

ORDINANCE NO. 14, 2011

AN ORDINANCE AMENDING: (A) SECTION 70.05 (ENTITLED *IMPOUNDING OF VEHICLES*) OF CHAPTER 70 (ENTITLED *GENERAL PROVISIONS*) OF TITLE VII (ENTITLED *TRAFFIC CODE*) OF THE PARK HILLS CODE OF ORDINANCES (THE "CODE"), (B) SECTION 72.13(G) (ENTITLED *PARKING CITATION ENFORCEMENT*) OF CHAPTER 72 (ENTITLED *PARKING REGULATIONS*) OF TITLE VII (ENTITLED *TRAFFIC CODE*) OF THE CODE, AND (C) SECTION 34.07 (ENTITLED *PENALTY*) OF CHAPTER 34 (ENTITLED *MOTOR VEHICLE LICENSE*) OF TITLE III (ENTITLED *ADMINISTRATION*) OF THE CODE, TO AUTHORIZE POLICE OFFICERS TO IMPOUND VEHICLES UPON WHICH PARKING PENALTIES UNDER SECTION 72.14 OF THE CODE ARE OWED FOR TWO OR MORE INSTANCES OF PARKING VIOLATIONS, OR THAT ARE DELINQUENT IN PAYING THE LICENSE FEE IMPOSED UNDER CHAPTER 34 OF THE CODE, AND TO PROVIDE FOR UPDATED HEARING PROCEDURES; AND AUTHORIZING SUMMARY PUBLICATION

BE IT ORDAINED BY THE CITY OF PARK HILLS, KENTUCKY as follows:

Section 1: That Section 34.07, entitled *Penalty*, of Chapter 34, entitled *Motor Vehicle License*, of Title III, entitled *Administration*, of the Code be, and it is, amended as follows:

34.07 PENALTY.

(A) Any person, individual, corporation, or company violating the provisions of Sections 34.01 through 34.04 shall receive a citation, pursuant to Chapter 101 of this Code. Each day that this Chapter 34 is violated shall be deemed a separate offense. All subsequent proceedings, hearings, appeals, imposition of civil penalties, liens, remedies, and enforcement with regard to such citation shall be governed by Chapter 101 of this Code.

(B) Notwithstanding the preceding paragraph, on the thirty-first calendar day after the issuance of a second citation for violating the provisions of this Chapter, the vehicle that is the subject of the citations may be impounded by a police officer, pursuant to Section 70.05 of the Code.

Section 2: That Section 70.05, entitled *Impounding of Vehicles*, of Chapter 70, entitled *General Provisions*, of Title VII, entitled *Traffic Code*, of the Park Hills Code of Ordinances (the "**Code**") be, and it is, amended as follows:

70.05 IMPOUNDING OF VEHICLES.

(A) Any police officer of the City of Park Hills is hereby authorized to remove a vehicle from a street or highway to a public or private garage or other place of safety, and place the same in storage under the circumstances hereinafter enumerated:

- (1) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and a person or persons in charge of the vehicle are, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.
- (2) When any vehicle is left unattended upon a roadway and is so parked illegally as to constitute a hazard or obstruction to the normal movement of traffic.
- (3) When any vehicle is left unattended upon a roadway for a longer period than three (3) days and under circumstances indicating abandonment.
- (4) When any vehicle required to display a license tag, pursuant to Chapter 34 (entitled *Motor Vehicle License*) of Title III (entitled *Administration*) of the Code, has been issued two citations for failure to obtain and display said license tag for the vehicle and otherwise comply with said Chapter, and thirty calendar days have expired since the date of issuance of the second citation.

~~(4)~~(5) Under any circumstances provided by state law.

(B) Whenever a police officer removes a vehicle from a street as authorized by this section and such officer knows or is able to ascertain from the registration records of the vehicle the name and address of the owner thereof, such officer shall as soon possible give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefore and the place to where said vehicle has been removed. In the event that any such vehicle is stored in a public or private garage, a copy of the notice shall be given to the proprietor of such garage. All towing, handling, and storage charges and fees resulting from said removal and impounding shall be the liability of and assessed against the owner of the vehicle so impounded.

(C) Any person desiring to redeem such impounded vehicles shall first pay to the city: (i) a service charge of Twenty Five Dollars (\$25.00), (ii) and, in addition thereof, may be liable for all towing, handling, and storage charges as set forth above, and (iii) any delinquent license fees imposed under Chapter 34 of the Code.

Section 3: That Section 72.13(G), entitled *Parking Citation Enforcement*, of Chapter 72, entitled *Parking Regulations*, of Title VII, entitled *Traffic Code*, of the Code be, and it is, amended as follows:

72.13 PARKING CITATION ENFORCEMENT.

* * * * *

(G) Impoundment; charges for towing, handling, and storage; hearing on validity of impoundment; appeal.

- (1) The City of Park Hills may impound a motor vehicle: (i) parked, stopped, or standing upon a street or public way within its jurisdiction in violation of an ordinance or statute prohibiting parking, stopping, or standing in the location, manner or at the time the vehicle is cited, (ii) that is the subject of two or more instances of unpaid penalties under Section 72.14 of this Chapter for parking violations, or (iii) for any other lawful reason.
- (2) The city, in addition to the fines levied for parking or traffic offenses, may impose reasonable towing, handling, and storage charges upon such impounded vehicle as provided herein.
- (3) The release of an impounded vehicle shall be conditioned upon the payment of the towing, handling, and storage charges imposed thereon, unless the owner or other person entitled to possession challenges the validity of the impoundment pursuant to subsection (4) below. A vehicle may be released to the owner or other person entitled to possession only upon proof of ownership or right to possession. Any person who is not the registered owner of the vehicle shall post reasonable security, bond, or other assurance of indemnification prior to having the vehicle released to such person.
- (4) The owner of a motor vehicle which has been impounded pursuant to this section, or any other person entitled to possession, may challenge the validity of such impoundment and request in writing a hearing before the hearing board with the City Clerk. The hearing shall be conducted within ten (10) business days of the date of the request, unless the owner or other person entitled to possession waives the limitation or the City of Park Hills shows good cause for such delay. The city shall retain possession of the vehicle pending the hearing, unless the owner or other person claiming right of possession posts a bond in an amount equal to the fines and fees accrued as of the date of the hearing request, or Seventy-Five Dollars (\$75.00), whichever is less. If the owner or person claiming possession of the vehicle is unable to pay the amount of the bond, the hearing shall be held within seventy-two (72) hours of the date the request for hearing is received, unless such person requests or agrees to a continuance.

- (5)(a) Not less than five (5) days prior to the date set for the hearing, the City Clerk shall notify the person requesting the hearing of the date, time, and place of the hearing. In the case of a hearing required to be held within seventy-two (72) hours of the date of the request, as provided in subsection (4) above, the person requesting the hearing shall be informed at the time of his request, or as soon thereafter as is practicable, of the date, time, and place of the hearing.
- (b) Any person who refuses or, except for good cause, fails to appear at the time and place set for the hearing shall be deemed to have conceded on his and the owner's behalf the validity of the impoundment.
- (c) At the hearing, after consideration of the evidence, the board shall determine whether the impoundment was valid and reasonable. Where it has not been established that the impoundment was not justified, an order releasing the vehicle shall be entered. All fines and fees paid and amounts posted as bond because of the impoundment of the vehicle shall be returned. Where it has been established that the impoundment was justified, the board shall enter an order upholding uphold the impoundment and conditioning condition the release of the vehicle upon payment of all fines, charges, and fees accruing thereto. If bond has been posted as security for release of the vehicle, said bond shall be forfeited to the City of Park Hills. Any fines, charges, or fees in excess of the amount of the bond posted shall be ordered to be paid by the owner of the vehicle to the city. The board shall furnish the owner or person appearing on the owner's behalf with a copy of its order by hand delivery or certified mail. If the certified mail is returned "refused" or "unclaimed," then the board shall furnish the addressee with a copy of its order by ordinary mail with proof of mailing obtained. The board may not subsequently reconsider, vacate, modify, or amend its order except for clerical error.
- (d) The board may consider a parking citation and any other written report made under oath by the issuing officer in lieu of the officer's personal appearance at the hearing.
- (e) An appeal from the board's order determination may be made to the Kenton District Court within thirty (30) seven-(7) days of the hand delivery or mailing of the board's order board's determination. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same manner as any civil action. The action shall be tried de novo and the burden shall be on the City of Park Hills to establish that impoundment was justified. If the court finds that the impoundment was justified, the owner shall be ordered to pay all fees and fines accruing as of the

date of judgment. If the court finds that the impoundment was not justified, the city shall be ordered to release the vehicle, if applicable, and to return all fines and fees paid as a result of the impoundment and the plaintiff shall be authorized to recover his costs.

- (f) The judgment of the district court may be appealed to the circuit court in accordance with the Kentucky Rules of Civil Procedure.

Section 4: If any provision of this Ordinance or related ordinance, statute or the application thereof is held invalid, such invalidity shall not affect other provisions of this Ordinance.

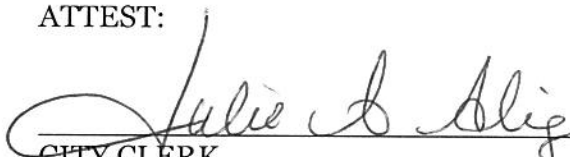
Section 5. All ordinances in conflict with this Ordinance shall be, and are, repealed to the extent of said conflict.

Section 6. This Ordinance shall be effective when passed, published, and journalized according to law.

Section 7. This Ordinance shall be published in summary, pursuant to KRS §83A.060(9) and other applicable law.


DON CATCHEN, MAYOR

ATTEST:


CITY CLERK

FIRST READING: 10/10/11
SECOND READING: 10/24/11
PUBLISHED: _____