

ORDINANCE NO. 19-1105

1  
2 AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE  
3 CITY OF DOUGLAS, COCHISE COUNTY, ARIZONA,  
4 MODIFYING TITLE 10 OF THE DOUGLAS MUNICIPAL  
5 CODE RELATING TO VEHICLES AND TRAFFIC  
6 PERTAINING TO PENALTIES FOR CIVIL TRAFFIC  
7 VIOLATIONS, VEHICLE IMPOUND FEES AND  
8 COMMERCIAL VEHICLE PARKING UNDER CHAPTER  
9 10.16, 10.18, 10.28, 10.32 AND 10.44 RESPECTIVELY, BY  
10 AMENDING ORDINANCE 482, 806, 07-908 AND 18-1093,  
11 ESTABLISHING SEVERABILITY OF COMPONENTS OF  
12 ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE  
13 THEREOF.

14 NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF  
15 DOUGLAS, ARIZONA as follows:

16 WHEREAS, the goal of the City of Douglas Police Department traffic and parking enforcement is to  
17 increase traffic safety awareness; and

18 WHEREAS, state law codified in A.R.S. § 12-116.04 provides an Assessment for Law Enforcement  
19 Safety Equipment was last updated by way of Ordinance in September, 2018 with additional assessments  
20 being imposed; and.

21 WHEREAS, the additional assessments imposed became effective on 1/1/2019 and among these is a \$9  
22 Victim's Rights Enforcement and \$4 Peace Officer Training Equipment. Changes to the state surcharge  
23 from 73% plus 10% for Clean Elections went to 68% plus 10% Clean Elections requires an increase to  
24 the fines overall in order to realize the same revenue as before rather than a loss; and

25 WHEREAS, Section 10.16 of the Douglas Municipal Code titled Limited Parking Zones establishes the  
penalties for violations of the titles or ordinances which regulate parking and requires revisions to  
comply with the revisions to Arizona Revised Statute; and

WHEREAS, Section 10.18.040 of the Douglas Municipal Code titled Violation-Penalty for disabled  
parking violation is being amended to comply with the fine amounts in Section 10.40.030; and

WHEREAS, Section 10.28 of the Douglas Municipal Code titled Vehicle Impound Fees requires  
amendments based on revisions to Arizona Revised Statute§ 28-3511 which became effective 1/1/2019.  
Violations that were previously classified as criminal were reclassified as civil and no longer subject to  
mandatory impoundment provisions in the statute or our municipal code; and

WHEREAS, Section 10.32 of the Douglas Municipal Code titled Commercial Motor Vehicle Routes is  
amended to add a prohibition on parking commercial vehicles, semitrailers or combinations thereof  
within residential areas inclusive of residential property; and

WHEREAS, Section 10.40.020 titled Enforcement is amended to replace municipal court with  
consolidated court; and

1 **WHEREAS**, Section 10.40.030 of the Douglas Municipal Code titled Violations-Penalties for parking  
2 citations is being amended to maintain revenues steady in light of the new state mandate assessments:  
and

3 **WHEREAS**, Section 10.44.070 of the Douglas Municipal Code titled Civil citation – authority to  
issue is being amended to replace municipal court with consolidated court.

4 **NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of Douglas, Arizona,  
5 as follows:

6 **SECTION 1.** Section 10.16.140 is hereby amended to read in its entirety as follows:

7 10.16.140 Penalties.

8 Any violation of or failure or refusal to do or perform any act required by this chapter constitutes a civil  
9 traffic violation. Civil traffic violations are subject to the provisions of Title 28, Chapter 5, Articles 3 and  
10 4, Arizona Revised Statutes and amendments thereto. The fine for violation of this chapter shall be forty-  
five (\$45) dollars from which any applicable A.R.S. mandated penalty or assessment may be levied.

11 If a person violates any parking regulation and fails either to request a hearing before a judge of the  
consolidated court or to pay the penalty as provided above within thirty days of the date of violation, a  
state mandated court fee of twenty (\$20) dollars will be added to the amount due.

12 **SECTION 2.** Section 10.18.040 Section B is hereby amended to read in its entirety as follows:

13 **B. A court or duly appointed hearing officer shall impose a minimum civil sanction of one-**  
14 **hundred eighteen (\$118) dollars plus the penalty assessments prescribed by statute, on the**  
15 **operator, person in charge or owner of a vehicle parked in violation of this chapter. (Ord. 799 §**  
16 **4,2001; Ord. 567 § 3, 4, 1990)**

17 **SECTION 3.** Section 10.28.040 Sections B, C and D (1) and (6) are hereby amended to read in its  
18 entirety as follows:

19 B. For violations of ARS § 28-3511 to include, but not be limited to:

- 20 1) The person's driving privilege is revoked for any reason; or
- 21 2) The person has not ever been issued a valid driver license or permit by this state and the person  
22 does not produce evidence of ever having a valid driver license or permit issued by another  
23 jurisdiction. This paragraph does not apply to the operation of an implement of husbandry; or
- 24 3) The person is subject to an ignition interlock device requirement and the person is operating a  
25 vehicle without a functioning certified ignition interlock device, does not apply to the operation  
of a vehicle due to a substantial emergency as defined in section 28-1464; or
- 4) The vehicle is displayed for sale or for transfer of ownership with the Vehicle Identification  
Number that has been destroyed, removed, covered, altered or defaced.

C. If the peace officer has probable cause to arrest the driver of a vehicle who:

1. is under twenty-one years of age and who is driving or in physical control of a vehicle while there  
is any spirituous liquor in the person's body in violation of Title 4-244, paragraph 34; or
2. is driving or in actual physical control of a vehicle while under the extreme influence of  
intoxicating liquor in violation of Title 28-1382; or
3. is driving or in physical control of a vehicle while committing an alleged offense of aggravated  
driving under the influence in violation of Title 28-1383; or

D. A peace officer shall cause the removal and impoundment of a vehicle if the peace officer determines  
that a person is driving the vehicle and if all the following apply:

- 1) The person's driving privilege is canceled or revoked for any reason or the person has not ever been issued a driver license or permit by this state and the person does not produce evidence of ever having a driver license or permit issued by another jurisdiction; and
- 6) Payment of impound fees shall be by U.S. currency, cashier's check, Credit Card, Debit Card or money order payable to the City of Douglas.

**SECTION 4.** Section 10.32.060 will now have a new Section C and D and said new Section are hereby added/amended to read in its entirety as follows:

C. It is unlawful for any person to park or leave standing a commercial motor vehicle, semitrailer, or combination thereof, within a residential area; inclusive of any residential property.

D. This section does not apply to those zones designated as "commercial vehicle only" under section 10.16.020 paragraph 6 of this code.

**SECTION 5. Section 10.40.020 Enforcement is hereby amended to read in its entirety as follows:**

**The chief of police may appoint unarmed parking enforcement officers as employees of the police department. These parking enforcement officers shall be empowered to issue parking citations and commence proceedings before a judge of the consolidated court for any violation of Section 10.40.010 (1) through (17) regulating the standing or parking of vehicles.**

**SECTION 6.** Section 10.40.030 A (1-6) and B are hereby amended to read in its entirety as follows:

A. If the owner of a vehicle in violation of the ordinance codified in this chapter admits the violation and pays the penalty or appears before the judge of the municipal court and is found guilty, the penalty, upon admission or conviction, shall be as follows:

1. Section 10.40.010, subsections 1 through 10, parking violations: forty-five (\$45) dollars.
2. Section 10.40.010, subsection 11, disabled parking violation: one hundred eighteen (\$118) dollars. (Ord. 06-899 § 1, 2006)
3. Section 10.40.010, subsections 12 through 15: forty-five (\$45) dollars.
4. Section 10.40.010, subsections 16 and 17, fire code violations: fifty-five (\$55) dollars.
5. Section 10.40.010, subsection 18 commercial vehicles: sixty-five (\$65) dollars.
6. Fines pursuant to this section include the following levies, penalties or assessments as mandated by Arizona Revised Statute:

- a. \$13 Law Enforcement Safety Equipment (2011)
- b. \$2 Victim Rights Enforcement Assessment (2015)
- c. \$9 Victim Rights Assessment (2019)
- d. \$4 Law Enforcement Safety Equipment (2019)

B. If a person violates any parking regulation and fails either to request a hearing before a judge of the consolidated court or to pay the penalty as provided above within thirty days of the date of violation, a state mandated court fee of twenty (\$20) dollars will be added to the amount due.

**SECTION 7.** Section 10.44.070 is hereby amended to read in its entirety as follows:

Any city police officer shall be empowered to issue civil citations and commence proceedings before a judge of the consolidated court for any violation of this chapter.

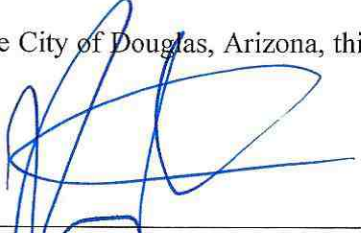
**SECTION 8.** All other Sections and Subsections of Chapter 10 of the DMC shall remain unchanged

**SECTION 9.** Ordinance and parts of ordinance in conflict herewith are hereby repealed.

1 **SECTION 10. Effective date:** This Ordinance shall be effective thirty (30) days after final approval and  
2 adoption by the Mayor and Council.

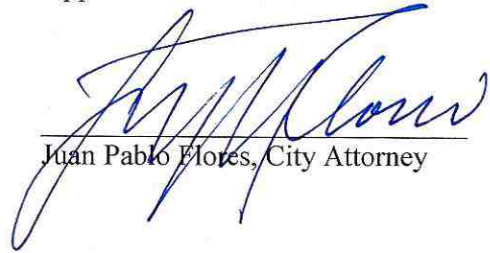
3 **SECTION 11. Severability:** If any chapter, section, subsection, sentence, clause or phrase of this  
4 Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of  
5 competent jurisdiction, such decision shall not affect the validity of the remaining portions of this  
6 Ordinance and this Ordinance shall continue in full force and effect after the deletion of the illegal or  
7 unconstitutional provision.

8 **PASSED AND ADOPTED** by the Mayor and Council of the City of Douglas, Arizona, this 12<sup>th</sup> day of  
9 June, 2019.



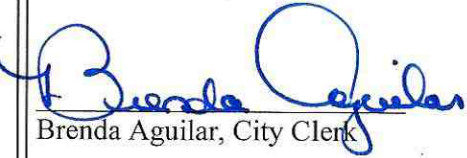
Robert Uribe, Mayor

Approval as to form:



Juan Pablo Flores, City Attorney

Attest:



Brenda Aguilar, City Clerk