

CHAPTER 76: IMPOUNDED VEHICLES

Section

- 76.01 Definitions
- 76.02 Applicable state law
- 76.03 Impoundment of a vehicle without prior notice
- 76.04 When vehicle may be impounded after notice
- 76.05 Owner of impounded vehicle to be notified
- 76.06 Impoundment of a vehicle when driver is arrested for a violation of law requiring immediate incarceration or period of impoundment
- 76.07 Redemption of motor vehicle impounded by the city
- 76.08 Fees and charges for vehicles held for an investigation
- 76.09 Abandoned vehicles
- 76.10 Contract for towing services
- 76.11 Record of impounded vehicle
- 76.12 Lien on motor vehicle for storage and towing charges

§ 76.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

IMPOUNDMENT. The removal of a vehicle to the City of Benton's (CITY) storage facility by either an officer or an authorized agent of the city's Police Department or by a contractor for towing in response to a request from an officer or authorized agent of the city.

VEHICLE. All applicable definitions as set forth in KRS 189.010, particularly KRS 189.010 (19). (Ord. 07-06-06, passed 6-18-07)

§ 76.02 APPLICABLE STATE LAW.

All applicable provisions of KRS Ch. 189 as now or hereafter amended are incorporated into this chapter. (Ord. 07-06-06, passed 6-18-07)

§ 76.03 IMPOUNDMENT OF A VEHICLE WITHOUT PRIOR NOTICE.

(A) A vehicle may be impounded with or without prior notice to its owner under the following circumstances:

(1) When the vehicle is impeding or likely to impede the normal flow of traffic, either vehicular or pedestrian;

(2) When the vehicle is illegally occupying a restricted parking zone when, by order of the Mayor or Police Chief or their designees, parking is limited, restricted or prohibited by ordinance;

(3) When a vehicle without a special license plate or decal indicating the vehicle is used to transport a disabled person is parked in a space marked as parking for disabled or handicapped persons;

(4) When a vehicle poses an immediate danger to public safety;

(5) When a police officer has probable cause to believe the vehicle is stolen;

(6) When a police officer has probable cause to believe that the vehicle constitutes evidence of a crime or contains evidence of a crime, if impoundment is reasonably necessary to preserve such evidence; or

(7) When the vehicle is a junked or abandoned motor vehicle as defined in KRS Ch. 189, and is parked on a street, alley or way open to the public or on a municipal or other public property.

(B) Nothing in this section shall be construed to authorize seizure of a motor vehicle without a warrant when a warrant would otherwise be required.
(Ord. 07-06-06, passed 6-18-07)

§ 76.04 WHEN VEHICLE MAY BE IMPOUNDED AFTER NOTICE.

A vehicle not subject to impoundment under § 76.03 may be impounded after notice of such proposed impoundment has been securely attached to or conspicuously displayed on the vehicle for a period of 48 hours prior to such impoundment and the vehicle is:

(A) Parked or used in violation of any law, ordinance or regulation;

(B) Abandoned as that term is defined in KRS 189.751 *et seq.*

(C) Mechanically defective or damaged to the extent it is unsafe for operation, provided however, this section shall not be construed as to prevent the operation of a defective or damaged vehicle to a place for the repair or correction of equipment defects in a manner directed by a police officer.

(Ord. 07-06-06, passed 6-18-07)

§ 76.05 OWNER OF IMPOUNDED VEHICLE TO BE NOTIFIED.

(A) Within ten days after a vehicle has been impounded, the Chief of Police shall send a notice by first class mail to the last known and legal owner of the vehicle, as may be disclosed by the vehicle identification number and provided by the Kentucky Department of Motor Vehicles. This notice shall contain the particulars of the impoundment, how the vehicle can be redeemed, and opportunity for a hearing to contest the propriety of the impoundment of the vehicle.

(B) A similar notice shall be given to each person, firm or corporation that seeks to redeem an impounded vehicle, provided however, if a vehicle is redeemed prior to the mailing of the notice, then no additional notice shall be required.

(Ord. 07-06-06, passed 6-18-07)

§ 76.06 IMPOUNDMENT OF A VEHICLE WHEN DRIVER IS ARRESTED FOR A VIOLATION OF LAW REQUIRING IMMEDIATE INCARCERATION OR PERIOD OF IMPOUNDMENT.

Whenever the driver of a vehicle who is also the registered owner of the vehicle is arrested and is subject to immediate incarceration, the vehicle shall be subject to impoundment at the direction of a police officer. For purposes of this section, *ARRESTED* includes, but is not limited to, being temporarily detained in the Marshall County Jail for a violation of a law, ordinance or regulation and/or any warrant of arrest.

(Ord. 07-06-06, passed 6-18-07)

§ 76.07 REDEMPTION OF MOTOR VEHICLE IMPOUNDED BY THE CITY.

A vehicle impounded by the city may be redeemed only upon compliance with the following provisions:

(A) The registered owner, or a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, or one claiming a valid security interest in the vehicle and presenting evidence of a lien or security interest on the title of the vehicle, who signs a receipt therefor, may redeem an impounded vehicle. A person redeeming an impounded vehicle pursuant to this chapter must present a valid driver's license and proof of insurance for the impounded vehicle. A vehicle impounded pursuant to an arrest can only be released pursuant to an order from the city's Police Department or a Court.

(B) Anyone redeeming a vehicle impounded by the city shall pay the cost of towing, a fee of \$15 per day for storage and an administrative fee of \$35. If the vehicle was impounded for a violation of any law, ordinance or regulation and was operated by the registered owner at the time it was impounded, it shall not be released until all applicable penalties, fines or forfeitures owed by the registered owner to the city, county or state have been satisfied by payment in full.

(C) The Chief of Police is authorized to release a vehicle impounded pursuant to this chapter prior to the expiration of any period of impoundment:

(1) Upon application of the spouse of the driver, based on economic or personal hardship to such spouse resulting from the unavailability of the impounded vehicle and after consideration of the threat to public safety that may result from the release of the vehicle; or

(2) The registered owner was not the driver, and did not know that the driver's license was suspended or revoked.

(3) The person redeeming the vehicle still must satisfy all of the requirements of division (B) above.

(D) Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation has a right to a hearing before the Mayor and City Council to contest the validity of an impoundment or the cost of removal, towing and storage charges or administrative fees, if such request is made in writing and received by the Mayor within ten days of the date the Chief of Police mailed notice of the impoundment of the vehicle. Any decision by the Mayor and City Council is final and subject only to review in the Marshall Circuit Court pursuant to the provisions of KRS 13B.140.

(Ord. 07-06-06, passed 6-18-07)

§ 76.08 FEES AND CHARGES FOR VEHICLES HELD FOR AN INVESTIGATION.

No impoundment fees, towing charges or storage fees shall be assessed against the owner of a vehicle which is being held by the Police Department as part of an investigation and which is redeemed within 48 hours after the Police Department has notified the owner of the vehicle in writing that the vehicle can be redeemed, provided that such owner or person authorized to obtain possession of the impounded vehicle shall pay any storage charges assessed after a 48-hour period, and if the owner or driver authorized by the owner is arrested or charged with a crime in connection with an incident resulting in the impoundment, the owner shall pay the towing and all other related fees and charges.

(Ord. 07-06-06, passed 6-18-07)

§ 76.09 ABANDONED VEHICLES.

(A) Any impounded vehicle not redeemed within 30 days after the Chief of Police has sent a written notice to the registered owner that the vehicle has been impounded, shall be deemed abandoned.

(B) A vehicle considered abandoned under the provisions of this section shall be subject to disposition by the city and Chief of Police in the same manner as an abandoned vehicle under either KRS 82.630 or KRS 189.751.

(Ord. 07-06-06, passed 6-18-07)

§ 76.10 CONTRACT FOR TOWING SERVICES.

The Chief of Police is authorized and directed to prepare specifications for towing of vehicle, including solicitations to towing companies or operators containing such provisions as the Chief of Police shall deem to be advisable and in the best interests of the city. Those specifications shall be subject to review and approval by the City Council by a resolution passed for such purpose.
(Ord. 07-06-06, passed 6-18-07)

§ 76.11 RECORD OF IMPOUNDED VEHICLE.

The city's Police Department shall keep a record and make available for public inspection a record of all vehicles impounded under the provisions of this chapter. The record shall include at least the following information:

- (A) Make and model of the vehicle;
- (B) Vehicle identification number (VIN);
- (C) Vehicle license number and state of registration;
- (D) Such other descriptive information as the Chief of Police deems to be useful for vehicle identification;
- (E) Reason for the impoundment;
- (F) Name, address and driver's licence number of the operator at the time of impoundment; and
- (G) Disposition of the vehicle and the date of disposition.

(Ord. 07-06-06, passed 6-18-07)

§ 76.12 LIEN ON MOTOR VEHICLE FOR STORAGE AND TOWING CHARGES.

Any vehicle towed and impounded by the city pursuant to the provisions of this chapter shall be subject to disposition under those provisions set forth in KRS 82.630 or KRS 376.275, and the city shall have a lien upon the vehicle for storage charges, towing charges and administrative fees provided for herein.

(Ord. 07-06-06, passed 6-18-07)

