

82.625 Impoundment -- Charges for towing, handling and storage -- Hearing on validity of impoundment -- Appeal.

- (1) Any local government 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 local government, in addition to the fines levied for the parking or traffic offense, may by ordinance impose reasonable towing, handling and storage charges upon such impounded vehicle.
- (3) A local government may condition the release of an impounded vehicle 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) of this section. A vehicle may be released to the owner or other person entitled to possession only upon proof of ownership or right to possession. The local government may require reasonable security, bond or other assurances of indemnification from a person who is not the registered owner of the vehicle prior to releasing the vehicle to such person.
- (4) The owner of a motor vehicle which has been impounded pursuant to this section or other person entitled to possession, may challenge the validity of such impoundment and request in writing a hearing before the hearing board. 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 local government shows good cause for such delay. The local government 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) 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) No less than five (5) days prior to the date set for the hearing, the local government 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) of this section, the person requesting the hearing shall be informed at the time of his request, or as soon thereafter as is practicable, of the date and time 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 justified, an order releasing the vehicle shall be entered. All fines and fees paid or 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 local government. 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 local government. 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 hearing board's determination may be made to the District Court of the county in which the local government is located 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 local government 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 local government 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 Rules of Civil Procedure.

Effective: July 13, 1984

History: Created 1984 Ky. Acts ch. 416, sec. 6, effective July 13, 1984.