

Midway City Council
17 August 2021
Regular Meeting

Ordinance 2021-21 /
Parking Violations



ORDINANCE 2021-21

AN ORDINANCE TO ADD CHAPTER 5.07 AND TO AMEND CHAPTER 8.02 OF THE MIDWAY CITY MUNICIPAL CODE TO ADDRESS CIVIL INFRACTIONS AND PARKING VIOLATIONS.

WHEREAS, pursuant to Utah Code Section 10-9a-509 the Midway City Council may formally initiate proceedings to amend city ordinances; and

WHEREAS, the City Council of Midway City desires to implement a system for issuing civil infractions to address parking and other similar violations throughout the city; and

WHEREAS, these additions and amendments will establish a civil infraction/violation system within the City; clarify how, where and when visitors and residents may park their vehicles throughout the City; and decriminalize, where possible, violations of municipal law which have traditionally been regulated by the criminal laws; and

WHEREAS, the City Council now desires to add Chapter 5.07 and amend Chapter 8.02 of the Midway City Municipal Code to assist residents of Midway City, and others, by expediting the resolution of cases and to remove the social stigma attached to criminal actions.

NOW THEREFORE, be it ordained by the City Council of Midway City, Utah, as follows:

Chapter 5.07 shall be added to read as follows:

CHAPTER 5.07	CIVIL INFRACTIONS
Section 5.07.010	Statement of Intent
Section 5.07.020	Civil Violations Hearing Examiner – Powers and Duties
Section 5.07.030	Acts Made Civil Infractions
Section 5.07.040	Notice of Infraction
Section 5.07.050	Response to Notice of Infraction – Payments by Mail
Section 5.07.060	Fee for Infractions – Payment

Section 5.07.070	Contesting an Infraction – Hearing – Appeals
Section 5.07.080	Special Provisions Relating to Parking Regulations
Section 5.07.090	Civil Appeals
Section 5.07.100	Criminal Violation
Section 5.07.110	Civil Collection Actions

Section 5.07.010 Statement of Intent

Midway City enacts this Chapter 5.07 with the intent to decriminalize, where possible, violations of municipal law which have traditionally been regulated by the criminal laws. This is done to assist residents of Midway City, and others, by expediting the resolution of cases and to remove the social stigma attached to criminal actions. With the enactment of this Chapter, Midway City is acting, in part, pursuant to authorization found in Utah Code Sections 10-8-84 and 41-6a-14. This Chapter 5.07 is intended to meet the constitutional issues described in 401 U.S. 395 (1971) and subsequent U.S. Supreme Court decisions.

Section 5.07.020 Civil Violations Hearing Examiner – Powers and Duties

A Hearing Examiner shall perform all duties and exercise all powers described in this Chapter. The amount of the Hearing Examiner’s compensation shall not be based directly or indirectly upon the outcome of cases heard by the Hearing Examiner. The duties of the Hearing Examiner may be performed through subordinates, except that a hearing shall be conducted only by the Hearing Examiner if a person charged with an infraction so requests in writing.

Section 5.07.030 Acts Made Civil Infractions

The following acts are hereby declared to be civil infractions (and not criminal offenses) and within the jurisdiction of the City Civil Violations Hearing Examiner:

1. Violation of any of the parking regulations described in the Midway City Code;
2. Violations of parking laws and regulations not inconsistent with these ordinances which are described in State statutes, including benefiting disabled (handicapped) persons, which statutes are hereby adopted as a portion of the Midway City Code.

Section 5.07.040 Notice of Infraction

A written notice of infraction shall be issued to each person charged with a civil infraction, which notice shall contain not less than the following information:

1. The name and address of the person charged with the infraction. Notwithstanding anything in this Section to the contrary, a notice of infraction for a parking violation, placed on a parked motor vehicle, need not include a name and address;
2. The infraction charged;
3. The date, time and place of the infraction;
4. If the infraction involved a motor vehicle, the make, model and license plate number of the vehicle;
5. Notice that the notice of infraction must be responded to at the office of Midway City; and
6. Other information, including, in the discretion of the Civil Violations Hearing Examiner, information related to payments by mail.

Section 5.07.050 Response to Notice of Infraction – Payments by Mail

1. Any person to whom a notice of infraction has been issued shall respond within ten (10) days thereof by:
 - a. Paying the fee described in Section 5.07.060 (for good cause, the Hearing Examiner may allow reasonable terms for payment);
 - b. Contesting the violation in the manner described in Section 5.07.070; or
 - c. Demonstrating the financial inability to pay the applicable fee on any reasonable terms. A person claiming under this Subsection (1)(c) shall agree with the Hearing Examiner to perform public service in lieu of paying the fee, which public service shall be performed in not more than thirty (30) days after the agreement is entered into.
2. Fees may be paid by mail, but the risk that payments may be lost in the mail shall be on the sender. All payments shall be received by the Hearing Examiner within the times required by this Chapter.

Section 5.07.060 Fee for Infractions – Payment

1. Fees and other money related to civil infractions shall be paid to the Midway City Treasurer in such manner, not inconsistent with this Chapter, as the Treasurer shall direct. No Hearing Examiner or any subordinate thereof shall receive any fees or other money related to civil infractions over which the Hearing Examiner has jurisdiction.
2. The fee for the violations listed below shall be as shown in Subsection (8) of this Section:
 - a. All overtime restricted parking violations;
 - b. Parking within an intersection in violation of Section 8.02.010;
 - c. Double parking in violation of Section 8.02.030;
 - d. Parking out of stall in violation of Section 8.02.020;
 - e. Parking in a red or yellow curbed area in violation of Section 8.02.020;
 - f. Parking on or across a sidewalk in violation of Section 8.02.010;
 - g. Parking in noncompliance with a parking sign or parallel parking requirements in violation of Section 8.02.020;
 - h. Parking in a crosswalk in violation of Section 8.02.010;
 - i. Parking against a left side curb in violation of Section 8.02.010;
 - j. Parking too close to a fire hydrant or in a fire access lane in violation of Section 8.02.010;
 - k. Parking or leaving a vehicle unattended over seventy-two (72) hours in violation of Section 8.02.040;
 - l. Parking along a public street or highway in a manner which obstructs or partially obstructs clear passage of vehicular ingress or egress to any driveway abutting upon the public street or highway in violation of Section 8.02.010;
 - m. Any other parking violation found in the Midway City Code not specifically mentioned in this Section.
3. The fee for violation of a civil infraction mentioned in this Section may qualify for a discount of up to fifteen dollars (\$15.00) for early payment if the fee is paid within five (5) business days after the notice of infraction is issued.
4. The fee for violation of a civil infraction paid or contested eleven (11) or more business days after a notice of infraction is issued shall be assessed a twenty-five percent (25%) late fee as shown in Subsection (8) of this Section.

5. The fee for any violation of a civil infraction mentioned in this Section may be discounted or waived at the discretion of the City, the Hearing Examiner, or their representative.
6. A civil infraction shall be deemed in default and subject to the penalties described in this Chapter, including, but not limited to, impoundment and towing, legal action for collection of all fees and costs, and criminal prosecution pursuant to Section 5.01.010 of the Midway City Code, if the applicable fee has not been paid or the action contested within sixteen (16) business days.
7. In addition to any other penalty or fine stated within this Chapter, and not in lieu of any other penalty or legal action which can be taken against a person or vehicle, any vehicle found to be in violation of any provision of this Chapter, including, but not limited to, a vehicle which blocks a driveway to a residence or business in such a manner that vehicles cannot safely enter or exit said driveway, may be towed and impounded upon the direction of any police officer, parking enforcement officer, or fire officer upon said officer finding said situation creates a nuisance which impairs the health or safety of the public. The registered owner of the vehicle shall be responsible for all towing and storage fees incurred in the event a vehicle is removed. The owner or the owner's agent may claim the vehicle only after paying any fines incurred and any towing and impounding fees incurred. Any contest of a removal shall be made by giving written notice, requesting a contest hearing to the Midway City Hearing Examiner, within fifteen (15) business days of the removal.
8. The fees established under this Section are set forth in the following table:

Violation	Paid Early (within 5 business days)	Paid on Time (within 10 business days)	Paid Late (11 or more business days)	No Payment (after 16 or more business days)
All Violations Listed in Section 5.07.060(2)	\$40.00	\$55.00	\$68.75	Default - Criminal Misdemeanor

5.07.070 Contesting an Infraction – Hearing – Appeals

1. Any person charged with an infraction may contest the same instead of paying the fee. An infraction is contested by causing written notice thereof to be delivered to the office of the Civil Violations Hearing Examiner. If the person charged with an infraction fails or refuses to give a correct mailing address when contesting an infraction, the action shall be deemed to be in default and not contested.
2. When an infraction is contested, the Hearing Examiner shall thereafter conduct a civil hearing with respect thereto. The notice of infraction shall constitute prima facie evidence that the infraction alleged therein actually occurred. The hearing shall be conducted as informally as the circumstances will allow and shall be based on the civil standard of a preponderance of the evidence. At the hearing, any party may be required to testify.
3. The Hearing Examiner shall decide if the alleged infraction occurred. If the Hearing Examiner finds the infraction alleged did not occur, the notice of infraction shall be without any further force or effect. If the Hearing Examiner finds at the hearing that the infraction alleged did occur, the person to whom the notice of infraction was issued shall

respond as provided in Section 5.07.050(1)(a) or (c). The response shall be within five (5) days after the hearing, unless the decision is given by mail and not at the hearing, in which event the response shall be within ten (10) days after the decision is mailed to the address given when the infraction was contested. A contested action shall be in default if not responded to in the time periods provided in this Subsection.

5.07.080 Special Provisions Relating to Parking Regulations

If a civil infraction relates to a parking regulation, the following rules shall apply:

1. The notice of infraction may be issued by affixing the same to the subject motor vehicle in a conspicuous place.
2. Notwithstanding Section 5.07.040(1), a notice of infraction placed on a parked motor vehicle need not include a name and address.
3. Whenever a motor vehicle has been parked in violation of any parking regulation, the person in whose name such vehicle is registered shall be prima facie responsible for such violation and liable for payment of the applicable fee.
4. Any motor vehicle to which four (4) or more notices of infraction are in default is hereby declared to be a public nuisance and Midway City may authorize said motor vehicle to be towed from the public streets at the expense and risk of the registered owner. Said motor vehicle shall be held and not released until the unpaid fees and reasonable costs of towing and storage have been paid.
5. If a motor vehicle has been towed from the public streets pursuant to the provisions of this Chapter and is being held for the payment of fees and charges, the owner thereof, or the agent of the owner, may, in writing, request a hearing to determine the validity of the action taken with respect to said motor vehicle, and said hearing shall take place within seventy-two (72) hours from the date of the request, unless the applicant agrees to a longer period of time before the hearing. The Hearing Examiner may order the release of any motor vehicle without cost to the owner or the owner's agent if said motor vehicle was towed from the public streets or is being held in violation of this Chapter or other applicable law.

Section 5.07.090 Civil Appeals

Any person dissatisfied with a decision of a Hearing Examiner may appeal the same within fifteen (15) days to the Justice Courts, which shall hear the action de novo in the manner described in Section 5.07.070(2). Failure to respond to a notice of infraction shall not be a decision from which an appeal can be taken.

Section 5.07.100 Criminal Violation

1. Notwithstanding any contrary provision in this Chapter, it shall be a criminal misdemeanor violation, with the exclusive original jurisdiction in the Justice Courts:
 - a. For a person to whom a notice of infraction has been issued to allow the subject action to go into default;
 - b. For a registered owner to fail or refuse to respond to a notice of infraction issued pursuant to Section 5.07.080(2); or
 - c. For a person to willfully fail or refuse to completely perform the public service agreed to pursuant to Section 5.07.050(1)(c).

2. For the purposes of this Section it shall be a rebuttable presumption that the notice of infraction and any other notices have been received by the addressee.

Section 5.07.110 Civil Collection Actions

Midway City may bring civil suit in the courts of the State of Utah to recover the amount of overdue and unpaid fees, and any other reasonable charges related thereto.

Chapter 8.02 shall be amended to read as follows:

CHAPTER 8.02 UNLAWFUL PARKING

Section 8.02.010	Stopping or Parking Prohibited – No Signs Required
Section 8.02.020	Compliance with Painted Lines, Curbs and Signs – Parallel Parking
Section 8.02.030	Double Parking
Section 8.02.040	Unattended Vehicles
Section 8.02.050	Vehicles for Sale
Section 8.02.060	Loading Zone
Section 8.02.070	Alleys
Section 8.02.080	Persons Blocking Streets or Highways

Section 8.02.010 Stopping or Parking Prohibited – No Signs Required

1. It shall be unlawful to stop or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:
 - a. On or over a sidewalk;
 - b. In front of a public or private driveway;
 - c. Within an intersection;
 - d. Within fifteen (15) feet of a fire hydrant;
 - e. On or over any portion of a crosswalk;
 - f. Within twenty (20) feet of a crosswalk at an intersection;
 - g. In a fire access lane;
 - h. Next to the shoulder or curb with the left side of the vehicle, except on one-way streets;
 - i. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
 - j. On a traffic island in the middle of a street, or in any place in the middle lane of a two-way roadway, unless delivering and unloading inventory and/or supplies to retail stores;
 - k. Within fifty (50) feet of the nearest rail of a railroad crossing;
 - l. Within twenty (20) feet of the driveway entrance to any fire station;
 - m. Alongside or opposite any street excavation or obstruction when stopping or parking would obstruct traffic; and
 - n. In a bike lane.
2. The provisions of this Section prohibiting the stopping or parking of a vehicle shall apply at all times, or at those times herein specified, or as indicated on official signs,

except when it is necessary to stop a vehicle to avoid conflict with other traffic rules and regulations or in compliance with the directions of a police officer or official traffic-control device.

3. Physicians, emergency calls and/or emergency vehicles are exempt from this provision when responding to an emergency.

Section 8.02.020 Compliance with Painted Lines, Curbs and Signs – Parallel Parking

1. In all places where painted lines, curbs or signs on or near a public street reasonably indicate locations, durations, or the manner in which motor vehicles may or may not be parked, it shall be unlawful to park a motor vehicle in any location or in any manner contrary to the painted lines, curbs or signs.
2. Unless otherwise directed by painted lines, curbs or signs, if parking is permitted, motor vehicles shall be parked parallel to the curb. If there is no curb, such parking shall be off the traveled part of the street and parallel to the street on which the vehicle is located.

Section 8.02.030 Double Parking

It shall be unlawful to park or leave standing upon any street, any vehicle, whether attended or unattended, behind any other vehicle parked at an angle to the curb, or at the side of any parked vehicle where such vehicle is parked parallel with the curb, except that an operator may stop temporarily provided the operator does not leave the vehicle, during the act of actually loading or unloading passengers or when necessary in obedience to traffic regulations, or traffic signs, or signals of a police officer.

Section 8.02.040 Unattended Vehicles

1. The following are hereby declared to be a nuisance and detrimental to the safe and proper regulation of traffic:
 - a. Any unattended vehicle or trailer stopped or parked in violation of the provisions of this Chapter;
 - b. Any unattended vehicle or trailer found upon the streets or alleys of the City with faulty or defective equipment;
 - c. Any vehicle or trailer left unattended upon a street or alley of the City and parked illegally so as to constitute a hazard or obstruction to the normal movement of traffic;
2. A motor vehicle or trailer in the public streets in violation of this Section may be towed from the public streets at the direction of a police officer.

Section 8.02.050 Vehicles for Sale

It shall be unlawful to park any vehicle within any street right-of-way for the purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any street or within the right-of-way of such street.

Section 8.02.060 Loading Zone

When so posted, it shall be unlawful for the driver of a passenger vehicle to stand or park such vehicle for a period of time longer than is permitted by the posted sign for the loading or

ATTEST:

APPROVED AS TO FORM:

Brad Wilson, City Recorder

Corbin Gordon, City Attorney

(SEAL)

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