

# PARKING CITATION ENFORCEMENT BOARD

A GUIDE FROM KLC MUNICIPAL LAW

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## **PARKING CITATION ENFORCEMENT BOARD**

In order to play any game, you must first learn the rules. The same holds true for the law surrounding parking citation enforcement boards. It is impossible to carry out the duties of parking citation enforcement boards unless you familiarize yourself with the applicable state statutes, as well as your local ordinances, that govern.

Statutes are not contained in some magical spell book. There is no forbidden wisdom in a statutory code book. You do not need a law school education to understand their meaning. We wanted to remove some of the mystique from the law by compiling this simple pdf document. It contains the entire portion of Kentucky Revised Statutes which pertain to parking citation enforcement boards.

Feel free to use this guide in any way that you deem fit. The reason we wanted to present this as a pdf though is because a pdf does have just a little bit of magic, truth be told. A pdf is word searchable. If you have the pdf on a laptop during a meeting and an issue comes up - you can plug the words in and hopefully the relevant portion of the law pertaining to parking citation enforcement boards will pop up. Failing that, you can always call the KLC Municipal Law Department at 800.876.4552.

*The KLC Municipal Law Team*



## **82.600 Definitions**

As used in KRS 82.605 to 82.640 unless the context otherwise requires:

- (1) “Local government” means a city of any class, a consolidated local government, or an urban- county government;
- (2) “Hearing board” means a body established by ordinance and empowered to conduct hearings pursuant to KRS 82.605 to 82.640; and shall be composed of one (1) or more persons appointed in the manner provided by ordinance; and also means any hearing officer or officers appointed by the board. Any action of such hearing officer shall be deemed to be the action of the board; and
- (3) “Parking ordinance” means an ordinance regulating parking, standing, or stopping upon the public streets or ways within the local government.

## **82.605 Enactment of parking ordinances by local government**

Any local government may enact parking ordinances and impose penalties for the violation of such ordinances. Such penalties may be enforced as criminal penalties or a local government may, by ordinance, elect to enforce parking ordinances as civil violations pursuant to the procedures set forth in KRS 82.600 to 82.640.

## **82.610 Citation for parking violation; notice**

- (1) If any motor vehicle is found parked, standing or stopped in violation of a parking ordinance passed by the local government, the vehicle may be cited for the appropriate parking violation. The citing officer 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 notice of the parking violation.
- (2) The form of the notice of the parking violation shall be designated by the local government, but shall contain in substance the following information:
  - (a) A statement that the notice represents a determination that a parking violation has been committed by the owner of the vehicle and that the determination shall be final unless contested as provided in KRS 82.600 to 82.640;
  - (b) 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;
  - (c) A statement of the specific parking violation for which the citation was issued;
  - (d) A statement of the monetary penalty established for the parking violation; and
  - (e) 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.
- (3) 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.



### **82.615 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 (1) of this section, the local government shall send a second notice by regular, first-class mail of the United States Postal Service to the last known address of the registered owner of the vehicle as listed on the certificate of title. Such notice shall state that if the owner of the vehicle does not respond to the notice by either paying the fine or by requesting in writing a hearing pursuant to KRS 82.620, within seven (7) days of the receipt of the notice, 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.
- (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.

### **82.620 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 hearing board. Such hearing shall be held no later than fourteen (14) days from the date of 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. No less than seven (7) days prior to the date set for the 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 the 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 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 District Court of the county in which the city 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 under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the local government 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 Rules of Civil Procedure.

**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.

### **82.630 Vehicle deemed abandoned; escheat to local government; disposal of vehicle**

- (1) If within ten (10) business days of impoundment a motor vehicle impounded by a local government has not been claimed, or a hearing has not been requested pursuant to KRS 82.625, notice shall be mailed by certified mail to the registered owner, if known, and lienholders of record, if any, affording the 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 forty-five (45) days of receipt of notice.
- (2) After forty-five (45) days from the date of notice required by subsection (1) of this section an impounded motor vehicle shall be deemed abandoned and the vehicle shall escheat to the local government.
- (3) If the vehicle is judged suitable for use, the local government 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.

### **82.635 Lien for fines and other charges**

- (1) The local government 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 owner of the motor vehicle and those persons who claim a security interest therein.

### **82.640 Title**

KRS 82.600 to 82.635 may be cited as the "Local Government Parking Citation Enforcement Act."