

FIRST AMENDMENT

BILL NO. 2001-54

ORDINANCE NO. 5334

AN ORDINANCE TO ESTABLISH AN EXPEDITED PROCEDURE FOR THE USE OF VEHICLE IMMOBILIZING DEVICES UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Michael Sheldon,
Director of Detention and Enforcement

Summary: Establishes an expedited procedure
for the use of vehicle immobilizing devices
under certain circumstances.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN

AS FOLLOWS:

SECTION 1: Title 11, Chapter 10, Section 80, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11.10.080: (A) A person who responds to a Notice of Infraction must:

(1) "Admit" responsibility for the commission of the infraction and liability for the penalty imposed and pay the appropriate civil fine and penalty;

(2) Contact the Director of [the Department of Business Activity,] Finance and Business Services, or his authorized designee, "admit" responsibility and liability for the commission of the infraction and any penalties thereon and arrange a schedule for the payment of such fines and penalties;

(3) Accept responsibility as the owner and/or operator of the vehicle while reserving the right to dispute the propriety of the issuance of the Notice of Infraction and any penalties thereon and agree to a binding hearing in the nature of an arbitration or alternative dispute resolution as provided in subsections B through J, inclusive of this section; or

(4) Await the filing and receipt of a civil Complaint and Summons (or Affidavit of Complaint and Order) in accordance with Section 11.10.100 through Section 11.10.120, inclusive and appear as summonsed to defend against such civil Complaint (or Affidavit of Complaint) or be subject to the entry of a default judgment at the time of such failure to appear as summonsed (or ordered) and upon proof of service of the Complaint and Summons (or Affidavit of Complaint and Order) as provided in Section 11.10.110.

1 (B) Unless the City has sought judicial enforcement of the Notice of Infraction
2 pursuant to Section 11.10.100, a person may initiate a hearing pursuant to paragraph 3 of Subsection
3 A of this Section by personally contacting the Director of [the Department of Business Activity,]
4 Finance and Business Services, or his designee, identifying his/her name, current address and the
5 Notice(s) of Infraction(s) and penalties thereon which such person wishes to subject to such hearing
6 and receiving a date for such hearing. Any person initiating such a hearing in this manner thereby
7 stipulates to be bound by the decision of the Hearing Officer concerning liability for the infraction(s)
8 and responsibility for the penalties thereon and shall acknowledge the same in writing. Any person
9 scheduling a hearing before the Hearing Officer thereby further stipulates that in the event of his or
10 her failure to appear at such hearing without having first sought and obtained a continuance of such
11 hearing, the Hearing Officer may enter a decision against the defendant for the full amount of fines
12 and penalties scheduled to be reviewed and shall acknowledge the same in writing. The
13 acknowledgment provided for herein shall be in substantially the following form:

14 I, hereby request a binding hearing in the nature of arbitration or alternative
15 dispute resolution before the Hearing Officer. My address is _____. I
16 request that this hearing involve Notice(s) of Infraction(s) Number _____. I understand
17 that the Hearing Officer is an attorney and not an elected or appointed judge.

18 I understand that I am agreeing to be bound by the decision of the Hearing
19 Officer. I understand that if I fail to appear for the scheduled hearing before the
20 Hearing Officer without first obtaining a continuance of such hearing, the Hearing
21 Officer can and will enter a decision against me for the full amount and penalties
22 scheduled to be reviewed. I understand and agree that if necessary due to my lack of
23 timely payment, the City of Las Vegas can and will use this binding decision to have
24 a formal civil judgment entered against me in the Las Vegas Municipal Court.

25 I understand that if a civil judgment is obtained, the City may seek and obtain
26 a writ of execution against me. I understand that if a writ of execution is obtained, my
27 wages and/or bank accounts may be garnished, liens may be put on my property and
28 my [car(s)] vehicle(s) may be towed or immobilized. I also understand that my

1 vehicle(s) may be immobilized without a writ of execution if:

2 1. I accumulate more than \$500.00 in unpaid civil fines, judgments and penalties
3 for parking violations, or

4 2. At least five Notices of Infraction have been issued and served with respect to
5 vehicles I own and have not been responded to within the time set forth in LVMC
6 11.10.090.

7 Knowing all of the above, I still wish to request a binding hearing before the
8 Hearing Officer on the above-described Notice(s) of Infraction(s). I hereby
9 acknowledge the above and further acknowledge that at my request a hearing has been
10 set for _____, [19__] 20__ at the hour of _____ m.

11 _____
12 Defendant

13 (C) Any hearing conducted pursuant to Subsection A, paragraph 3 and Subsection
14 B of this Section shall be presided over by a Hearing Officer who shall be an attorney licensed to
15 practice law in the State of Nevada.

16 (D) With respect to any hearing conducted pursuant to Subsection A, paragraph 3
17 and Subsection B of this Section, a properly filed Notice of Infraction shall constitute a claim of
18 liability and a claim for relief and no other such claim shall be required. Prima facie proof of the
19 violation alleged shall be established by the City providing the Hearing Officer with either a certified
20 copy of the Notice of Infraction or the data stored in a computer or other device as described in
21 Section 11.10.030, Subsection B of this Chapter. No formal appearance by the City Attorney's office
22 is required. The hearings and dispositions of all such actions shall be informal, with the Hearing
23 Officer receiving witness statements or testimony and other evidence for the sole purpose of
24 dispensing fair and speedy justice between the parties.

25 (E) The burden of proving any defense shall be upon the person raising such
26 defense.

27 (F) If the Hearing Officer finds that the infraction did not occur or that an infraction
28 was committed, but one or more of the defenses set forth below is applicable, the Hearing Officer shall

1 enter his decision for the defendant. Such a decision shall release the registered owner and/or operator
2 from all liability thereunder. Such defenses include, but are not limited to:

3 (1) At the time of the receipt of the notice, possession of the subject vehicle
4 had been acquired by another in violation of the laws of the State of Nevada;

5 (2) If the notice alleges a violation of any ordinance pertaining to a meter,
6 such meter was mechanically malfunctioning to the extent that its reliability was questionable;

7 (3) Compliance with the subject ordinances would have presented an
8 imminent danger to persons or property;

9 (4) The area of the alleged violation was so inadequately marked or lit as
10 to fail to give sufficient notice that access to the area was restricted or prohibited;

11 (5) A mechanical malfunction of the vehicle caused it to be parked in the
12 area alleged and it was removed as soon as could be reasonably expected thereafter;

13 (6) At the time of the issuance of the Notice of Infraction, the vehicle was
14 parked consistent with public safety, by a physically handicapped person, a disabled veteran or a
15 person transporting a physically handicapped person or disabled veteran in compliance with NRS
16 484.407.

17 (G) Except as provided in Subsection (H) of this Section, the defendant shall pay
18 the total civil fines and penalties forthwith or at such times and on such conditions as the Hearing
19 Officer shall prescribe if it is found that the person has either failed to appear or otherwise defend
20 against the issuance of the infraction as agreed or that the infraction has been committed and no
21 applicable defense exists. It is the defendant's burden to establish by a preponderance of the evidence
22 that, through no fault of himself or his agent, he failed to receive notice of the issuance of the Notice
23 of Infraction as provided in this Chapter. If the defendant meets this burden, he is not liable for any
24 civil penalties which would otherwise apply and such penalties shall not be included in any decision
25 against the defendant.

26 (H) Upon request and proper proof, the Hearing Officer may reduce his decision
27 concerning liability by up to twenty-five percent of the original amount found due in consideration
28 of the timely payment of the prior balance if satisfied by the defendant that a preponderance of the

1 evidence shows that the defendant has become indigent and will be unable to pay the balance.

2 (I) Upon reaching a decision, the Hearing Officer shall as soon as practicable
3 thereafter, file a written decision substantially conforming to the following form:

4 City of Las Vegas, Clark County, Nevada, City of Las Vegas, plaintiff v.
5 _____, defendant. Before, _____, Hearing
6 Officer for the City of Las Vegas, Clark County, Nevada, decision is entered in favor
7 of, _____ (plaintiff or defendant) for \$ _____ (enter \$0.00 if judgment is for
8 the defendant), on the _____ day of _____, [19__] 20__. I certify that the
9 foregoing is a correct reflection of the decision entered in the action properly brought
10 for my consideration pursuant to Title 11, Chapter 10, Section 080 of the Las Vegas
11 Municipal Code.

12 _____
Hearing Officer

13 (J) Based upon the defendant's stipulation to be bound by the decision of the
14 Hearing Officer, the City Attorney, may petition the Las Vegas Municipal Court for the entry of a civil
15 judgment against the defendant in an amount equal to that stated in the written decision of the Hearing
16 Officer if the City Attorney determines this action to be necessary to enforce such decision. Service
17 of such petition on the defendant must be made by certified mail, return receipt requested, restricted
18 delivery, addressed to the registered owner of the vehicle at his last known address, as indicated by
19 the vehicle registration which is maintained by the Nevada Department of Motor Vehicles or in any
20 other manner which is authorized by law. An affidavit or declaration of mailing, a signed, returned
21 receipt, or other evidence of service shall be filed upon such service of the petition.

22 SECTION 2: Title 11, Chapter 10, Section 200, of the Municipal Code of the City of
23 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

24 **11.10.200:** (A) The Las Vegas Metropolitan Police Department and the Department of
25 Detention and Enforcement are authorized to remove a vehicle to the nearest garage or other place of
26 safety, or to a garage which is designated or maintained by the Las Vegas Metropolitan Police
27 Department or otherwise maintained by the City, under the circumstances which are hereinafter
28 enumerated:

1 (1) When any vehicle is left unattended upon any highway, bridge, viaduct
2 or causeway, or in any tube or tunnel, if such vehicle constitutes an obstruction to traffic;

3 (2) When a vehicle upon a street or highway is so disabled as to constitute
4 an obstruction to traffic and the person who is in charge of such vehicle is, by reason of physical
5 injury or other reason, incapacitated to the extent that he is unable to provide for its custody or
6 removal, or is not in the immediate vicinity of the disabled vehicle;

7 (3) When any vehicle is illegally parked in a parking space or location for
8 twenty-four hours or more or is parked so illegally as to constitute a definite hazard or obstruction to
9 the normal movement of traffic;

10 (4) When the person who is in charge of a vehicle is unable to provide for
11 its custody or removal within[;] ;

12 (a) Twenty-four hours after abandoning such vehicle on any
13 freeway, United States highway or other primary arterial street, or

14 (b) Seventy-two hours after abandoning such vehicle on any other
15 street;

16 (5) When the person who is driving or in actual physical control of a vehicle
17 is arrested for any alleged offense for which the arresting officer is required by law to take such person
18 before a proper magistrate without unnecessary delay; or

19 (6) In accordance with Section 11.10.240.

20 (B) As used in this Section 11.10.200 to Section 11.10.280, the term "vehicle" shall
21 include any automobile, motorcycle, truck, boat trailer, utility trailer, or any other vehicle capable of
22 being driven or towed on any street, highway, or right-of-way.

23 (C) Prior to the release of any vehicle impounded pursuant to this Section, the
24 operator, registered owner or his designee must pay the costs of such impoundment.

25 SECTION 3: Title 11, Chapter 10, Section 230, of the Municipal Code of the City of
26 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

27 **11.10.230:** (A) The use of writs of execution issued by the Las Vegas Municipal Court is
28 authorized within the City as an aid in the enforcement of the parking ordinances of the City.

1 (B) The City of Las Vegas in whose favor a judgment is given may upon the entry
2 of such judgment, or at any time before the judgment expires, obtain the issuance of a writ of
3 execution for its enforcement as prescribed in Chapter 21 of the Nevada Revised Statutes and Justice
4 Court Rules of Civil Procedure, Rule 69. Such issuance may be conditioned upon the failure of the
5 judgment debtor to pay the judgment and expenses of enforcement thereof within a specified period
6 of time or any other reasonable and just condition.

7 (C) Upon the City's request, a writ of execution issued pursuant to Subsection B
8 of this Section shall allow the City to obtain possession of the defendant's vehicle(s) through towing
9 the vehicle(s), at the expense of the defendant, from any public street, highway, viaduct, causeway,
10 parking space, tube, tunnel, bridge or alley in compliance with the procedures prescribed in Sections
11 11.10.210 and 11.10.220. Upon the City's request, a writ of execution issued pursuant to Subsection
12 B of this Section shall allow the City to obtain possession of the defendant's vehicle(s) through the
13 use of an [automobile immobilizer, sometimes referred to as a "French boot" or "Denver boot".]
14 immobilizing device. A fee of fifty dollars per vehicle shall be recovered from the owner or operator
15 of the vehicle(s) prior to the removal of [such automobile immobilizer.] the immobilizing device.

16 (D) Notwithstanding the provisions of Subsection (C), the City may, without
17 obtaining a writ of execution, obtain possession of a vehicle by means of an immobilizing device in
18 accordance with Section 11.10.240.

19 SECTION 4: Title 11, Chapter 10, Section 240, of the Municipal Code of the City of
20 Las Vegas, Nevada, 1983 Edition, is hereby repealed in its entirety.

21 SECTION 5: Title 11, Chapter 10, of the Municipal Code of the City of Las Vegas,
22 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 240,
23 reading as follows:

24 **11.10.240:** (A) The City is authorized to attach an immobilizing device to a vehicle that is
25 parked on any public right-of-way or City-owned or -operated lot if the vehicle is included on an
26 immobilization eligibility list. A vehicle may be included on an immobilization eligibility list only
27 if:

28 (1) The registered owner of the vehicle has accumulated more than \$500.00

1 in unpaid civil fines, judgments and penalties, or at least five Notices of Infraction have been issued
2 and served with respect to that vehicle and have not been responded to within the time set forth in
3 LVMC 11.10.090; and

4 (2) At least 21 days before including the vehicle on the list, the City
5 provided notice of impending vehicle immobilization in accordance with Subsection (B) of this
6 Section.

7 (B) Notice of impending vehicle immobilization shall be provided by mailing such
8 notice to the registered owner of the vehicle at the address last known to the City or on file with the
9 Department of Motor Vehicles. The notice shall include the dates and nature of the infractions which
10 formed the basis for the civil fines, judgments and penalties; the numbers of the Notices of Infraction;
11 and the amounts owing. The notice shall advise that the registered owner may challenge the validity
12 of the notice by requesting a hearing. The hearing shall be held before the Hearing Officer for the sole
13 purpose of allowing the registered owner to show that:

14 (1) The amounts in question have been paid; or

15 (2) The vehicle was not properly included on the immobilization eligibility
16 list in accordance with the provisions of Subsection (A) of this Section.

17 (C) A vehicle shall be removed from the immobilization eligibility list if:

18 (1) The registered owner pays all fines, judgments, penalties and applicable
19 immobilization, towing and storage fees;

20 (2) The registered owner executes an agreement to pay within a specified
21 period of time all fines, judgments, penalties and applicable immobilization, towing and storage fees,
22 with a condition that, for default on the payment obligation, the vehicle shall be subject to
23 reinstatement on the immobilization list; or

24 (3) The Hearing Officer finds that the vehicle was not properly included
25 on the immobilization eligibility list.

26 (D) In connection with the immobilization of a vehicle, a notice shall be attached
27 to the vehicle in a conspicuous place advising:

28 (1) That the vehicle is immobilized and that any attempt to move the vehicle

1 may result in its damage;

2 (2) That the unauthorized removal of or damage to the immobilizing device
3 is a violation of law;

4 (3) How release of the immobilizing device may be obtained; and

5 (4) How a hearing may be obtained pursuant to Subsection (H).

6 (E) The City may (but is not obligated to) cause to be towed and stored any vehicle
7 which has been immobilized if, within 24 hours after immobilization, no arrangements have been
8 made for the vehicle's release. Within 10 days after an immobilized vehicle is towed, the City shall
9 send a notice advising that the vehicle has been immobilized and towed. The notice shall be provided
10 by means of certified mail, return receipt requested, mailed to the registered owner at the address last
11 known to the City or on file with the Department of Motor Vehicles. The notice shall state that the
12 registered owner is entitled to request a hearing pursuant to Subsection (H) of this Section to
13 determine the validity of the immobilization.

14 (F) An immobilization fee of fifty dollars shall be paid by or on behalf of the
15 registered owner of the vehicle prior to the removal of an immobilizing device.

16 (G) Release of an immobilized vehicle may be obtained by:

17 (1) The payment of all fines, judgments, penalties and applicable
18 immobilization, towing and storage fees; or

19 (2) In connection with the request of a hearing to determine the validity of
20 the immobilization of the vehicle, the posting of a bond or other sufficient undertaking in an amount
21 which will satisfy all fines, judgments, penalties and applicable immobilization, towing and storage
22 fees.

23 (H) The registered owner of a vehicle may request a hearing regarding the
24 immobilization of the owner's vehicle. The request for hearing must be made within 10 days after the
25 date of the notice described in Subsection (D) or Subsection (E). The hearing shall be held before the
26 Hearing Officer and shall be limited to a determination of whether there was a factual and legal basis
27 for the immobilization. Failure to request or attend a hearing shall be deemed a waiver of the right
28 to a hearing. If the Hearing Officer determines that there was a factual and legal basis for the

1 immobilization, the bond or undertaking shall be forfeited. If the hearing officer determines that there
2 was an insufficient factual and legal basis for the immobilization, the bond or undertaking shall be
3 exonerated.

4 SECTION 6: Title 11, Chapter 10, Section 270, of the Municipal Code of the City of
5 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6 **11.10.270:** [Automobiles] Vehicles may be towed and [immobilizers] immobilizing devices may
7 be placed pursuant to the issuance of a writ of execution by the Sheriff of Clark County, or his
8 authorized designee[.], or as otherwise provided in this Chapter.

9 SECTION 7: Title 11, Chapter 10, Section 280, of the Municipal Code of the City of
10 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11 **11.10.280:** It is unlawful for any unauthorized person to deface, injure, tamper with, open, break,
12 destroy or remove any [automobile immobilizer,] immobilizing device, impair the usefulness thereof
13 or attempt to do any of those acts.

14 SECTION 8: If any section, subsection, subdivision, paragraph, sentence, clause or
15 phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid
16 or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
17 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
18 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
19 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
20 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
21 invalid or ineffective.

22 SECTION 9: Whenever in this ordinance any act is prohibited or is made or declared
23 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
24 required or the failure to do any act is made or declared to be unlawful or an offense or a
25 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
26 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
27 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
28 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

1 SECTION 10: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
3 1983 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this 5th day of July, 2001.

5 APPROVED:

6 By 
7 OSCAR B. GOODMAN, Mayor

8 ATTEST:

9 
10 BARBARA JO RONEMUS, City Clerk

11 APPROVED AS TO FORM:

12  6-19-01
13 Date

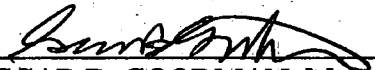
1 The above and foregoing ordinance was first proposed and read by title to the City Council on
2 the 6th day of June, 2001 and referred to the following committee composed of Councilmen
3 Weekly and Mack for recommendation; thereafter the said committee reported favorably on said
4 ordinance on the 5th day of July, 2001 which was a regular meeting of said Council; that at
5 said regular meeting, the proposed ordinance was read by title to the City Council as amended
6 and adopted by the following vote:

7 VOTING "AYE": Mayor Goodman and Councilmembers Reese, M. McDonald, Brown,
8 L. McDonald and Weekly

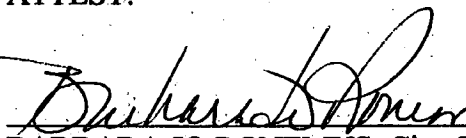
9 VOTING "NAY": NONE

10 EXCUSED: Councilman Mack

11 APPROVED:

12 
13 OSCAR B. GOODMAN, Mayor

14 ATTEST:

15 
16 BARBARA JO RONECUS, City Clerk
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BILL NO. 2001-54

ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH AN EXPEDITED PROCEDURE FOR THE USE OF VEHICLE IMMOBILIZING DEVICES UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

**Proposed by: Michael Sheldon,
Director of Detention and Enforcement**

**Summary: Establishes an expedited procedure
for the use of vehicle immobilizing devices
under certain circumstances.**

**THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:**

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11.10.080: (A) A person who responds to a Notice of Infraction must:

**(1) "Admit" responsibility for the commission of the infraction and liability
for the penalty imposed and pay the appropriate civil fine and penalty;**

**(2) Contact the Director of [the Department of Business Activity,] Finance
and Business Services, or his authorized designee, "admit" responsibility and liability for the
commission of the infraction and any penalties thereon and arrange a schedule for the payment of such
fines and penalties;**

**(3) Accept responsibility as the owner and/or operator of the vehicle while
reserving the right to dispute the propriety of the issuance of the Notice of Infraction and any penalties
thereon and agree to a binding hearing in the nature of an arbitration or alternative dispute resolution
as provided in subsections B through J, inclusive of this section; or**

**(4) Await the filing and receipt of a civil Complaint and Summons (or
Affidavit of Complaint and Order) in accordance with Section 11.10.100 through Section 11.10.120,
inclusive and appear as summonsed to defend against such civil Complaint (or Affidavit of
Complaint) or be subject to the entry of a default judgment at the time of such failure to appear as
summonsed (or ordered) and upon proof of service of the Complaint and Summons (or Affidavit of
Complaint and Order) as provided in Section 11.10.110.**

(B) Unless the City has sought judicial enforcement of the Notice of Infraction

1 pursuant to Section 11.10.100, a person may initiate a hearing pursuant to paragraph 3 of Subsection
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3 Finance and Business Services, or his designee, identifying his/her name, current address and the
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5 and receiving a date for such hearing. Any person initiating such a hearing in this manner thereby
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7 and responsibility for the penalties thereon and shall acknowledge the same in writing. Any person
8 scheduling a hearing before the Hearing Officer thereby further stipulates that in the event of his or
9 her failure to appear at such hearing without having first sought and obtained a continuance of such
10 hearing, the Hearing Officer may enter a decision against the defendant for the full amount of fines
11 and penalties scheduled to be reviewed and shall acknowledge the same in writing. The
12 acknowledgment provided for herein shall be in substantially the following form:

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14 dispute resolution before the Hearing Officer. My address is _____. I
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16 that the Hearing Officer is an attorney and not an elected or appointed judge.

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18 Officer. I understand that if I fail to appear for the scheduled hearing before the
19 Hearing Officer without first obtaining a continuance of such hearing, the Hearing
20 Officer can and will enter a decision against me for the full amount and penalties
21 scheduled to be reviewed. I understand and agree that if necessary due to my lack of
22 timely payment, the City of Las Vegas can and will use this binding decision to have
23 a formal civil judgment entered against me in the Las Vegas Municipal Court.

24 I understand that if a civil judgment is obtained, the City may seek and obtain
25 a writ of execution against me. I understand that if a writ of execution is obtained, my
26 wages and/or bank accounts may be garnished, liens may be put on my property and
27 my [car(s)] vehicle(s) may be towed or immobilized. I also understand that my
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7 Hearing Officer on the above-described Notice(s) of Infraction(s). I hereby
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9 set for _____, [19__] 20__ at the hour of _____ m.

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11 Defendant

12 (C) Any hearing conducted pursuant to Subsection A, paragraph 3 and Subsection
13 B of this Section shall be presided over by a Hearing Officer who shall be an attorney licensed to
14 practice law in the State of Nevada.

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16 and Subsection B of this Section, a properly filed Notice of Infraction shall constitute a claim of
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21 is required. The hearings and dispositions of all such actions shall be informal, with the Hearing
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23 dispensing fair and speedy justice between the parties.

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25 defense.

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27 was committed, but one or more of the defenses set forth below is applicable, the Hearing Officer shall
28 enter his decision for the defendant. Such a decision shall release the registered owner and/or operator

1 from all liability thereunder. Such defenses include, but are not limited to:

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7 imminent danger to persons or property;

8 (4) The area of the alleged violation was so inadequately marked or lit as
9 to fail to give sufficient notice that access to the area was restricted or prohibited;

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11 area alleged and it was removed as soon as could be reasonably expected thereafter;

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13 parked consistent with public safety, by a physically handicapped person, a disabled veteran or a
14 person transporting a physically handicapped person or disabled veteran in compliance with NRS
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16 (G) Except as provided in Subsection (H) of this Section, the defendant shall pay
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19 against the issuance of the infraction as agreed or that the infraction has been committed and no
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23 civil penalties which would otherwise apply and such penalties shall not be included in any decision
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28 evidence shows that the defendant has become indigent and will be unable to pay the balance.

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2 thereafter, file a written decision substantially conforming to the following form:

3 City of Las Vegas, Clark County, Nevada, City of Las Vegas, plaintiff v.
4 _____, defendant. Before, _____, Hearing
5 Officer for the City of Las Vegas, Clark County, Nevada, decision is entered in favor
6 of, _____ (plaintiff or defendant) for \$ _____ (enter \$0.00 if judgment is for
7 the defendant), on the _____ day of _____, [19__] 20___. I certify that the
8 foregoing is a correct reflection of the decision entered in the action properly brought
9 for my consideration pursuant to Title 11, Chapter 10, Section 080 of the Las Vegas
10 Municipal Code.

11 _____
Hearing Officer

12 (J) Based upon the defendant's stipulation to be bound by the decision of the
13 Hearing Officer, the City Attorney, may petition the Las Vegas Municipal Court for the entry of a civil
14 judgment against the defendant in an amount equal to that stated in the written decision of the Hearing
15 Officer if the City Attorney determines this action to be necessary to enforce such decision. Service
16 of such petition on the defendant must be made by certified mail, return receipt requested, restricted
17 delivery, addressed to the registered owner of the vehicle at his last known address, as indicated by
18 the vehicle registration which is maintained by the Nevada Department of Motor Vehicles or in any
19 other manner which is authorized by law. An affidavit or declaration of mailing, a signed, returned
20 receipt, or other evidence of service shall be filed upon such service of the petition.

21 SECTION 2: Title 11, Chapter 10, Section 200, of the Municipal Code of the City of
22 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

23 **11.10.200:** (A) The Las Vegas Metropolitan Police Department and the Department of
24 Detention and Enforcement are authorized to remove a vehicle to the nearest garage or other place of
25 safety, or to a garage which is designated or maintained by the Las Vegas Metropolitan Police
26 Department or otherwise maintained by the City, under the circumstances which are hereinafter
27 enumerated:

28 (1) When any vehicle is left unattended upon any highway, bridge, viaduct

1 or causeway, or in any tube or tunnel, if such vehicle constitutes an obstruction to traffic;

2 (2) When a vehicle upon a street or highway is so disabled as to constitute
3 an obstruction to traffic and the person who is in charge of such vehicle is, by reason of physical
4 injury or other reason, incapacitated to the extent that he is unable to provide for its custody or
5 removal, or is not in the immediate vicinity of the disabled vehicle;

6 (3) When any vehicle is illegally parked in a parking space or location for
7 twenty-four hours or more or is parked so illegally as to constitute a definite hazard or obstruction to
8 the normal movement of traffic;

9 (4) When the person who is in charge of a vehicle is unable to provide for
10 its custody or removal within[;] ;

11 (a) Twenty-four hours after abandoning such vehicle on any
12 freeway, United States highway or other primary arterial street, or

13 (b) Seventy-two hours after abandoning such vehicle on any other
14 street;

15 (5) When the person who is driving or in actual physical control of a vehicle
16 is arrested for any alleged offense for which the arresting officer is required by law to take such person
17 before a proper magistrate without unnecessary delay; or

18 (6) In accordance with Section 11.10.240.

19 (B) As used in this Section 11.10.200 to Section 11.10.280, the term "vehicle" shall
20 include any automobile, motorcycle, truck, boat trailer, utility trailer, or any other vehicle capable of
21 being driven or towed on any street, highway, or right-of-way.

22 (C) Prior to the release of any vehicle impounded pursuant to this Section, the
23 operator, registered owner or his designee must pay the costs of such impoundment.

24 SECTION 3: Title 11, Chapter 10, Section 230, of the Municipal Code of the City of
25 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

26 **11.10.230:** (A) The use of writs of execution issued by the Las Vegas Municipal Court is
27 authorized within the City as an aid in the enforcement of the parking ordinances of the City.

28 (B) The City of Las Vegas in whose favor a judgment is given may upon the entry

1 of such judgment, or at any time before the judgment expires, obtain the issuance of a writ of
2 execution for its enforcement as prescribed in Chapter 21 of the Nevada Revised Statutes and Justice
3 Court Rules of Civil Procedure, Rule 69. Such issuance may be conditioned upon the failure of the
4 judgment debtor to pay the judgment and expenses of enforcement thereof within a specified period
5 of time or any other reasonable and just condition.

6 (C) Upon the City's request, a writ of execution issued pursuant to Subsection B
7 of this Section shall allow the City to obtain possession of the defendant's vehicle(s) through towing
8 the vehicle(s), at the expense of the defendant, from any public street, highway, viaduct, causeway,
9 parking space, tube, tunnel, bridge or alley in compliance with the procedures prescribed in Sections
10 11.10.210 and 11.10.220. Upon the City's request, a writ of execution issued pursuant to Subsection
11 B of this Section shall allow the City to obtain possession of the defendant's vehicle(s) through the
12 use of an [automobile immobilizer, sometimes referred to as a "French boot" or "Denver boot".]
13 immobilizing device. A fee of fifty dollars per vehicle shall be recovered from the owner or operator
14 of the vehicle(s) prior to the removal of [such automobile immobilizer.] the immobilizing device.

15 (D) Notwithstanding the provisions of Subsection (C), the City may, without
16 obtaining a writ of execution, obtain possession of a vehicle by means of an immobilizing device in
17 accordance with Section 11.10.240.

18 SECTION 4: Title 11, Chapter 10, Section 240, of the Municipal Code of the City of
19 Las Vegas, Nevada, 1983 Edition, is hereby repealed in its entirety.

20 SECTION 5: Title 11, Chapter 10, of the Municipal Code of the City of Las Vegas,
21 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 240,
22 reading as follows:

23 **11.10.240:** (A) The City is authorized to attach an immobilizing device to a vehicle that is
24 parked on any public right-of-way or City-owned or -operated lot if the vehicle is included on an
25 immobilization eligibility list. A vehicle may be included on an immobilization eligibility list only
26 if:

27 (1) The registered owner of the vehicle has accumulated more than \$500.00
28 in unpaid civil fines, judgments and penalties, or at least five Notices of Infraction have been issued

1 and served with respect to that vehicle and have not been responded to within the time set forth in
2 LVMC 11.10.090; and

3 (2) At least 21 days before including the vehicle on the list, the City
4 provided notice of impending vehicle immobilization in accordance with Subsection (B) of this
5 Section.

6 (B) Notice of impending vehicle immobilization shall be provided by mailing such
7 notice to the registered owner of the vehicle at the address last known to the City or on file with the
8 Department of Motor Vehicles. The notice shall include the dates and nature of the infractions which
9 formed the basis for the civil fines, judgments and penalties; the numbers of the Notices of Infraction;
10 and the amounts owing. The notice shall advise that the registered owner may challenge the validity
11 of the notice by requesting a hearing. The hearing shall be held before the Hearing Officer for the sole
12 purpose of allowing the registered owner to show that:

13 (1) The amounts in question have been paid; or

14 (2) The vehicle was not properly included on the immobilization eligibility
15 list in accordance with the provisions of Subsection (A) of this Section.

16 (C) A vehicle shall be removed from the immobilization eligibility list if:

17 (1) The registered owner pays all fines, judgments, penalties and applicable
18 immobilization, towing and storage fees;

19 (2) The registered owner executes an agreement to pay within a specified
20 period of time all fines, judgments, penalties and applicable immobilization, towing and storage fees,
21 with a condition that, for default on the payment obligation, the vehicle shall be subject to
22 reinstatement on the immobilization list; or

23 (3) The Hearing Officer finds that the vehicle was not properly included
24 on the immobilization eligibility list.

25 (D) In connection with the immobilization of a vehicle, a notice shall be attached
26 to the vehicle in a conspicuous place advising:

27 (1) That the vehicle is immobilized and that any attempt to move the vehicle
28 may result in its damage;

1 (2) That the unauthorized removal of or damage to the immobilizing device
2 is a violation of law;

3 (3) How release of the immobilizing device may be obtained; and

4 (4) How a hearing may be obtained pursuant to Subsection (H).

5 (E) The City may (but is not obligated to) cause to be towed and stored any vehicle
6 which has been immobilized if, within 48 hours after immobilization, no arrangements have been
7 made for the vehicle's release. Within 10 days after an immobilized vehicle is towed, the City shall
8 send a notice advising that the vehicle has been immobilized and towed. The notice shall be provided
9 by means of certified mail, return receipt requested, mailed to the registered owner at the address last
10 known to the City or on file with the Department of Motor Vehicles. The notice shall state that the
11 registered owner is entitled to request a hearing pursuant to Subsection (H) of this Section to
12 determine the validity of the immobilization.

13 (F) An immobilization fee of fifty dollars shall be paid by or on behalf of the
14 registered owner of the vehicle prior to the removal of an immobilizing device.

15 (G) Release of an immobilized vehicle may be obtained by:

16 (1) The payment of all fines, judgments, penalties and applicable
17 immobilization, towing and storage fees; or

18 (2) In connection with the request of a hearing to determine the validity of
19 the immobilization of the vehicle, the posting of a bond or other sufficient undertaking in an amount
20 which will satisfy all fines, judgments, penalties and applicable immobilization, towing and storage
21 fees.

22 (H) The registered owner of a vehicle may request a hearing regarding the
23 immobilization of the owner's vehicle. The request for hearing must be made within 10 days after the
24 date of the notice described in Subsection (D) or Subsection (E). The hearing shall be held before the
25 Hearing Officer and shall be limited to a determination of whether there was a factual and legal basis
26 for the immobilization. Failure to request or attend a hearing shall be deemed a waiver of the right
27 to a hearing. If the Hearing Officer determines that there was a factual and legal basis for the
28 immobilization, the bond or undertaking shall be forfeited. If the hearing officer determines that there

1 was an insufficient factual and legal basis for the immobilization, the bond or undertaking shall be
2 exonerated.

3 SECTION 6: Title 11, Chapter 10, Section 270, of the Municipal Code of the City of
4 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

5 **11.10.270:** [Automobiles] Vehicles may be towed and [immobilizers] immobilizing devices may
6 be placed pursuant to the issuance of a writ of execution by the Sheriff of Clark County, or his
7 authorized designee[.], or as otherwise provided in this Chapter.

8 SECTION 7: Title 11, Chapter 10, Section 280, of the Municipal Code of the City of
9 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

10 **11.10.280:** It is unlawful for any unauthorized person to deface, injure, tamper with, open, break,
11 destroy or remove any [automobile immobilizer,] immobilizing device, impair the usefulness thereof
12 or attempt to do any of those acts.

13 SECTION 8: If any section, subsection, subdivision, paragraph, sentence, clause or
14 phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid
15 or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
16 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
17 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
18 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
19 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
20 invalid or ineffective.

21 SECTION 9: Whenever in this ordinance any act is prohibited or is made or declared
22 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
23 required or the failure to do any act is made or declared to be unlawful or an offense or a
24 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
25 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
26 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
27 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

28 SECTION 10: All ordinances or parts of ordinances or sections, subsections, phrases,

1 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
2 1983 Edition, in conflict herewith are hereby repealed.

3 PASSED, ADOPTED and APPROVED this _____ day of _____, 2001.

4 APPROVED:

5
6 By _____
OSCAR B. GOODMAN, Mayor

7 ATTEST:

8
9 BARBARA JO RONEMUS, City Clerk

10 APPROVED AS TO FORM:

11 Val Stead 5-23-01
12 Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of ____, 2001, and referred to the following committee composed of
3 ____ and ____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 ____, 2001, which was a ____ meeting of said Council; that at said
6 ____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11 APPROVED:

12
13 By _____
OSCAR B. GOODMAN, Mayor

14 ATTEST:

15
16 BARBARA JO RONEMUS, City Clerk

RECEIVED
CITY CLERK

2001 JUN 29 A 11:05

AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK)

SS:

Donna Stark, being 1st duly sworn, deposes and says:

That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK
1770784

2296311LV

was continuously published in said Las Vegas Review Journal and/or Las Vegas Sun in 1 edition(s) of said newspaper issued from 06/22/01 to 06/22/2001, on the following days: JUNE 22, 2001

Signed: _____

Donna Stark

SUBSCRIBED AND SWORN BEFORE ME THIS THE _____

25

day of _____ 2001

June

Mary B. Sheffield

Notary Public

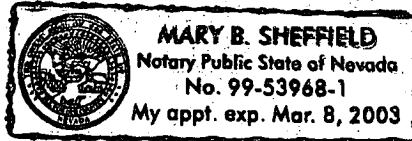
FIRST AMENDMENT
BILL NO. 2001-54

AN ORDINANCE TO ESTABLISH AN EXPEDITED PROCEDURE FOR THE USE OF VEHICLE IMMOBILIZING DEVICES UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Michael Sheldon, Director of Detention and Enforcement
Summary: Establishes an expedited procedure for the use of vehicle immobilizing devices under certain circumstances.

At a City Council meeting June 20, 2001
BILL NO. 2001-54 WAS READ BY TITLE AND REFERRED TO RECOMMENDING COMMITTEE:
Councilmembers Weekly and Mack

COPIES OF THE COMPLETE BILL ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 1ST FLOOR, CITY HALL, 400 STEWART AVE. NUE, LAS VEGAS, NEVADA.
PUB: June 22, 2001
LV Review-Journal



RECEIVED
CITY CLERK

2001 JUL 13 A 11:07

AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

Donna Stark, being 1st duly sworn, deposes and says:

That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK
1794024

2296311LV

was continuously published in said Las Vegas Review Journal and/or Las Vegas Sun in 1 edition(s) of said newspaper issued from 07/07/01 to 07/07/2001, on the following days: JULY 7, 2001

FIRST AMENDMENT
BILL NO. 2001-54
ORDINANCE NO. 5334

AN ORDINANCE TO ESTABLISH AN EXPEDITED PROCEDURE FOR THE USE OF VEHICLE IMMOBILIZING DEVICES UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Michael Sheldon, Director of Detention and Enforcement
Summary: Establishes an expedited procedure for the use of vehicle immobilizing devices under certain circumstances.

The above and foregoing ordinance was first proposed and read by title to the City Council on the 6th day of June, 2001, and referred to the following committee composed of Councilmembers Weekly and Mack and for recommendation; thereafter the said committee reported favorably on said ordinance on the 5th day of July, 2001, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as amended and adopted by the following vote:

VOTING "AYE": Mayor Goodman and Councilmembers Reese, M. McDonald, Brown, L.B. McDonald and Weekly
VOTING "NAY": NONE
EXCUSED: Councilman Mack

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 1ST FLOOR, 400 STEWART AVENUE, LAS VEGAS, NEVADA.
PUB: July 7, 2001
LV Review-Journal

Signed: _____

Donna Stark

SUBSCRIBED AND SWORN BEFORE ME THIS THE _____

9

day of _____ 2001

July

Mary B. Sheffield

Notary Public

