

Sec. 11-70.1. Operating motor vehicle off the roadway prohibited; definitions; exceptions; impoundment; hearing; penalties.

Sec. 11-70.1(1). Operating Motor Vehicle off the Roadway within One-Fourth Mile of a Structure Prohibited. It is a civil infraction for any person to operate a motor vehicle off the roadway within one-fourth mile of any structure, occupied or not, within the city. It is not a defense that the operator of the motor vehicle did not know he was operating within one-fourth mile of a structure.

Sec. 11-70.1(2). Definitions.

(a) Motor vehicle means any vehicle as defined under Arizona state law, or any vehicle, whether required to be licensed or not, propelled wholly or in part by a motor.

(b) Operate means driving or controlling a vehicle whether moving, running or not.

(c) Roadway means any dedicated street or alley or any road or parking lot generally open to the public for purposes of vehicular travel. For purposes of this section, "roadway" shall include any private driveway or private property utilized by the property owner or any invitee or licensee thereof for any purpose other than access to or entry onto a dry wash or riverbed.

(d) Structure means any building used or capable of being used for any residential, commercial, agricultural or governmental purpose.

(e) Dry wash or riverbed is defined as a watercourse having beds, banks, sides and channels through which either waters currently flow, at least periodically, or through which waters flowed but no longer flow.

Sec. 11-70.1(3). Exceptions. The provisions of this section shall not apply:

(a) When the person is the owner of the property or has the written permission to operate a motor vehicle off the roadway on the property except that permission cannot be granted to drive a motor vehicle in a dry wash or riverbed within one-fourth mile of a structure. The written permission must be in the person's possession and must be shown upon demand to the law enforcement officer and the permission shall contain the notarized signature of the person legally entitled to possession of said property.

(b) When the person is operating an authorized emergency vehicle including towing services.

(c) When the person is operating a motor vehicle actually used in the process of farming or ranching.

(d) When the person is operating a motor vehicle owned by a business or enterprise licensed by the city and used in the legitimate off-road operations of the business or enterprise, such as sand and gravel operations, land surveying operations, construction companies, utility companies, and other similar enterprises.

(e) When the person is a governmental employee operating a vehicle while on government business.

(f) When the person is operating a golf cart on a golf course.

Sec. 11-70.1(4). Impoundment of the Vehicle, Hearing Procedures. The citing authority shall impound or cause to be impounded any motor vehicle operated in violation of this section and issue a civil citation giving notice that there shall be a hearing within forty-eight (48) hours excluding weekends and holidays before a hearing officer. The hearing officer shall determine the responsibility of the operator and the release of the vehicle pursuant to the following procedures:

(a) The defendant shall admit or deny the allegations of the citation. If the defendant admits the allegations, the hearing officer shall immediately enter judgment against the defendant. If the defendant denies the allegations, the hearing officer shall hold the hearing immediately. If the defendant fails to appear as directed on the citation, the hearing officer shall enter a default judgment against the defendant and order the police department to continue to hold the impounded vehicle and dispose of the vehicle pursuant to sections 20-13 and 20-14 of this Code.

(b) Immediately after the hearing, if the hearing officer determines the existence of a violation, the hearing officer shall enter judgment in favor of the plaintiff and penalties shall be assessed pursuant to this section. Otherwise, judgment shall be entered in favor of the defendant.

(c) If a continuance is granted to the defendant for good cause, the impounded vehicle may be released upon the posting of a cash bond covering the cost of the towing, impoundment and potential fine. If a continuance is granted to the city for good cause, the impounded vehicle shall be released forthwith without the necessity of a bond.

(d) If a case is continued, the hearing officer shall set the hearing within thirty (30) days.

(e) If judgment is entered in favor of the defendant the impounded vehicle shall be released forthwith to the operator or owner of the impounded vehicle without any towing or impoundment cost and any bond posted shall be returned to the person posting the bond.

(f) In the event of a conflict between the provisions of this section and the provisions of chapter 8 of this Code, the provisions of this section shall control.

Sec. 11-70.1(5). Penalties, Return of Impounded Vehicle.

(a) If judgment is entered against the defendant, the hearing officer shall impose a fine for a first offense of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) per violation. For a second offense, the hearing officer shall impose a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) per violation. The imposition of any fine under this section shall not be suspended. If there is a bond posted, the bond shall be forfeited except when posted by a person other than the defendant.

When the bond is posted by someone other than the defendant, the bond shall be held for ten (10) days, unless the penalties are paid earlier. Notice shall be sent to the person posting the bond informing the person that the bond will be forfeited unless the penalties are paid within ten (10) days from the date judgment was entered. If after notice has been sent to the poster of the bond and the penalties are not paid within the prescribed 10-day period, the hearing officer shall order the bond to be forfeited.

(b) The hearing officer shall order the release of the impounded vehicle to the operator or owner upon payment of the fine, towing and impoundment fees.

(c) If the fine, towing and impoundment fees are not paid within ten (10) days, the hearing officer shall inform the police department to proceed pursuant to section 20-13 and 20-14 of this Code.

(Ord. No. 6675, § 1, 3-23-87; Ord. No. 8958, § 3, 9-22-97)

Editor's note: Section 1 of Ord. No. 6675, adopted Mar. 23, 1987, added § 11-70, which the editor has redesignated § 11-70.1 in order to avoid duplication of section numbers.