



Ordinance No. O2017-02-001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOGALES REPEALING ARTICLES I, II, AND III OF CHAPTER 18 OF THE NOGALES CITY CODE AND ADOPTING NEW ARTICLES I, II AND III. (LEGAL)

BE IT ORDAINED by the City Council of the City of Nogales as follows:

Section I. Repeal

Articles I, II and III of Chapter 18 relating to Definitions, Operation, and Stopping, Standing and Parking consisting of Sections 18-1 through 18-78 inclusive are hereby repealed.

Section II. Adoption of New Ordinance

Chapter 18, Articles I, II, and III relating to Definitions, Operation, and Stopping, Standing, and Parking consisting of Sections 18-1 through 18-30 inclusive, attached hereto as Exhibit "A" is hereby adopted.

Section III. Effective Date

Chapter 18, Articles I, II, and III shall become effective upon passage.

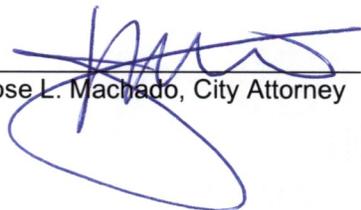
PASSED, ADOPTED, AND APPROVED by the Council of the City of Nogales, Arizona, this 16th day of February, 2017.


John F. Doyle, Mayor

ATTEST:


Leticia Robinson, City Clerk

APPROVED AS TO FORM:


Jose L. Machado, City Attorney

CHAPTER 18

ARTICLE I. - IN GENERAL

Sec. 18-1 - Definitions.

In this Chapter, unless the context otherwise requires, definitions are as set forth herein; if a definition is not set forth herein, or is in conflict with A.R.S. §28-101 et. seq. the definitions in the Arizona Revised Statutes governs:

City means the City of Nogales.

Civil parking infraction or violation means any violation of Articles II or III herein.

Crosswalk means:

- (1) That part of a roadway at an intersection included within the prolongations or connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway.
- (2) Any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Front street means the street located in front of a residence.

Handicap parking space means any specially designated and marked parking space provided in accordance with section 18-17(a)(15) for physically disabled persons.

Intersection means the area embraced within the prolongation or connection of the lateral curb lines, or if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict. If a highway includes two roadways 30 or more feet apart, each crossing of each roadway of the divided highway by an intersecting highway is a separate intersection. If the intersecting highway also includes two roadways 30 or more feet apart, each crossing of two roadways of the highways is a separate intersection.

Motor vehicle means a self-propelled vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel or electricity.

Motorized play vehicle means any coaster, skateboard, scooter or other motorized vehicle that is self-propelled by a motor and that is not defined in A.R.S. title 28 (A.R.S. § 28-101 et seq.) as a motor-driven cycle, motorized wheelchair or motor vehicle.

Park or Parking means the standing of a vehicle or trailer, whether occupied or not. The term "parking" does not include a temporary stop for the purpose of and while actually engaged in loading or unloading cargo or passengers.

Police Department means the Police Department of the City of Nogales.

Quiet Zones means any part of a public street which is within a radius of 250 feet of a hospital, or building occupied by a person seriously ill, and designated a quiet zone by the City Public Works Director or designee.

Recreational vehicle means:

- (1) A portable camping trailer mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfolds for camping;
- (2) A motor home or bus designed to provide temporary living quarters for recreational, camping or travel use, and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis, cab or van that is an integral part of the completed vehicle;
- (3) A park trailer built on a single chassis, mounted on wheels and designed to be connected to utilities necessary for operation of installed fixtures and appliances and has a gross trailer area of not less than 320 square feet and not more than 400 square feet when it is set up, except that it does not include fifth wheel trailers;
- (4) A travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle and has a trailer area of less than 320 square feet. This subdivision includes fifth wheel trailers. If a unit requires a size or weight permit, it shall be manufactured to the standards for park trailers in A 119.5 of the American National Standards Institute Code;
- (5) A portable truck camper constructed to provide temporary living quarters for recreational, travel or camping use and consisting of a roof, floor and sides designed to be loaded onto and unloaded from the bed of a pickup truck.

Residential-area public streets means any street within or contiguous to land zoned or used primarily for single family or multi-family residential uses.

Right-of-way means the entire width between boundary lines of every way set apart for public travel when any part of it is open to the use of the public for purposes of vehicular travel.

Sale means any transfer of title or possession or both, for consideration. Sale includes any exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transaction and auctions of property.

Sidewalk means that portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for the use of pedestrians.

Stop, means the complete cessation from movement.

Stopping or standing means any stopping or standing of an occupied or unoccupied vehicle, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control device.

Traffic control device means any official sign, signal, marking or device that is placed or erected for the purpose of regulating, warning, or guiding traffic.

Trailer means any device designed to be attached to a vehicle for the purpose of transporting persons or goods.

Truck means a vehicle other than a recreational vehicle, weighing in excess of 1 ½ tons or having a height of seven feet, six inches or more or measuring 36 feet or longer in overall length, including truck and load.

Sec. 18-2 - Designation of stop streets, yield intersections, no parking areas, one-way streets, and other general traffic controls.

The City Public Works Director or his designee shall designate the stop streets, yield intersections, and other general traffic controls within the City as allowed by state law, and shall designate no parking areas, on-street angle parking, and one-way streets, which shall include but not be limited to the following:

- (1) *Bus stops and taxicab stands.* To establish bus stops and taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as they shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, taxicab stand or other stand shall be designated by appropriate signs.
- (2) *Crosswalks.* To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway and at such other places as they may deem necessary.
- (3) *Lanes for traffic.* To mark lanes for traffic on street pavements at such places as they may deem advisable, consistent with the traffic ordinances of the City.
- (4) *Passenger zones and loading zones.* To determine the location of passenger zones and freight loading zones and place and maintain appropriate signs indicating the same and stating the hours during which such zones are applicable.
- (5) *Safety zones.* To establish safety zones of such kind and character and at such places as they may deem necessary for the protection of pedestrians.
- (6) *Turning markers at intersections.* To place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such

intersections and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(7) *Quiet zones.* Temporarily establish quiet zones upon any street.

Sec. 18-3 – 18-5 - Reserved.

ARTICLE II. - OPERATION

Sec. 18-6 - Obedience to no-turn signs and turning markers.

Whenever an authorized sign is erected indicating that no "right" or "left" or "U" turn is permitted, no driver of a vehicle shall disobey the directions of any such sign, and when authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning there, no driver of a vehicle shall disobey the directions of such indications.

Sec. 18-7 - Blocking intersection or crosswalk.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

Sec. 18-8 - Stop signs.

When stop signs are erected upon a roadway intersecting a through street at the entrances thereto or at the entrance to any intersection, every driver of a vehicle shall stop at every such sign or at a clearly marked stop line before entering the intersection, except when directed to proceed by a police officer or traffic-control signal.

Sec. 18-9 - Funeral, other processions.

(a) No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and follow the vehicle ahead as close as is practical and safe.

Sec. 18-10 - Limitations on backing.

The driver of a vehicle shall not back the same into an intersection or over a crosswalk and shall not in any event or at any place back a vehicle unless such movement can be made in safety.

Sec. 18-11 - Driving on sidewalks.

No person shall operate any motorized vehicle on any sidewalk, bike path, or pedestrian walkway within the City, whether the same is paved or unpaved.

Sec. 18-12 – Operation of motorized play vehicles.

No person shall operate a motorized play vehicle on any public or private street. The prohibition contained in this section shall not apply to a motorized wheelchair which consists of any self-propelled vehicle that is designed for, and used by, a handicapped person, and is operated at a speed not in excess of eight miles per hour.

Sec. 18-13 – Quiet Zones.

Whenever signs indicate a zone of quiet, no person operating a motor vehicle within such zone shall sound the horn or other warning device of such vehicle except in case of emergency.

Secs. 18-14 - 18-16 - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING

Sec. 18-17 - Prohibited stopping, standing or parking.

Except if necessary to avoid conflict with other traffic or if in compliance with the law or the directions of a police officer or traffic control device, a person may 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 does not apply to a vehicle or the driver of a vehicle engaged in the official delivery of the United States mail, if both of the following apply:
 - a. The driver does not leave the vehicle.
 - b. The vehicle is stopped only momentarily.
- (3) Within an intersection.
- (4) Within 15 feet of a fire hydrant.
- (5) On a crosswalk.
- (6) Within 20 feet of a crosswalk at an intersection.

- (7) Within 30 feet on approach to any flashing beacon, stop sign, yield sign, or traffic control signal located at the side of a roadway.
- (8) Within 50 feet of the nearest rail or a railroad crossing or within eight feet six inches of the center of any railroad track, except while a motor vehicle with motive power attached is loading or unloading railroad cars.
- (9) Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly posted.
- (10) Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (11) On the roadway side of a vehicle stopped or parked at the edge or curb of a street.
- (12) On a bridge or other elevated structure on a highway or within a highway tunnel.
- (13) At any place where official signs prohibit standing or stopping.
- (14) In a fire lane, whether on public or private property.
- (15) Handicap parking spaces:
 - a. It shall be unlawful to stop, stand or park any vehicle, other than one bearing a license plate with the international wheelchair symbol or displaying a placard issued under state law for this purpose, in a parking space reserved for use by physically disabled persons, whether on public property or private property available for public use, when such space is designated as described in subsection (b) of this section.
 - b. Parking spaces subject to the provisions of this section shall be clearly and conspicuously designated as being reserved for the physically disabled. Each parking space shall be prominently outlined with paint and have an international wheelchair symbol printed within the space, or posted with a permanent sign located not less than three feet nor more than six feet above the grade. The sign shall include a standard symbolic disabled parking sign bearing the number of this section and conforming to specifications for the design and placement as approved by the Superintendent of Streets. The posting of such signs or painting of the spaces shall authorize police and community service officers to enforce the provisions of this section and shall thereby constitute a waiver of any objection by the owner of the property to enforcement of this section by the Police Department. For each space reserved for the handicapped on private property, it shall be the responsibility of the owner of the property to designate the spaces as provided in this section.
 - c. Any person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number bearing the international

wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or unloading such disabled person.

- (16) On a roadway or street for purpose of sale
 - a. The display of any signs or other markings indicating that a vehicle is for sale shall be prima facie evidence that the vehicle has been parked principally for the purpose of displaying it for sale.
- (17) Without authorization on private property, including within a private driveway, where such parking prevents safe access into or out of such property.
- (18) In a manner preventing adequate sight lines at or near an intersection.
- (19) Obstructing special functions when signs are posted designating routes.
- (20) Within freight curb loading zones when not engaged in unloading, delivery, pick-up or loading of materials and receiving or discharging passengers.
- (21) In areas restricted to buses, delivery vehicles and taxi cabs.
- (22) In the same location on any City street for more than forty-eight (48) consecutive hours.
- (23) On any City street for unloading, delivery, pick-up or loading materials, freight, merchandise, or goods.

Sec. 18-18 - Method of parking.

- (a) *Standing or parking close to curb.* No person shall stand or park a vehicle in a roadway other than parallel with the edge of roadway headed in the direction of lawful traffic movement and with the outboard wheels within 18 inches of the curb or edge of the roadway, except where angled or diagonal parking is authorized or required.
- (b) *Signs or markings indicating on-street angled parking.* The City Public Works director or his designee, shall determine upon what streets angled parking shall be permitted and shall cause to be marked or sign such streets.

Sec. 18-19 - Parking in residential zones and upon city streets.

Truck, Trailer and Residential Vehicle Parking Restrictions

- (a) Commercial trucks and oversized vehicle shall not be parked on a residential-area public street at any time, except while actively carrying on the activity for which the truck or vehicle is designed, including by way of example and not limitation:

- (1) A moving truck while loading or unloading.

(2) A tradesman's work truck while the trade is being undertaken.

(3) Construction vehicles during construction.

(b) The following shall not be parked on a public street within the City:

(1) Vehicles with a trailer attached.

(2) Trailers unattached from vehicles.

(3) Recreational vehicles 24 feet or more in length.

(c) No vehicle shall be parked on any public street in the City that has a height in excess of ten feet or a width in excess of seven feet or a length in excess of 27 feet, trailer to be included in these dimensions.

(d) The provisions of this section shall not extend to any vehicle stopped in obedience to traffic regulations or to any vehicle used in transporting freight, commodities or passengers from without the corporate limits of the City to a single place or station within the corporate limits, or from a single place or station within the corporate limits to a place without the corporate limits, while such vehicle is stopped or parked at the place where loaded or unloaded, but this exception shall not be construed as allowing any such vehicle to gather or distribute freight, commodities or passengers on the public streets at more than one place or station within the corporate limits.

(e) No person shall park a truck, recreational vehicle, or utility trailer in the front, side or rear yard of any residence, so that any portion of the truck, RV or utility trailer is closer to the front street than any portion of the residence, unless the truck, RV, or utility trailer is completely hidden from view in a garage or other permanent structure.

Sec. 18-20 - Impoundment, Towing

(a) In addition to the penalties provided in Sec. 18-29, the Police Department is authorized to remove, tow and impound, any unoccupied vehicle parked in the following locations:

(1) Parked without authorization on private property, including within a private driveway, where such parking prevents safe access into or out of such property.

(2) Parked within fifteen (15) feet of a fire hydrant.

(3) Parked in any marked fire lane, whether on public or private property.

(4) Parked in a manner preventing adequate sight lines at or near an intersection.

(5) Obstructing special functions when signs are posted designating routes.

- (6) Standing or stopping in freight curb loading zones when not engaged in unloading, delivery, pick-up or loading of materials and receiving or discharging passengers.
 - (7) Parking in areas restricted to buses, delivery vehicles and taxi cabs.
 - (8) Abandoned or unattended vehicles and trailers that have been parked in the same location on any City street for more than (48) consecutive hours.
- (b) If a police officer removes or causes the removal of a vehicle pursuant to this section, the police officer shall do both of the following when the vehicle is removed:
- (1) Provide to the tow truck operator a form that the police officer signs and that includes the following information:
 - a. The vehicle identification number.
 - b. A number identifying the law enforcement agency and the officer ordering the tow.
 - c. The year, make and model of the vehicle.
 - d. The license plate number if available.
 - e. The date and time the vehicle was towed.
 - f. The address from which the vehicle was towed.
 - g. The name, address and telephone number, if the telephone number is known, of the registered owner and the primary lien holder of the vehicle to permit the towing company to notify the registered owner or the primary lien holder.
- (c) If a police officer provides the tow truck operator with the form described in subsection (b), paragraph 1 of this section, the tow truck operator must provide the form to the person responsible for filing the abandoned vehicle report pursuant to section 28-4838. The person responsible for filing the abandoned vehicle report shall submit the form to the department of transportation at the time the person files the abandoned vehicle report.
- (d) The public agency employing an officer who removes or causes the removal of a vehicle under this section is not liable for the cost of towing or storing the vehicle if the officer acts under color of the officer's lawful authority.
- (e) Before release of the vehicle by the towing service, the owner or the owner's agent of a vehicle that is removed or caused to be removed under this article shall pay or make satisfactory arrangements to pay for any reasonable towing and storage costs incurred in towing or storing the vehicle.

(f) If a tow truck operator is required in writing by a public agency to tow or store a vehicle that is required as evidence in a criminal action or for future criminal investigation by the public agency, the public agency is liable for the towing and storage costs of the vehicle.

(g) If a police officer removes or causes the removal of a vehicle as permitted by this section, the public agency employing the officer shall provide the registered owner of the vehicle or the registered owner's agent with the opportunity for a post storage hearing to determine the validity of the removal. This hearing shall be conducted within forty-eight hours after a request, excluding weekends and holidays. The public agency employing the citing officer will be responsible for training and appointing designated hearing officers and for any costs incurred of conducting the post storage hearing. The public agency employing the officer may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who removed or caused the removal of the vehicle. The public agency employing the officer who removes or causes the removal of the vehicle is responsible for the costs incurred for towing and storage if it is determined at the hearing that probable cause for the removal cannot be established.

(h) Impounded vehicle shall be released only to the duly registered owner of such vehicle or his agent hereof upon payment of the fines and penalties for any unpaid parking infractions (including the violation, if any, for which the vehicle was impounded) entered against such vehicle plus any towing, and storage fees.

Sec. 18-21 – Transferring Load from One Truck to Another.

It shall be unlawful for any person, on any public street, to load or unload freight, express, merchandise or materials from one motor vehicle to another.

Sec. 18-22 - Law enforcement exception.

The stopping, standing or parking restrictions provided in this article do not apply to a police officer or peace officer when the stopping, standing or parking is for the purpose of actual performance of a law enforcement duty.

Sec. 18-23 - Enforcement

(a) Enforcement of the provisions of Articles II and III shall be by a law enforcement officer or parking enforcement specialist employed by the City of Nogales.

(b) Enforcement actions shall be commenced as follows:

- (1) The issuance of a Uniform Traffic Ticket and complaint by a law enforcement officer, or
- (2) The issuance of a Notice of Violation by a law enforcement officer or a parking enforcement specialist.

Sec. 18-24 - Uniform Traffic Ticket/Service

A Uniform Traffic Ticket shall be served by personal delivery to the person charged with the violation or by any other means authorized by law.

Sec. 18-25 - Notice of Violation/Service

(a) A Notice of Violation, shall include the date, time, and location of the violation, the state license number of the vehicle unlawfully parked in a parking meter space, reference to the City Code provision, and notice that within forty-five (45) calendar days from the date on which the citation was issued the fine for the violation must be paid to and received by the Nogales City Court or a request must be made to and received by the court for a hearing to contest the Notice of Violation. A copy of the Notice of Violation may be served by attaching a copy to the vehicle; personal service is not required.

(b) Each Notice of Violation shall contain the following:

- (1) Notice is hereby given that if you fail to appear or respond, a default judgment may be entered against you, a civil sanction imposed, and your license may be suspended. Your driver license operating privileges will remain suspended until all imposed penalties and fees are paid and you satisfy Arizona Motor Vehicle requirements.

Sec. 18-26 - Response to Notice of Violation

In proceedings for civil parking infractions or violations, the respondent shall respond to the Notice of Violation or the Uniform Traffic Ticket within forty-five (45) calendar days from the day on which the Notice of Violation or Uniform Traffic Ticket was issued by one of the following methods:

- (1) By respondent or respondent's attorney appearing in person or by mail received within the forty-five (45) calendar day period, admitting responsibility for the violation, and paying the fine prescribed for the violation.
- (2) By contacting the court in person, through representation, or by mail requesting a hearing to contest the Notice of Violation or Uniform Traffic Ticket within the forty-five (45) calendar day period.

Sec. 18-27 – Failure to Respond/Default Fee

(a) When a Uniform Traffic Ticket is issued, or when a Notice of Violation is issued to a vehicle registered within the State of Arizona, and a response is not filed, the court shall within forty-five (45) calendar days send a notice of violation letter to the owner's address on file with the Arizona Department of Motor Vehicles advising the owner of the violation and containing the date, time, and location of the violation as well as the vehicle description and violation description; or a duplicate copy of the Notice of Violation or Uniform Traffic Ticket.

(b) A default fee of fifty dollars (\$50.00) shall be assessed against a respondent who fails to respond in any case involving a parking infraction or violation of Article I, II, or III herein.

(c) The default fee may be waived or suspended when such waiver would be in the interest of justice.

(d) The default fee provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any other fines or fees imposed. The City Court shall set forth the requirement and amount of such default fee as a separate item in all orders and judgments.

Sec. 18-28 - Presumption of Liability; Joint and Individual Liability

(a) Whenever a vehicle is parked in violation of Articles II or III, the registered owner of the vehicle and the person who parked the vehicle where the violation occurred are jointly and severally liable for the violation.

(b) In any proceeding contesting a parking infraction or violation, a copy of the Notice of Violation, issued in accordance herewith, shall be admissible as prima facie evidence of the parking violation.

Sec. 18-29 - Penalties; Processing Fee; Default

(a) A violation of the provisions of Article I, II and III herein shall be treated as civil matters subject to the following civil penalties:

- | | |
|---|--|
| (1) Violations of Article II, Sections 18-6 through 18-13 | Not more than \$250.00, plus any applicable fees, costs, or surcharges required by law |
| (2) Violations of Article III, Sections 18-17 through 18-19 | Not more than \$250.00, plus any applicable fees, costs, or surcharges required by law excepting Section 18-17(15) |
| (3) Violation of Section 18-17(15), Handicap Parking Space | Not less than \$100.00 and not more than \$250.00, plus any applicable fees, costs, or surcharges required by law. |

(b) A violation of the provisions of Articles I, II, and III herein, in addition to any fine imposed, shall include a processing fee of thirty dollars (\$30.00).

(1) The processing fee provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any other fines or fees imposed. The

City Court shall set forth the requirement and amount of such processing fee as a separate item in all orders and judgments.

(c) If the owner or operator of the vehicle involved in the violation fails to respond to the Notice of Violation, or Uniform Traffic Ticket issued, the court shall:

- (1) Impose the penalty pursuant to subsection (a) above.
- (2) Impose a processing fee pursuant to Section 18-29(b)
- (3) Impose a default fee pursuant to Section 18-27.
- (4) Impose any other applicable fees, costs or surcharges required by law.
- (5) Enter default judgment for the City.

Sec. 18-30 - Modification of Fees and Penalties

The City Council is authorized to modify and establish by ORDER changes to the default fee set forth in Section 18-27, and the processing fee and penalties set forth in Section 18-29.