Police and his authorized agents to account for the issuance of all parking violations enumerated in this chapter and to take the following actions:

1. Document the date, time and location of the parking violation.
2. Document the State license number of any vehicle which is in violation of this chapter.
3. Document any other acts, knowledge of which is necessary to a thorough understanding of the violation of this chapter, and to issue a notice of violation in accordance with the provisions of subsection (F) of this section.

E. Violations:

1. Violation of any provision of this chapter which regulates the time, place, or method of parking shall be a violation subject to civil penalty not to exceed the amounts prescribed under subsection (H) of this section. ~~A separate fee schedule for fines in lesser amounts may also be adopted by the City Council by resolution.~~

2. Separate and Distinct Violations: Violations of this chapter regulating the time, place or method of parking which are continuous in nature shall constitute a separate and distinct violation for each full hour thereof.

3. Parking Prohibited:

a. A person shall not stop, stand or park a vehicle in any of the following places:

- (1) On a sidewalk.
- (2) In front of a public or private driveway, except that this subsection does not apply to a vehicle or the driver of a vehicle engaged in the official delivery of the United States mail if the driver does not leave the vehicle and the vehicle is stopped only momentarily.
- (3) Within an intersection.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) On a crosswalk.
- (6) Within twenty (20) feet of a crosswalk at an intersection.
- (7) Within thirty (30) feet of the approach to any flashing beacon, stop sign, yield sign or traffic control signal located at the side of a roadway.

(8) At any place where official signs prohibit standing or stopping.

b. A person who stops or parks a vehicle on a roadway where there are adjacent curbs shall stop or park the vehicle with its right-hand curb side wheels parallel to and within eighteen (18) inches of the right-hand curb, or within eighteen (18) inches of the left-hand or right-hand curb if the roadway is a one (1) way roadway.

c. A person who stops or parks a vehicle on a roadway shall not park in a diagonal manner but must park parallel to the roadway and no part of the vehicle may be in the roadway.

4. Limited Time Parking Areas: It is unlawful to park any vehicle in violation of any restriction so signed or marked.

5. Pay-to-Park Areas:

a. Operational Procedure to Be Followed: Immediately after parking a vehicle within a pay-to-park parking space, the person in the vehicle shall purchase a time period for the vehicle to remain within said parking space. To purchase a time period a person must deposit an acceptable form of payment in the nearest parking meter as indicated on the parking meter and follow operational procedures in accordance with the instructions posted on the parking meter. The vehicle may remain within said parking space only for the time period(s) purchased. Failure to deposit payment or follow the operational procedures shall constitute a violation of this chapter.

(1) For the first violation, or a violation more than one (1) year following a previous violation, a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(2) For a violation within one (1) year from a violation described in subsection (E)(5)(a)(1) of this section a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(3) For a violation within one (1) year from a violation described in subsection (E)(5)(a)(2) of this section a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(4) For a violation within a year from a violation described in subsection (E)(5)(a)(3) of this section, or any subsequent violations of this subsection, a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

b. Overtime Parking Violations: It is unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of, or operated by, such person to remain parked within any pay-to-park parking space beyond the time for which payment has been made. Any person who causes a vehicle to remain within a pay-to-park parking space overtime, or for more time than purchased, shall be in violation of this chapter and subject to the penalties as follows:

(1) For the first violation, or a violation more than one (1) year following a previous violation, a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(2) For a violation within one (1) year from a violation described in subsection (E)(5)(b)(1) of this section, a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(3) For a violation within one (1) year from a violation described in subsection (E)(5)(b)(2) of this section, a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(4) For a violation within a year from a violation described in subsection (E)(5)(b)(3) of this section, or any subsequent violations of this subsection, a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

c. Other Parking Meter Violations: The following shall constitute violations relating to parking meters, and are subject to the penalties set forth in the table in subsection (H)(3) of this section:

(1) To deface, damage, tamper with, open or willfully break, destroy or attempt in any manner to impair the function of any parking meter.

(2) To deposit or cause to be deposited in any parking meter any slugs, devices, or other substitutes for lawful payment as indicated on the parking meter.

(3) To make use of or operate any parking meter for the purpose of advertising or solicitation of business, either directly or indirectly.

(4) To permit, cause, or allow a bicycle, news rack, animal, or any other thing to be attached to or to be leaned against a parking meter.

(5) To permit, cause or allow any sign, symbol, sticker, graffiti or similar writings, photos or artwork to be written, etched, attached, hung or posted in any manner on a parking meter without the express written consent of the City.

6. Parking-Permit-Required Areas:

a. It is unlawful to park any vehicle in violation of any parking restriction as indicated and marked with signage.

(1) For the first violation, or a violation more than one (1) year following a previous violation, a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(2) For a violation within one (1) year from a violation described in subsection (E)(6)(a)(1) of this section a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(3) For a violation within one (1) year from a violation described in subsection (E)(6)(a)(2) of this section a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

(4) For a violation within a year from a violation described in subsection (E)(6)(a)(3) of this section or any subsequent violations of this subsection a fine will be imposed pursuant to the table set forth in subsection (H)(3) of this section.

b. Other Parking Permit Violations: The following shall constitute violations relating to permit parking and are subject to the penalties set forth in the table in subsection (H)(3) of this section:

(1) To falsely represent oneself as eligible for a parking permit or to furnish false information in an application for a parking permit.

(2) To assign or transfer a parking permit, with or without consideration, monetary or otherwise.

(3) To copy, produce, or create a facsimile of or counterfeit of a parking permit, or to display a facsimile or counterfeit parking permit for purposes of parking in parking-permit-required areas.

(4) To use, or to allow the use of, a parking permit for a vehicle other than the specific vehicle for which the permit was issued.

7. Seasonal Parking Restriction: No person shall park, or permit to be parked, on any street between midnight and 7:00 a.m., from November 1st to April 1st, any vehicle owned or controlled by that person.

a. Exceptions:

(1) The seasonal parking restriction does not apply to the following areas:

(a) The north side of the westerly one thousand (1,000) feet of Coconino Avenue.

(b) Both sides of Pine Cliff Drive for a distance of nine hundred (900) feet south of the south curb line of Ponderosa Parkway.

(c) Both sides of Locust Street (formerly Cottonwood Street) for a distance of three hundred fifty (350) feet south of the south curb line of Ponderosa Parkway.

(d) All public streets in the Aspen Place at the Sawmill development.

(e) Streets in those areas of the City that have been zoned to the Traditional Neighborhood District zoning designation.

(2) The seasonal parking restriction shall be from 3:00 a.m. until 7:00 a.m. for the following areas:

(a) Both sides of Leroux Street from Benton Avenue to Phoenix Avenue, and from Route 66 to Cherry Avenue.

(b) Both sides of Benton Avenue, Cottage Avenue, and Phoenix Avenue from Leroux Street to Agassiz Street.

(c) Both sides of Aspen Avenue from Beaver Street to ~~Agassiz~~ W.C. RILES Street.

(d) Both sides of Birch Avenue and Cherry Avenue from Beaver Street to San Francisco Street.

(e) The north side of Route 66 from Beaver Street to ~~Agassiz~~ W.C. RILES Street.

(f) Both sides of ~~Agassiz~~ W.C. RILES Street from Route 66 to Birch Avenue.

8. Reparking Prohibited: If a vehicle has been parked in an area on any street where parking is limited or restricted to a specified maximum period of time by official signs posted at that location, it is prohibited and a violation of this section to repark said vehicle within three hundred (300) feet of the location where it was first parked within the following four (4) hour period.

9. Parking within Lines or Markings: It is unlawful to park any vehicle across lines or markings painted upon the curb or street to designate a parking space or to park a vehicle in such a position that it shall not be entirely within the space designated by such lines or markings.

10. Large Vehicle Parking Prohibited: It is unlawful for anyone to park a vehicle, trailer or semi-trailer or more than fourteen thousand (14,000) pounds gross vehicle weight on that side of any public street which is on the boundary of or is within a land use zoning district of RR, RS, R1, RMM, RML, MH or PLO as designated on the current official zoning map except for the purpose of loading or unloading said vehicle or equipment.

F. PARKING CITATIONS AND Notice^S of Violation:

1. UPON ISSUING A PARKING CITATION, A CITY LAW ENFORCEMENT OFFICER WILL FILE A COMPLAINT IN THE FLAGSTAFF MUNICIPAL COURT.

2. IF A NOTICE OF VIOLATION HAS BEEN ISSUED BY PARKFLAG, PARKFLAG WILL FILE A COMPLAINT IN THE FLAGSTAFF MUNICIPAL COURT EITHER UPON THE SIXTEENTH (16TH) DAY FROM ISSUANCE OF THE NOTICE OF VIOLATION IF THE PARKING VIOLATION HAS NOT YET BEEN PAID, OR UPON SUCH EARLIER DATE WHEN THE REGISTERED OWNER OF THE VEHICLE HAS CONTESTED THE TICKET WITH PARKFLAG AND REQUESTED A HEARING.

3. In an action involving unlawful parking, a copy of the PARKING CITATION OR notice need not be personally served upon the owner or operator of the vehicle but may be served by conspicuously attaching a copy to the vehicle.

4. The PARKING CITATION OR notice OF VIOLATION shall include the date, time and location of the violation, the State license number of the vehicle unlawfully parked, reference to the City ordinance or code provision violated, the sanction for the violation, HOW PAYMENT IS TO BE MADE, and notice that within fifteen (15) calendar days from the day on which the notice was issued, the sanction for the

violation must be paid and received by the City of Flagstaff office ~~designated by the City Manager~~ or a written request for a hearing to contest the alleged violation must be made and received by the City of Flagstaff office ~~designated by the City Manager~~. AT THE LOCATION STATED IN THE NOTICE, OTHERWISE A DEFAULT JUDGMENT SHALL BE ENTERED AGAINST THE REGISTERED OWNER OF THE VEHICLE FOR THE SANCTION PLUS LATE PENALTIES PURSUANT TO THE TABLE OF FINES SET FORTH IN SUBSECTION H(3).

G. Response to PARKING CITATION/Notice of Violation, Review and Hearing:

1. Within fifteen (15) calendar days from the day on which the PARKING CITATION OR notice was issued, the person or persons liable for the ALLEGED parking violation shall respond ~~to the notice~~ by:

a. Paying the civil sanction prescribed for the violation to the City BY THE MEANS STATED IN THE PARKING CITATION/NOTICE ~~of Flagstaff office designated by the City Manager~~; or

b. Submitting a written request for a hearing to contest the alleged parking violation BY THE MEANS STATED IN THE PARKING CITATION/NOTICE, ~~to the City of Flagstaff office designated by the City Manager. That designated office will then forward the violation to the Flagstaff Municipal Court for a hearing.~~

In the event the fifteenth day from the day on which the notice was issued falls on a Saturday, Sunday or legal holiday, then the person or persons liable for the parking violation shall respond by the next regular business day following the fifteenth day.

2. A civil traffic hearing for a parking violation may be heard by a MAGISTRATE OR civil traffic hearing officer at the Flagstaff Municipal Court pursuant to applicable State statutes and the Arizona Supreme Court Rules of Procedure in Civil Traffic Violation Cases. The MAGISTRATE OR hearing officer may make such orders as may be necessary and proper to dispose of such cases. Any fines imposed by the FLAGSTAFF MUNICIPAL COURT ~~hearing officer~~ shall not be less than a base fine of ten dollars (\$10.00) excluding State surcharges, ASSESSMENTS, and fees. Fines imposed ~~after a civil traffic hearing~~ BY THE COURT shall be paid to the Flagstaff Municipal Court. ~~The Flagstaff Municipal Court shall transmit the portion of the fee due to the City of Flagstaff to the City Treasurer who shall account for the same per the City budget.~~

H. Penalties and Enforcement:

1. Minimum **BASE** Fine: ~~If payment of the fine is received or notice to contest is filed within fifteen (15) days of issuance of the notice of violation, t~~The sanction for a violation of this chapter ~~upon payment of the sanction or upon conviction shall be not less than ten dollars (\$10.00), plus State surcharges, and assessments, AND FEES.~~

2. Maximum **BASE** Fine: Every person held responsible for a violation of any provision of this section shall be penalized by a civil sanction not to exceed two hundred fifty dollars (\$250.00), excluding **STATE** surcharges, ~~and assessments, AND FEES.~~

3. Fines assessed for specific violations of this chapter are detailed in the table of fines set forth below and include **THE BASE FINE, surcharges and fees required to be assessed by State law. STATE SURCHARGES, ASSESSMENTS, AND FEES. THE TOTAL FINE PAID LATE INCLUDES A \$20.00 CITY ADMINISTRATIVE FEE.**

TABLE OF FINES

Parking Violation Code Section	Parking Violation Code Title	Total Fine Paid on Time	Total Fine Paid Late
9-01-001-0003(E)(3)(a)(1)	Parked on Sidewalk	\$97.00	\$147.00
9-01-001-0003(E)(3)(a)(2)	Parked Blocking Driveway	\$97.00	\$147.00
9-01-001-0003(E)(3)(a)(3)	Parked in Intersection	\$97.00	\$147.00
9-01-001-0003(E)(3)(a)(4)	Parked within 15 Feet of Fire Hydrant	\$97.00	\$147.00
9-01-001-0003(E)(3)(a)(5)	Parked in Crosswalk	\$97.00	\$147.00
9-01-001-0003(E)(3)(a)(6)	Parked within 20 Feet of Crosswalk at Intersection	\$97.00	\$147.00
9-01-001-0003(E)(3)(a)(7)	Parked within 30 Feet of the Approach of a Traffic Control Signal	\$97.00	\$147.00
9-01-001-0003(E)(3)(a)(8)	Parked Where Official Signs Prohibit Parking	\$97.00	\$147.00
9-01-001-0003(E)(3)(b)	Failure to Park within 18 Inches of the Curb	\$97.00	\$147.00
9-01-001-0003(E)(3)(c)	Failure to Park Parallel to Curb or Roadway	\$97.00	\$147.00

Parking Violation Code Section	Parking Violation Code Title	Total Fine Paid on Time	Total Fine Paid Late
9-01-001-0003(E)(4)	Failure to Obey Parking Signs or Marked Restrictions	\$48.00	\$98.00
9-01-001-0003(E)(5)(a)(1)	Failure to Pay Meter – First Violation	\$48.00	\$98.00
9-01-001-0003(E)(5)(a)(2)	Failure to Pay Meter – Second Violation within One Year of First	\$83.00	\$133.00
9-01-001-0003(E)(5)(a)(3)	Failure to Pay Meter – Third Violation within One Year of Second	\$115.00	\$165.00
9-01-001-0003(E)(5)(a)(4)	Failure to Pay Meter – Four or More Violations within One Year of Third	\$150.00	\$200.00
9-01-001-0003(E)(5)(b)(1)	Expired Meter – First Violation	\$48.00	\$98.00
9-01-001-0003(E)(5)(b)(2)	Expired Meter – Second Violation within One Year of First	\$83.00	\$133.00
9-01-001-0003(E)(5)(b)(3)	Expired Meter – Third Violation within One Year of Second	\$115.00	\$165.00
9-01-001-0003(E)(5)(b)(4)	Expired Meter – Four or More Violations within One Year of Third	\$150.00	\$200.00
9-01-001-0003(E)(5)(c)	Parking Meter Abuse	\$58.00	\$108.00
9-01-001-0003(E)(6)(a)(1)	Parked without Parking Permit – First Violation	\$48.00*	\$98.00
9-01-001-0003(E)(6)(a)(2)	Parked without Parking Permit – Second Violation within One Year of First	\$83.00	\$133.00
9-01-001-0003(E)(6)(a)(3)	Parked without Parking Permit – Third Violation within One Year of Second	\$115.00	\$165.00
9-01-001-0003(E)(6)(a)(4)	Parked without Parking Permit – Four or More Violations within a Year of Third	\$150.00	\$200.00
9-01-001-0003(E)(6)(b)	Parking Permit Abuse	\$58.00	\$108.00

Parking Violation Code Section	Parking Violation Code Title	Total Fine Paid on Time	Total Fine Paid Late
9-01-001-0003(E)(7)	Parked during Seasonal Restriction	\$48.00	\$98.00
9-01-001-0003(E)(8)	Reparking Prohibited	\$48.00	\$98.00
9-01-001-0003(E)(9)	Failure to Park within Lines or Markings	\$48.00	\$98.00
9-01-001-0003(E)(10)	Large Vehicle Parking Prohibited	\$48.00	\$98.00
9-01-001-0006	Disabled Parking Violations	\$265.00	\$315.00

* Code reviser's note: The amount shown in Ordinance 2018-38 has been corrected at the direction of the city to show the intended amount.

4. Default Judgment and Penalty Assessment: If the person or persons liable for a parking violation fail to respond by one (1) of the methods prescribed in subsection (G)(1) of this section, ~~THEN, within fifteen (15) days~~ **THIRTY (30) DAYS AFTER THE DATE OF VIOLATION,** of the issuance of the notice, a default judgment shall be entered against the registered owner of the vehicle **FOR THE SANCTIONS OWED, INCLUDING ANY LATE PENALTIES,** and the sanction for the violation shall automatically increase pursuant to the table **OF FINES** outlined in subsection (H)(3) of this section. **THE FLAGSTAFF MUNICIPAL COURT WILL SEND NOTICE OF ANY DEFAULT JUDGMENT TO THE REGISTERED OWNER OF THE VEHICLE.**

5. Disposition of Fines: Funds collected from fines on parking violations **OWED TO THE CITY** shall be turned over to the City Treasurer who shall account for the same per the City budget.

6 IN THE EVENT SANCTIONS AND LATE PENALTIES REMAIN UNPAID, THE FLAGSTAFF MUNICIPAL COURT WILL SEND THE CASE TO A COLLECTIONS AGENCY, AND THE OWNER OF THE REGISTERED VEHICLE SHALL BE RESPONSIBLE FOR PAYING COLLECTION AGENCY COSTS AS SET BY THE ARIZONA SUPREME COURT IN ADDITION TO THE BALANCE OF THE SANCTIONS AND LATE PENALTIES OWED. THE FLAGSTAFF MUNICIPAL COURT MAY REQUEST THE ARIZONA DEPARTMENT OF MOTOR VEHICLES AND/OR THE ARIZONA DEPARTMENT OF REVENUE TO ASSIST IN COLLECTION EFFORTS.

I. Immobilizing and Impounding of Vehicles:

1. The Police Department or ~~the Office of Parking Manager~~ PARKFLAG may remove and impound any unoccupied vehicle of any kind or description found violating any of the provisions of this chapter, or of any of the ordinances of the City of Flagstaff or the laws of the State of Arizona regulating the standing or parking of vehicles.

2. The Police Department or the Office of Parking Manager may immobilize by placement of a restraint in such a manner as to prevent a vehicle's operation, and may remove and impound any eligible vehicle upon a street, highway, public right-of-way, or city-owned or leased parking lot. A vehicle shall be eligible for immobilization and/or impoundment as provided herein any time after inclusion of its registered owner on an immobilization and impoundment list.

3. ~~The Office of Parking Manager~~ FLAGSTAFF MUNICIPAL COURT shall include a registered owner on the immobilization and impoundment list only if:

a. The registered owner has accumulated in the Flagstaff Municipal Court three (3) or more parking violation complaints on which the court has entered judgment for the State, whether by default or after an admission or finding of responsibility, and on which full payment has not been made; and

b. Notice of impending vehicle immobilization and impoundment has been: (1) personally served, or (2) sent to the registered owner via REGULAR U.S. MAIL, AND A COPY OF THE NOTICE HAS BEEN CONSPICUOUSLY ATTACHED TO THE VEHICLE, OR (3) THE NOTICE HAS BEEN SENT BY certified mail, return receipt requested. Notice via ~~certified~~ mail shall be sent to the address of the registered owner provided to the Arizona Motor Vehicle Division or at the last known address of the registered owner as indicated in the Flagstaff Municipal Court's records. The notice shall state the name and address of the registered owner, the license plate number of the vehicle, the nature of the ordinances violated, the violation dates, the numbers of the complaints, and the amount of the unpaid sanctions and surcharges. The notice shall advise that the registered owner may prevent his/her inclusion on the immobilization and impoundment list by paying, within fifteen (15) calendar days of the date of receiving said notice, all sanctions and surcharges, ~~and~~ THE NOTICE shall also advise that a person may challenge the validity of the notice of impending vehicle immobilization and impoundment WITHIN FIFTEEN (15) CALENDAR DAYS OF RECEIPT OF SUCH NOTICE by requesting a hearing in the Flagstaff Municipal Court, appearing and submitting evidence which would conclusively disprove liability for immobilization and impoundment, such as the sanctions for the violations cited in the notice were paid, or the registered owner has not accumulated three (3) or

more unpaid parking violation complaints on which the Flagstaff Municipal Court has entered judgment for the State.

C. IF THE REGISTERED OWNER REQUESTS A HEARING WITHIN FIFTEEN (15) DAYS FROM THE DATE OF RECEIPT OF SAID NOTICE, THE FLAGSTAFF MUNICIPAL COURT SHALL SET A HEARING TO DETERMINE WHETHER THERE IS A SUFFICIENT FACTUAL AND LEGAL BASIS FOR PLACEMENT ON THE IMMOBILIZATION AND IMPOUNDMENT LIST. A hearing provided by ~~this subsection~~ THE FLAGSTAFF MUNICIPAL COURT shall not determine the validity of or set aside any judgment entered on a parking complaint issued to the registered owner. The hearing shall be conducted informally before a MAGISTRATE ~~judge~~ or hearing officer and the technical rules of evidence shall not apply; provided, that the decision of the Flagstaff Municipal Court shall in all cases be based upon substantial and reliable evidence. FAILURE TO REQUEST OR ATTEND A SCHEDULED HEARING SHALL BE DEEMED A WAIVER OF THE RIGHT TO A HEARING.

43. A registered owner shall be removed from the immobilization and impoundment list, PRIOR TO IMMOBILIZATION OR IMPOUNDMENT OF THE VEHICLE, by:

a.—Satisfying all of the judgments entered on the three (3) or more parking violation complaints that caused the registered owner to be included on the list.

b.—~~The Flagstaff Municipal Court upon a finding that the registered owner was not properly included on the immobilization and impoundment list.~~

5. Upon immobilization of an eligible vehicle, a notice shall be affixed to the vehicle in a conspicuous place. The notice shall warn that the vehicle is immobilized and that any attempt to move the vehicle may result in its damage. The notice shall state that the unauthorized removal of or damage to the immobilizing restraint is a criminal violation. The notice shall also state that unless arrangements are made for release of the vehicle within twenty-four (24) hours of immobilization, the vehicle may be towed and impounded. The notice shall also specify how release of the immobilizing restraint may be had.

65. The Police Department or ~~the Office of Parking Manager~~ PARKFLAG may remove and impound any vehicle upon which an immobilizing restraint has been placed if no arrangements have been made for the release of the vehicle within twenty-four (24) hours of immobilization.

~~7~~6. It is unlawful for any person, without proper authority, to remove or attempt to remove, or for any person to damage, tamper with or deface an immobilizing restraint device that has been attached to a vehicle pursuant to this section, or to relocate or tow any vehicle so restrained.

8. WITHIN THREE (3) BUSINESS DAYS, EXCLUDING WEEKENDS AND CITY HOLIDAYS, AFTER A VEHICLE HAS BEEN IMPOUNDED, THE CITY SHALL EITHER SEND A NOTICE OF IMPOUNDMENT BY REGULAR U.S. MAIL TO THE REGISTERED OWNER OF THE VEHICLE AT THE ADDRESS OF THE REGISTERED OWNER PROVIDED TO THE ARIZONA DEPARTMENT OF MOTOR VEHICLES OR AT THE LAST KNOWN ADDRESS OF THE REGISTERED OWNER AS INDICATED IN THE FLAGSTAFF MUNICIPAL COURT'S RECORDS, OR THE CITY SHALL PERSONALLY SERVE A COPY OF THE NOTICE OF IMPOUNDMENT ON THE REGISTERED OWNER. THE NOTICE SHALL SPECIFY HOW RELEASE OF THE VEHICLE MAY BE HAD.

~~9~~7. If any unoccupied vehicle is in violation of any of the provisions of this code, or of any of the ordinances of the City of Flagstaff or the laws of the State of Arizona regulating the standing or parking of vehicles, or if the registered owner of any vehicle is included on an immobilization and impoundment list, then such vehicle shall be deemed to constitute a nuisance and the registered owner of the vehicle consents to immobilization and impoundment as provided herein. IF THE CITY HAS IMPOUNDED A VEHICLE UNDER THIS SUBSECTION, AND THE REGISTERED OWNER OF THE VEHICLE IS NOT ON THE IMMOBILIZATION AND IMPOUNDMENT LIST, THE REGISTERED OWNER SHALL BE ISSUED A PARKING CITATION OR NOTICE OF VIOLATION AND IS ENTITLED TO A POST-IMPOUNDMENT HEARING.

J. Immobilized and Impounded Vehicles--Release:

1. ~~Prior to a hearing on the validity of an immobilization or impoundment authorized by subsection (1)(2) of this section,~~ AFTER THE FLAGSTAFF MUNICIPAL COURT HAS ORDERED A VEHICLE PLACED ON THE VEHICLE IMMOBILIZATION AND IMPOUNDMENT LIST, AND THE VEHICLE HAS BEEN IMMOBILIZED OR IMPOUNDED, the registered owner of the immobilized or impounded vehicle or other person entitled to possession of the vehicle shall be permitted to secure release of the vehicle by:

A. furnishing evidence of ~~his or her~~ THE REGISTERED OWNER'S identity and ownership or right to possession and:

~~a.~~ B. ~~P~~aying the immobilization FEE TO THE CITY, and, if applicable, towing and storage fees TO THE TOWING COMPANY, and paying all the sanctions, surcharges and fees on the parking

violation complaints for which notice had been sent and hearing has been held or waived as provided by subsection (I)(3)(b) of this section TO THE FLAGSTAFF MUNICIPAL COURT;

~~b.— Posting a bond, or any other undertaking approved by the Chief Presiding Judge of the Flagstaff Municipal Court, in an amount equal to the immobilization and, if applicable, towing and storage fees, and all the sanctions, surcharges and fees on the parking violation complaints for which notice had been sent and a hearing has been held or waived as provided by subsection (I)(2)(b) of this section.~~

~~2.— Within five (5) business days after a vehicle has been impounded notice of impoundment shall be sent by certified mail, return receipt requested, to the registered owner of the vehicle at the address of the registered owner provided to the Arizona Department of Motor Vehicles or at the last known address of the registered owner as indicated in the Flagstaff Municipal Court's records. The notice shall state that the registered owner has the right to a post immobilization and/or post impoundment hearing as provided in subsection (J)(3) or (J)(6)(c) of this section.~~

23. IF A VEHICLE IS IMPOUNDED BY THE CITY WITHOUT FIRST HAVING BEEN PLACED ON THE IMMOBILIZATION AND IMPOUNDMENT LIST, THEN ~~†~~The registered owner of a vehicle immobilized or impounded under subsection (I)(2) of this section shall have the right to a POST-IMPOUNDMENT hearing to determine whether there was a sufficient factual and legal basis for the immobilization or impoundment or whether the owner was properly included on an immobilization and impoundment list, if the owner files a written request for a hearing with the Flagstaff Municipal Court within ~~fourteen (14)~~ FIFTEEN (15) calendar days after issuance of the notice specified in subsection (I)(8) ~~(J)(2)~~ of this section or within fourteen (14) calendar days of the immobilization or impoundment, whichever is later. A hearing shall be conducted within THREE (3) BUSINESS DAYS, ~~forty-eight (48) hours,~~ excluding weekends and CITY holidays, of THE FLAGSTAFF MUNICIPAL COURT'S receipt of a written request for hearing, unless otherwise waived by the registered owner. Failure to request or attend a scheduled hearing shall be deemed a waiver of the right to a hearing. In event of such failure, any bond or other undertaking deposited pursuant to subsection (J)(3)(B)(1)(b) ~~(4)(b)~~ of this section shall be forfeited. If the court determines that there were insufficient grounds for the immobilization or impoundment, the bond or other undertaking shall be exonerated. A hearing provided by this section shall not determine the validity of or set aside any judgment entered on a parking complaint issued to the registered owner. The hearing shall be conducted informally before a judge or hearing officer and the technical Rules of Evidence shall not apply; provided, that the decision of the Flagstaff Municipal Court shall in all cases be based upon substantial and reliable evidence.

3. THE REGISTERED OWNER OF THE VEHICLE IMPOUNDED WITHOUT FIRST HAVING BEEN PLACED ON THE IMMOBILIZATION AND IMPOUNDMENT LIST SHALL BE PERMITTED TO SECURE RELEASE OF THE VEHICLE BY FURNISHING EVIDENCE OF THE REGISTERED OWNER'S IDENTITY AND OWNERSHIP OR RIGHT TO POSSESSION AND BY:

(A) PAYING THE APPLICABLE TOWING AND STORAGE FEES OWED TO THE TOWING COMPANY; AND

(B) EITHER PAYING ALL THE SANCTIONS, SURCHARGES, AND FEES ON THE PARKING VIOLATION COMPLAINTS FOR WHICH NOTICE HAD BEEN SENT AND THE HEARING HAS BEEN HELD OR WAIVED UNDER SUBSECTION (I)(8) OR POSTING A BOND, OR ANY OTHER UNDERTAKING APPROVED BY THE CHIEF PRESIDING JUDGE OF THE FLAGSTAFF MUNICIPAL COURT, IN SUCH AMOUNT.

4. A lienholder asserting its right to possession of an immobilized or impounded vehicle pursuant to its conditional sales agreement may obtain immediate release of such vehicle by paying the immobilization FEE TO THE CITY and, if applicable, towing and storage fees TO THE TOWING COMPANY, and submitting a photocopy of the conditional sales agreement and title certificate, an affidavit stating that the purchaser is in default of the agreement and an indemnification certificate executed by an authorized agent of the lienholder. The requirements of subsection (J)(1) of this section shall not apply to a lienholder asserting its right to possession of an immobilized or impounded vehicle as provided herein.

5. The immobilization fee shall be forty dollars (\$40.00). The towing and storage fees shall be those fees set forth in the applicable current tow service contract between the City and the tow contractor providing the tow service.

6. No fees shall be assessed for any immobilization or impoundment which has been determined BY THE CITY OR FLAGSTAFF MUNICIPAL COURT to be without a sufficient factual or legal basis. The City shall be responsible FOR REIMBURSING THE REGISTERED OWNER WHOSE VEHICLE WAS TOWED WITHOUT A SUFFICIENT FACTUAL OR LEGAL BASIS FOR ANY TOWING AND STORAGE FEES THE REGISTERED OWNER HAS PAID IN ORDER TO SECURE RELEASE OF THE VEHICLE, OR IF THE VEHICLE HAS NOT BEEN RELEASED, THE CITY SHALL PAY ~~to the tow contractor~~ for any towing and storage fees incurred as a result of an impoundment determined to be without a sufficient factual or legal basis IN ORDER TO ALLOW FOR RELEASE.

~~6.— The registered owner or other person entitled to possession of a vehicle removed and impounded pursuant to subsection (l)(1) of this section may:~~

~~a.— Recover possession of the vehicle by paying to the tow contractor having custody of the vehicle the towing and any storage fees that may have accrued.~~

~~b.— Recover possession of the vehicle by posting a bond, or any other undertaking approved by the Chief Presiding Judge of the Flagstaff Municipal Court, in the amount of the towing and storage fees that have accrued to the tow contractor. Within thirty (30) days of the posting of the bond, a hearing before a magistrate or hearing officer shall be conducted in the Flagstaff Municipal Court to determine the propriety of the tow. If the court determines that there were sufficient factual and legal grounds for the tow, the bond or other undertaking shall be forfeited as payment thereof; if the court determines that there were insufficient grounds for the tow, the bond or other undertaking shall be exonerated.~~

~~c.— Demand on a form provided by the Flagstaff Municipal Court a hearing as to whether there was a sufficient factual and legal basis for removing and impounding the vehicle. The hearing may take place before a judge or a hearing officer. To be entitled to a hearing, a written demand must be filed with the Flagstaff Municipal Court within either five (5) days after Petitioner learned that the vehicle was impounded or missing, or within fourteen (14) days after the City sent notice of impoundment, whichever occurs first. The hearing must be held within forty-eight (48) hours after the filing of the written demand. A determination that there was an insufficient factual or legal basis for impounding the vehicle will require the tow contractor to release the vehicle without the payment of the towing and storage fees. In that event, the City shall be responsible for payment of the towing and storage fees. A hearing may be demanded by filing the appropriate form with the Flagstaff Municipal Court during regular business hours. The payment of towing and storage fees shall not release the owner or driver of such vehicle of any other penalty imposed for the violation of this code or the laws of the State of Arizona regulating the standing or parking of vehicles.~~

K. Impounded Vehicles--Record: The Police Department or **PARKFLAG** the Office of Parking Manager shall maintain a record of all vehicles impounded. Such records shall show the location from which the vehicle was removed, the date and time of removal, the name of the individual authorizing the removal, the reason for such removal and impounding, and the location at which the vehicle is presently stored. (Ord. 1185, Amended, 11-17-81; Ord. 1265, Amended, 03/15/83; Ord. 1995, Amended, 05/18/99; Ord. 2005-26, Amended, 11/01/2005;

Ord. 2007-42, Amended, 11/20/2007; Ord. 2012-02, Amended, 03/06/2012; Ord. 2016-05, Amended, 02/02/2016; Ord. 2017-01, Amended, 02/07/2017; Ord. 2018-38, Amended, 11/20/2018)