

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022#24**

**AN AMENDING SECTIONS 72.29 THROUGH 72.31 OF  
CHAPTER 72 OF THE DAYTON CODE OF ORDINANCES  
REGARDING THE ESTABLISHMENT AND OPERATION  
OF THE PARKING VIOLATION ENFORCEMENT  
HEARING BOARD, REGULATIONS FOR  
ENFORCEMENT OF PARKING CITATIONS AND THE  
TOWING AND IMPOUNDING VEHICLES, AND APPEALS  
TO THE BOARD FROM THESE ACTIVITIES.**

**NOW, THEREFORE, THE CITY OF DAYTON, CAMPBELL COUNTY,  
KENTUCKY, HEREBY ORDAINS AS FOLLOWS:**

Sections § 72.29 through 72.31 of the Dayton Code of Ordinances (“Code”) are hereby amended as follows:

**§ 72.29 TITLE.**

This subchapter may be cited as the “Parking Citation Enforcement Ordinance.”

**§ 72.30 CIVIL ENFORCEMENT.**

(A) The city hereby elects to enforce its parking ordinances as civil violations, pursuant to the provisions of KRS 82.605.

(B) The city’s parking ordinances shall be enforced pursuant to the procedures set forth in KRS 82.600 through 82.640.

**§ 72.31 PARKING VIOLATION HEARING BOARD.**

A hearing board is hereby re-established, which shall be called the “City of Dayton Parking Violation Hearing Board.” The Board consists of the Chief of Police or his or her designee and the City Administrator or his or her designee. For all purposes under this subchapter, the one of the Board members shall constitute a quorum of the Board. The Board is hereby empowered to conduct hearings and make the decisions provided for in this subchapter and under the Local Government Parking Citation Enforcement Act, KRS 82.600 to 82.640.

**§ 72.32 CITATION FOR VIOLATION; CONTENTS.**

(A) If any automobile, truck, or other vehicle is found parked, standing, or stopped in violation of the parking regulations of this Chapter, 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 citation as notice of the parking violation.

(B) The form of the citation of the parking violation shall be designated by the Chief of Police, but shall contain in substance the following information:

(1) A statement that the citation represents a determination that a parking violation has been committed by the owner/operator of the vehicle and that the determination shall be final unless contested as provided herein;

(2) 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;

(3) A statement of the specific parking violation for which the citation was issued;

(4) A statement of the monetary penalty established for the parking violation; and

(5) A statement of the options provided in the Local Government Parking Citation Enforcement Act, being KRS 82.600 to 82.640, for responding to the notice and the procedures necessary to exercise these options.

(C) The citation, as notice of the parking violation, represents a determination that a parking violation has been committed, and such determination shall be final unless contested.

(D) The Chief of Police, or his or her designee, shall have the authority to void any erroneously issued parking citation written by the city's Police Department after an administrative review by the Chief, or his or her designee, to identify the error. When the authority under this division is invoked, the Chief of Police shall maintain a record of all parking citations taken under consideration for voidance and those citations that were actually voided.

### **§ 72.33 PAYMENT OF FINE OR REQUEST FOR HEARING.**

(A) Any person who receives a citation for a parking violation shall respond to such citation, as provided herein, within seven days of the date of the notice, by either paying the fine set forth in the notice or requesting a hearing pursuant to these procedures.

(B) If the owner of a vehicle cited for a parking violation has not responded to the notice within seven days as provided in division (A) above, the owner shall be deemed to have waived his or her 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 days shall be deemed to have refused to pay the fine levied by the citation.

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

### **§ 72.34 CITATIONS; HEARING; APPEAL.**

(A) Any person cited for a parking violation under this chapter may contest the determination that a violation occurred by requesting in writing a hearing before the Parking Violation Hearing Board ("Board"). A request for a hearing must be submitted in writing to the Dayton Police Department as specified in paragraph (B) below. The hearing shall be held no later than 14 days from the date of receipt of the written request for hearing, unless prior to the hearing the person requesting the hearing requests an extension of time not to exceed 14 days. No less than seven 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.

(B) Written requests to contest the citation must be submitted to the Police Department on a form that is available at either from the Dayton Police Department or on the city's website ("Parking Citation: Impoundment Appeal" form at <https://daytonky.com/forms-and-applications/>).

(C) At the hearing, after consideration of the evidence, the Board shall determine whether a violation was committed. If the Board determines no violation was committed, the Board shall enter an order dismissing the citation. If the Board determines that a violation was committed, the Board shall uphold the citation and order the owner to pay the citation within seven days. A copy of the order shall be furnished to the owner. Any person ordered to pay the fine who fails to do so within seven days shall be deemed to have refused to pay the fine levied by the citation.



(D) 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.

(E) An appeal from the Hearing Board's determination may be made to the Campbell County District Court within seven days after the date of the Board's determination. The appeal shall be initiated by filing a complaint and a copy of the Board's order in the same manner as any civil action brought under the rules of civil procedure. The action shall be tried de novo and the burden of proof 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 city all fines, fees, and penalties occurring as of the date of the judgment. If the court finds that a violation did not occur, the city shall be ordered to dismiss the citation and the plaintiff may be authorized to recover his or her costs.

(F) The judgment of the District Court may be appealed to the county's Circuit Court in accordance with the rules of civil procedure.

### **§ 72.35 AUTHORITY OF CITY TO IMPOUND OR IMMOBILIZE VEHICLES.**

(A) At the time a citation is issued, the city, or its designee, may impound or immobilize a vehicle parked, stopped, or standing upon a street or public way within the city in violation of the parking regulations set forth in this Chapter and/or in any state statute and/or for any other lawful reason.

(B) A vehicle that has accumulated two or more unpaid parking citations that are not under appeal and to which notice has been issued pursuant to KRS 82.615(2) and other applicable laws shall not be parked on any public way within the city.

(C) Nothing in this subchapter shall be construed to limit the right of the city, or its designee, to subsequently tow an immobilized vehicle when the conditions for release of the vehicle have not been satisfied.

(D) The city or its designee, in addition to the fines levied for the parking or traffic offenses, may, by ordinance, impose reasonable towing, handling, and storage charges upon an impounded vehicle.

### **§ 72.36 CHARGES.**

In addition to the penalties levied for the parking violations, the city or its designee, may impose towing, holding, and storage charges upon an impounded vehicle. In the event the condition of the vehicle or circumstances of the tow requires the employment of extraordinary services or equipment, the reasonable charges of the towing operator for such services shall be added to the fee.

### **§ 72.37 PAYMENT OF PENALTY AND CHARGES OR REQUEST FOR HEARING.**

(A) The release of an impounded or immobilized vehicle is conditioned upon the payment of the penalty levied for the parking violations and any towing, holding, and storage charges imposed thereon by the city or its designee, unless the owner or other person entitled to possession of the vehicle challenges the validity of the impoundment or immobilization pursuant to §72.38 of this subchapter.

(B) An impounded or immobilized vehicle may be released to the owner or other person entitled to possession of it only upon proof of ownership or right to possession. The city or its designee, 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.

### **§ 72.38 IMPOUNDMENT; HEARING; APPEAL.**

(A) The owner of a motor vehicle that has been impounded or immobilized pursuant to this subchapter or other person entitled to possession of the vehicle may challenge the validity of such impoundment or immobilization and request in writing a hearing before the Parking Violation Hearing Board. The hearing shall be conducted within ten business days from the date of the request, unless the owner or other person entitled to possession waives the limitation or the city shows good cause for such delay. The city or its designee shall retain possession of an impounded 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 \$75, whichever is less. If the owner or person claiming possession of the impounded vehicle is unable to pay the amount of the bond, the hearing shall be held within 72 hours of the date the request for hearing is received, unless such person requests or agrees to a continuance.

(B) No less than five days prior to the date set for the hearing, the Board 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 72 hours of the date of the request as provided in division (A) above, the person requesting the hearing shall be informed at the time of his or her request, or as soon thereafter as is practicable, of the date and time of the hearing.

(C) Any person who refuses or fails to appear at the time and place set for the hearing, unless he or she has good cause for failure to do so, shall be deemed to have conceded to the validity of the impoundment or immobilization on his, her, or the owner's behalf.

(D) At the hearing, after consideration of the evidence, the Board shall determine whether the impoundment or immobilization was valid and reasonable. If the Board determines that the impoundment or immobilization was not justified, it shall enter an order releasing the vehicle. All fines and fees paid or amounts posted as bond because of the impoundment of a vehicle shall be returned and the owner shall not be responsible for any fees owed to a designated towing company. If the Board determines that the impoundment or immobilization was justified, the Board shall uphold the impoundment or immobilization and condition the release of the vehicle upon payment of all fines and fees accruing thereon. If a bond has been posted as security for release of the vehicle, the bond shall be forfeited to the city or its designee. All 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.

(E) The Board may consider a parking citation and any other written report made under oath by the issuing citation officer in lieu of the officer's personal appearance at the hearing.

(F) An appeal from the Hearing Board's determination may be made to the Campbell County District Court within seven days after the date of the Board's determination. The appeal shall be initiated by the filing a complaint and a copy of the Board's order in the same manner as any civil action brought under the rules of civil procedure. The action shall be tried de novo and the burden of proof of proof 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 city all fines, fees, and penalties occurring as of the date of the judgment. If the court finds that a violation did not occur, the city shall be ordered to dismiss the citation and the plaintiff shall be authorized to recover his or her costs.

(G) The judgment of the county's District Court may be appealed to the county's Circuit Court in accordance with the rules of civil procedure.

#### **§ 72.39 DISPOSITION OF VEHICLE.**

(A) If within ten business days of impoundment a motor vehicle has not been claimed, or a hearing has not been requested, notice shall be mailed by certified mail to the registered owner, if known, and lienholders of record, if any, affording such parties the right within ten days from the



date of notice to claim the vehicle or request a hearing. The notice shall state that, if no hearing is requested, the vehicle shall be deemed abandoned unless the charges thereon are paid within 45 days of receipt of the notice.

(B) After 45 days from the date of notice required by division (A) above, an impounded vehicle shall be deemed abandoned and the vehicle shall escheat to and become the property of the city.

(C) (1) If the vehicle that has escheated to the city pursuant to division (B) above is judged suitable for use, the city 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.

(2) If the vehicle is not suitable for use, it may be sold for its scrap or junk value.

(D) (1) The city shall possess a lien on a motor vehicle impounded pursuant to the provisions hereof for all fines and penalties and towing, handling, and storage charges and fees imposed thereon.

(2) Such lien shall be superior to and have priority over all other liens thereon.

First Reading: Oct. 4, 2022

Second Reading: Nov. 1, 2022

CITY OF DAYTON, KENTUCKY

By: \_\_\_\_\_

Mayor Ben Baker

ATTEST:

Tiffany Myers  
Tiffany Myers, City Clerk