

**CITY OF SOUTHGATE  
CAMPBELL COUNTY, KENTUCKY  
ORDINANCE NO. 14-05**

**AN ORDINANCE AMENDING SECTIONS 70.22 THROUGH 70.99 OF THE CODE OF ORDINANCES; ADOPTING THE CITY OF SOUTHGATE PARKING CITATION ENFORCEMENT BOARD AND CREATING ENFORCEMENT AUTHORITY AND HEARING PROCEDURES FOR THE PARKING CITATION ENFORCEMENT BOARD; PROVIDING FOR THE IMPOUNDMENT AND DISPOSAL OF VEHICLES IN ACCORDANCE WITH KRS SECTIONS 82.600 – 82.640**

**BE IT ORDAINED BY THE CITY OF SOUTHGATE, KENTUCKY, IN CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:**

**SECTION 1**

Section 70.20 of the Code of Ordinances is hereby amended to read as follows:

**70.20 ENFORCEMENT.** The city hereby adopts the provisions of the Kentucky Revised Statutes which apply to the enforcement of parking ~~ordinances~~ citations within the city as set forth in KRS 82.600 – KRS 82.640.

For the purpose of this Chapter “Hearing Board” means the City of Southgate Parking Citation Hearing Board.

**SECTION 2**

That Section 70.21 of the Southgate Code of Ordinances shall be amended to read as follows:

**70.21 ESTABLISHMENT.** There is hereby established a City of Southgate Parking Citation Hearing Board ~~a Hearing Board~~ which shall have the responsibilities and powers to conduct hearings relative to ~~grievances~~ appeals of parking citations and the issuance of citations for violations of any ordinance which requires the purchase and display of city automobile license tags.

The Hearing Board shall be composed of not less than one and not more than three city residents appointed by the Mayor by executive order for a term of two years and who may likewise be removed at will by executive order. Members of the Hearing Board shall not be employees of the City or the City Police Department. Members of the Hearing Board shall serve as hearing officers over hearings appealing the issuance of a parking citation or the issuance of citations for violation of any ordinance requiring the purchase and display of city automobile license tags, with each hearing being presided over by one hearing officer. Any action of the hearing officer in relation to the appeal shall be deemed to be the action of the Hearing Board.

**SECTION 3**

That Section 70.22 of the Southgate Code of Ordinances shall be repealed and amended to read as follows:

**70.22 AUTHORITY.**

~~The Hearing Board shall consist of two members, namely the Police Chief, the next senior officer in the Police Department, and the Chairperson of the Safety Committee of the City Council. Either member may conduct a hearing and shall have the authority to decide any grievance or appeal brought about by the issuance of parking citations or citations for failure to have and display city automobile license tags.~~

**70.22 APPEAL OF CITATION; HEARING; APPEAL.**

(A) Any person cited for a parking violation, or a failure to purchase or display a city tag on an automobile parked in the City of Southgate may contest said violation by requesting in writing a hearing before a Hearing Board hearing officer. The 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 the 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 Hearing Board or the hearing officer shall send notice to the registered owner of the vehicle appealing the violation of the date, time, and place of the hearing through regular U.S. Mail, or e-mail, or any other recognized delivery medium. Any person requesting a hearing who fails to appear at the time and place set for the hearing shall be deemed to be guilty of the violation, and shall not have any further rights to appeal.

(B) At the hearing, after consideration of the evidence, the hearing officer 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, and all civil penalties shall be withdrawn and held for naught. Where it has been established that a violation was committed the Hearing Board shall uphold the citation and order the owner to pay the citation within seven (7) 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 (7) days shall be deemed to have refused to pay the fine levied by the citation.

(C) All persons appearing before the hearing officer shall be sworn in by an officer of the Court or any notary public. The hearing officer may consider the citation, and any other written report made under oath by the officer in lieu of the officer's personal appearance at the hearing. At the conclusion of the hearing the hearing officer shall announce his/her decision and cause that decision to be in writing and distributed to the appellant, with a copy of the decision, and the record on appeal being maintained in the office of the City Clerk. The hearing officer's decision is the final action of the Hearing Board.

(D) An appeal of the hearing officer's determination may be made to the Campbell County District Court within seven (7) days of the hearing officer's determination. The appeal shall be initiated by the filing of a complaint and a copy of the hearing officer's decision, and the appeal record 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 appellant. If the court finds that a violation occurred, the owner shall be ordered to pay 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/her costs. (KRS 82.620)

(E) The judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure. (KRS 82.620).

#### **SECTION 4**

Section 70.23 is hereby created and shall read as follows:

#### **70.23. IMPOUNDMENT OF VEHICLES; HEARING PROCEDURES**

(A) The City, through any law enforcement officer, may impound a motor vehicle parked, stopped or standing upon a street or public way within its jurisdiction in violation of any city ordinance or state statute prohibiting parking, stopping or standing in the location, manner or at the time the vehicle is cited or for any other lawful reason.

(B) In addition to the fines levied for the parking or traffic offense, the registered owner of the impounded motor vehicle shall be assessed and charged all fees, costs, and expenses arising from the towing, handling and storage charges upon such impounded vehicle.

(C) No impounded vehicle shall be released by the City to the owner until and unless the City has received 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 (D) 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.

(D) Hearing Procedures: The owner or other person entitled to possession of a motor vehicle which has been impounded pursuant to this section or any other ordinance authorizing the impoundment of a motor vehicle may challenge the validity of such impoundment and request in writing a hearing before the Hearing Board. The Hearing Board shall appoint one of its members as the hearing officer presiding over the hearing. 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 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) 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.

1. No less than five (5) days prior to the date set for the hearing, the Hearing 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 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.

2. 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.
3. At the hearing, after consideration of the evidence, the hearing officer 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 city. 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.
4. The hearing officer 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.
5. An appeal from the hearing officer's determination may be made to the Campbell County 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 hearing officer'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.
6. The judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

(KRS 82.625)

## **SECTION 5**

Section 70.24 is hereby created and shall read as follows:

### **70.24. LIEN FOR FINES AND OTHER CHARGES**

The City shall possess a lien on a motor vehicle impounded pursuant to this Ordinance 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. (KRS 82.635).

## **SECTION 6**

Section 70.25 is hereby created and shall read as follows:

### **70.25. VEHICLE DEEMED ABANDONED; ESCHEAT TO CITY; DISPOSAL OF VEHICLE**

(A) If within ten (10) business days of impoundment a motor vehicle impounded by the city has not been claimed, or a hearing has not been requested pursuant to this Ordinance, 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 this Ordinance. 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.

(B) After forty-five (45) days from the date of notice required by subsection A of this section an impounded motor vehicle shall be deemed abandoned and the vehicle shall escheat to the City of Southgate.

(C) 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 declared surplus and sold for its scrap or junk value. (KRS 82.630).

## **SECTION 7**

Section 70.99 is amended to read as follows

### **70.99. PENALTY**

(A) Generally. — Any person firm, or corporation violating any provision of this title shall be fined in the amount of \$25.00. Each day of violation shall constitute a separate offense. Any person receiving a citation for any parking violation in the city shall be deemed to have committed a violation and shall be fined in an amount not less than \$20.00 nor more than \$100.00 (KRS 189.990 (1)).

All ordinances or parts of ordinances that are in conflict with this Ordinance shall be repealed, and all those which are not in conflict shall remain in full force and effect.

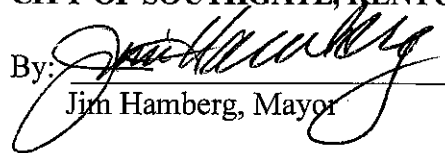
**SECTION 8**

This Ordinance shall be signed by the Mayor, attested by the City Clerk, recorded, published, and shall be in effect at the earliest time provided by law.

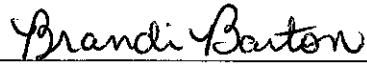
**PASSED** by the City Council of the City of Southgate, Campbell County, Kentucky, assembled in regular session.

First Reading: 8/6/14  
Second Reading: 8/20/14  
Date of Publication: \_\_\_\_\_

**CITY OF SOUTHGATE, KENTUCKY**

By:   
Jim Hamberg, Mayor

**ATTEST:**

  
Brandi Barton, City Clerk

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