

**An Ordinance Authorizing the Establishment of Regulations, Restrictions
and/or Limitations on Speed Limits, Stopping, Parking and operation of
Vehicles on County Roadways**

WHEREAS, the Court held a first reading on _____ 2024 , and held a second reading and adoption on _____ 2024, and after due consideration,

UPON MOTION OF _____, SECONDED BY _____, AND A VOTE BEING HAD, AND THE COUNTY JUDGE ANNOUNCING THAT THE MOTION CARRIED.

ORDINANCE NO. 2024-001

WHEREAS, the Nelson County Fiscal Court desires to ensure the safety and security of vehicles on the roadways in Nelson County, and the persons who occupy and utilize the same; and

WHEREAS, *KRS 82.605* authorizes local governments to enact ordinances to enforce the regulation of parking within Nelson County, and;

WHEREAS, *KRS 70.155* grants to the local Sheriff, the authority to impound any motor vehicle that is parked, stopped, or standing upon a street or public way within its jurisdiction, and;

WHEREAS, *KRS 82.625* authorizes any local government to require by ordinance, conditions for the release of impounded vehicles upon the payment of towing, handling, storage charges, and other liens or encumbrances placed upon vehicles in their custody.

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of Nelson County, Commonwealth of Kentucky:

Section 1. Definitions

"Local government" means a city of any class, a consolidated local government, or an urban-county government;

"Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to *KRS 82.605* to *82.640*;

"Ordinance" means an ordinance regulating parking, standing, or stopping upon the public streets or ways within the local government.

“Vehicle” means any device in, upon, or by which any person or property is or may be transported upon a highway, except a device which is operated upon rails or tracks.

“Road” means any public street, avenue, road, boulevard, highway, or any other public place maintained, operated, or controlled by the County of Nelson.

“Operator” means any individual who shall control or utilize a vehicle as the owner thereof, or as an agent, employee, or permittee of the owner.

Section 2. Authority

The County Judge-Executive may, as traffic conditions require:

- a) To establish, impose, regulate, and thereafter enforce, alter, and/or change, in part or in total, areas for traveling, parking, restricted parking, or stopping of vehicles upon roadways, the regulations governing speed zones, the movement, stopping, and/or parking of vehicles at approaches, entrances to, or within intersections of roads, crosswalks, railroad crossings, alleys, upon sidewalks and entrances to or from public or private driveways upon the public roadways in the County of Nelson.
- b) To cause to be erected or installed on the public street or ways, such signs and/or signals, including painted lines and/or curbs, as may be deemed sufficient, necessary, or appropriate to designate the establishment of such zones or areas and of respective regulations thereof. The existence of such signs or signals in such areas, zones, and ways shall constitute a presumption of law as to the legal placement thereof.

Section 3. Operation

It shall be unlawful, and a violation of this ordinance for any person to cause, allow, permit, or allow any vehicle registered in the name of, or operated by such person or any operator thereof to park and/or operate a vehicle on the public streets, areas, zones, or ways in violation of restrictions or limitations as adopted herein.

Section 4. Enforcement

The Sheriff, or any other duly sworn law enforcement officer, within the County of Nelson, are hereby authorized to have any vehicle, found to be in violation of the provisions of this ordinance removed from roadways by a contract garageman operating a towing service, and any vehicle so removed shall be placed in the custody of such garageman and said vehicle shall be held in the possession of such garageman subject to being claimed by the legal owner thereof, and in addition to all penalties hereinbefore provided for violation of this ordinance and any other pertinent ordinance, statute, or fee so required, the legal owner of any vehicle so towed and stored shall, before removing said vehicle from storage, pay therefore all penalties, fees, fines, liens, or other attachments for the period of time said vehicle is stored. Such charges shall be reasonable and at local prevailing rates. A vehicle may be released to the owner or other person entitled to possession only upon proof of ownership or right to possession. A 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 shall be required not to exceed the fair market value (FMV) of the vehicle being released.

- a) If any vehicle is found parked, standing or stopped in violation of this ordinance, the vehicle may be cited for the appropriate 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 violation.
- b) The form of the notice of the violation shall be designated by the local government, but shall contain in substance the following information:
 - i. A statement that the notice represents a determination that a violation has been committed by the owner of the vehicle and that the determination shall be final unless contested as provided in Section 5 of this ordinance;
 - ii. A statement that a 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;
 - iii. A statement of the specific violation for which the citation was issued;
 - iv. A statement of the monetary penalty established for the violation, if any; and
 - v. A statement of the options provided in Section 5 of this ordinance for responding to the notice and the procedures necessary to exercise these options.
- c) The notice of violation represents a determination that a violation has been committed, and such determination shall be final unless contested as provided in Section 5 of this ordinance.
- d) Any person who receives notice of a 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 Section 5.
- e) If the owner of a vehicle cited for a violation has not responded to the notice within seven (7) days as provided in subsection (d) 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 Section 5, 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.

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

Section 5. Hearing on validity of impoundment

The owner of a vehicle which has been impounded pursuant to Section 4 of this ordinance, 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. 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.

- 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 five (5) 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 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.

Section 5.1 Hearing Board Created

- A. There is hereby created an Impoundment Hearing Board which shall have the authorities, duties, and responsibilities as set forth in this ordinance to enforce the provisions of this ordinance.
- B. The Board shall consist of 3 (three) members who shall be appointed by the Judge-Executive with the consent of Fiscal Court. All appointments shall be for a term of two (2) years. Each member of the Board shall have been a resident of Nelson County for at least one (1) year prior to the date of appointment and shall reside in Nelson County throughout the term in office. The members may be re-appointed for any number of consecutive terms.
- C. A member of the Board may be removed by the executive authority subject to the approval of the legislative body for misconduct, inability or willful neglect of duties. Before any member of the Board is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body.
- D. Vacancies on the Board shall be filled within ninety (90) days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within ninety (90) days, the remaining members of the Board may formally

petition the legislative body of the appointing authority to request that body to appoint a citizen to fill the unexpired term. All vacancies shall be filled only for the remainder of the unexpired term.

- E. Members of the Board shall serve without compensation unless otherwise approved by the legislative body, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.
- F. The Board shall, upon the initial appointment of its members and annually thereafter elect a chairperson from the among the membership. The chairperson shall be the presiding officer and a full voting member of the Board.
- G. Meetings of the Board shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.
- H. The presence of all members shall constitute a quorum and the affirmative vote of two (2) members shall be necessary for any official action to be taken. Any member of the Board who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict, shall disqualify him/herself from voting on the matter and shall not be counted for purposes of establishing a quorum.
- I. Minutes shall be kept for all proceedings of the Board and the vote of each member on any issue decided by the Board shall be recorded in the minutes.

Section 5.2 Powers And Duties of the Hearing Board.

The Hearing Board shall have the following powers and duties:

- a) To receive and hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.
- b) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this ordinance, provided that the rules, regulations, and actions are not in conflict with the provisions of this ordinance or any state or federal law.

Section 6. Vehicle deemed abandoned -- Escheat -- Disposal of vehicle.

If within ten (10) business days of impoundment a vehicle impounded, pursuant to a violation of this ordinance, has not been claimed, or a hearing has not been requested pursuant to Section 5, 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 Section 5. 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.

After forty-five (45) days from the date of notice required by this section, an impounded vehicle shall be deemed abandoned and the vehicle shall escheat to the local government.

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.

Section 7. Scope

Nothing in this ordinance shall be construed, in any way, to infringe upon the rights of the Sheriff, or any other policing authority while performing their duly authorized functions as it relates to the impoundment or confiscation of vehicles as part of law enforcement activities granted to them by their appointing authority.

Section 8. Penalties

Any person violating any of the provisions of this ordinance, or any lawful rules or regulations promulgated pursuant thereto, upon conviction, shall be punished by a fine of not less than one hundred (\$100.00) not more than one thousand dollars (\$1,000.00); provided, that each days' violation thereof shall be a separate offense for the purpose hereof. Violators of this ordinance may be issued a uniform citation by any duly appointed agent as designated by the County Judge-Executive. In addition to the civil penalty above, any person who violates any provisions of this ordinance shall be assessed additional penalties, fines, or fees in accordance with Title XVI of the Kentucky Revised Statutes.

Section 8. Interpretation and Application

This Ordinance shall be interpreted and applied in the manner that is consistent with the provisions of KRS Chapter 70 & 82, including all administrative regulations issued pursuant thereto, and so as to implement and carry out the duties and privileges of Nelson County as set forth therein.

Section 9. Severability

If any provisions of this ordinance or any provisions of its subsequent application are held invalid, such invalidation does not affect the remainder of this ordinance or its application.

Section 10. Repealer

Any prior version or provision of this ordinance, including the self-styled “ AN ORDINANCE AUTHORIZING THE ESTABLISHMENT AND IMPOSING OF REGULATIONS, RESTRICTIONS AND/OR LIMITATION ON SPEEDING, STOPPING, AND PARKING OF VEHICLES ON COUNTY ROADS OF NELSON COUNTY, KENTUCKY (Book 16 Pages 587-589), or any other resolution or order previously adopted by the Nelson County Fiscal Court which is in conflict with this ordinance, adopted this ____ day of _____, 2024, is hereby repealed, remanded and held for naught.

Section 11 Effective Date

This ordinance shall become effective upon passage, and will be advertised pursuant to KRS 424.

NELSON FISCAL COURT

Tim Hutchins
County Judge-Executive

ATTEST:

Nelson County Clerk

Approved as to form and legality:

County Attorney