

**THE CITY OF PARK HILLS, KENTUCKY  
ORDINANCE NO. 7, 2011**

**AN ORDINANCE OF THE CITY OF PARK HILLS, KENTUCKY AMENDING SECTIONS 70.05 (ENTITLED *IMPOUNDING OF VEHICLES*) AND 72.13 (ENTITLED *PARKING CITATION ENFORCEMENT*), OF CHAPTERS 70 (ENTITLED *GENERAL PROVISIONS*) AND 72 (ENTITLED *PARKING REGULATIONS*), RESPECTIVELY, OF TITLE VII (ENTITLED *TRAFFIC CODE*) OF THE PARK HILLS CODE OF ORDINANCES TO: (I) LEVY OR IMPOSE TOWING, STORAGE, AND HANDLING CHARGES, EXPENSES, OR FEES UPON ANY VEHICLE IMPOUNDED BY THE CITY, (II) PROVIDE NOTICE TO ALLEGED VIOLATORS OF PARK HILLS' TRAFFIC CODE AND TO OWNERS OF IMPOUNDED VEHICLES BY ORDINARY MAIL, AND (III) AUTHORIZE SUMMARY PUBLICATION OF THIS ORDINANCE**

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

**Section One.** 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 is hereby 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) 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 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 a service towing charge of ~~Twenty Seventy-Five Dollars (\$75.00)~~ ~~(\$25.00)~~ and, in addition thereof, may be liable for storage and handling charges ~~as set forth above~~.

**Section Two.** Section 72.13, entitled *Parking Citation Enforcement*, of Chapter 72, entitled *Parking Regulations*, of Title VII, entitled *Traffic Code*, of the Park Hills Code of Ordinances is hereby amended as follows:

72.13 PARKING CITATION ENFORCEMENT.

(A) Establishment of hearing board. It is hereby established within the City of Park Hills a hearing board pursuant to KRS 82.600 consisting of one person who shall also serve as a hearing officer. All actions of the hearing officer shall be considered to be actions of the board.

(B) Definitions. As used herein, the term "parking ordinance" means an ordinance regulating parking, standing, or stopping upon the public streets or ways within the city.

(C) Enactment of parking ordinances. The City of Park Hills hereby declares its intention to enforce parking penalties as civil violations pursuant to the procedures set forth in KRS 82.600 to KRS 82.640.

(D) Citation for parking violation; notice. If any motor vehicle is found parked, standing, or stopped in violation of a parking ordinance of the City of Park Hills, the vehicle may be cited for the appropriate parking violation. Citing officers shall note the vehicle's registration number and any other information concerning the vehicle which will identify it and, if the driver is not present, shall conspicuously affix to the vehicle a note of the parking violation containing a statement that the notice represents the determination that a parking violation has been committed by the owner of the vehicle, and that determination shall be final unless contested as provided in KRS 82.600 to 82.640, a statement that a parking violation may result in impoundment of the vehicle for which the owner may be liable for a fine and towing, handling and storage charges or fees, a statement of the specific parking violation for which the citation was issued, a statement of the monetary penalty established for the parking violation, and a statement of the options provided in KRS 82.600 to 82.640 for responding to the notice and the procedures necessary to exercise these options.

The notice of parking violation represents a determination that a parking violation has been committed, and such determination shall be final unless contested as provided in KRS 82.600 to 82.640.

(E) Response to notice.

(1) Any person who receives notice of a parking violation shall respond to such notice as provided in this section within seven (7) days of the date of the notice, by either paying the fine set forth in the notice or requesting a hearing pursuant to KRS 82.620.

(2) If the owner of a vehicle cited for a parking violation has not responded to the notice within seven (7) days, as provided in subsection (E)(1), the City Clerk shall send a second notice by ordinary certified mail to the last known address of the registered owner of the vehicle as listed on the certificate of title. Such notice shall state the violation, date, location, and type of vehicle and: (i) the fines provided for in Section 72.13 hereof have doubled, (ii) the motor vehicle involved in the violation is subject to towing and impoundment, and (iii) the owner shall be deemed to have waived his right to a hearing and the determination that a violation was committed shall be considered final. Any person who fails to request a hearing or pay the fine within the seven (7) days shall be deemed to have refused to pay the fine levied by the citation and such person shall be charged the sum of Ten Dollars (\$10.00) administrative fee related to the aforesaid notice, which fee shall be added to any penalties assessed under Section 72.13 hereof.

(3) The registered owner of a vehicle at the time the violation occurred shall be liable for all fines, fees, and penalties which he has refused to pay.

(F) Contest of violation determination; hearing; appeal.

(1) Any person cited for a parking violation under KRS 82.610 may contest the determination that a violation occurred by requesting in writing a hearing before the board. Such hearing shall be held no later than fourteen (14) days from the date of the receipt of the request, unless prior to the hearing the person requesting such hearing requests an extension of time not to exceed fourteen (14) days. Not less than seven (7) days prior to the date set for hearing, the board shall notify the registered owner of the vehicle of the date, time, and place of the hearing. Any person requesting a hearing who fails to appear at the time and place set for the hearing shall be deemed to have refused to pay the fine levied by this citation.

(2) At the hearing, after consideration of the evidence, the board shall determine whether a violation was committed. Where it has not been established that the violation was committed, an order dismissing the citation shall be entered. Where it has been established that a violation was committed, the board shall uphold the citation and order the owner to pay the citation within seven (7) days. A copy of such order shall be furnished to the owner. Any person ordered to pay the

fine who fails to do so within seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

(3) The board may consider the parking citation and any other written report made under oath by the officer who issued the citation in lieu of the officer's personal appearance at the hearing.

(4) An appeal from the hearing board's determination may be made to the Kenton District Court within seven (7) days of the 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 under the Kentucky Rules of Civil Procedure. The action shall be tried de novo, and the burden shall be upon the city to establish that a violation occurred. If the court finds that a violation occurred, the owner shall be ordered to pay to the local government all fines, fees, and penalties occurring as of the date of the judgment. If the court finds that a violation did not occur, the local government shall be ordered to dismiss the citation and the plaintiff shall be authorized to recover his costs.

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

(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 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, or for any other lawful reason.

(2) The city, in addition to the fines levied for parking or traffic offenses and charges for towing, may shall impose ~~reasonable towing, handling, and storage charges upon such impounded vehicle of Seventy-Five and 00/100 Dollars (\$75.00) 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 by certified mail 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 uphold the impoundment and condition the release of the vehicle upon payment of all fines 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 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.

(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 determination may be made to the Kenton District Court within seven (7) days of the 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.

(H) Vehicle deemed abandoned; escheat to City of Park Hills; disposal of vehicle.

(1) If within ten (10) business days of impoundment a motor vehicle impounded by the City of Park Hills has not been claimed, or a hearing has not been requested pursuant to KRS 82.625, notice shall be mailed by ~~certified~~ ordinary mail to the registered owner, if known, and lienholders of record, if any, affording such parties the right within ten (10) days from the date of notice to claim the vehicle or request a hearing pursuant to KRS 82.625. The notice shall state that, if no hearing is requested, the vehicle shall be deemed abandoned unless the charges thereon are paid within ninety (90) days of receipt of notice.

(2) After ninety (90) days from the date of notice required by subsection (H)(1) above, an impounded motor vehicle shall be deemed abandoned and the vehicle shall escheat to the City of Park Hills.

(3) If the vehicle is judged suitable for use, the City of Park Hills may obtain a certificate of registration and ownership from the county clerk pursuant to KRS 186.020, and either use the vehicle for governmental purposes or sell the vehicle at public auction to the highest bidder. If the vehicle is not suitable for use, it may be sold for its scrap or junk value.

(I) Lien for fines and other charges.

(1) The City of Park Hills shall possess a lien on a motor vehicle impounded pursuant to KRS 82.625 for all fines, penalties, and towing, handling, and storage charges and fees imposed thereon. Such lien shall be superior to and have priority over all other liens thereon.

(2) Nothing in KRS 82.600 to 82.640 shall otherwise affect the rights or obligations between the security owner of the motor vehicle and those persons who claim an interest therein.

**Section Three.** That if any provision of this Ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this Ordinance shall continue in full force and effect.

**Section Four.** That all other ordinances and codes, and parts of ordinances and codes, in conflict with this Ordinance are hereby repealed to the extent of the conflict.

**Section Five.** That this Ordinance take full force and effect upon publication as required by KRS Chapter 424 and other applicable law.

**Section Six.** That this Ordinance be published in summary form, pursuant to KRS §83A.060(9) and other applicable law.

ATTEST:

\_\_\_\_\_  
Donald Catchen, Mayor

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Passed: \_\_\_\_\_