

ORDINANCE NO.

Amending Section 70-643, Chapter 70, Code of Ordinances, by enacting a new subsection that establishes the process for appealing the decision of the director of public works to remove a vehicle.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Section 70-643, Chapter 70, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by adding a new subsection establishing the process for appealing the decision of the director of public works to remove a vehicle

Sec. 70-643. - Disposition of impounded property; prerequisites for release; collection of costs.

- (a) Any vehicle or personal property removed or taken into custody under the provisions of section 70-642 shall be held, except as provided in this division, until the owner or his authorized agent applies for such vehicle or personal property and pays the costs of towing and storing such vehicle or personal property. Before releasing any vehicle on which a traffic ticket has been issued by the police department, the police shall require that a bond be posted for an appearance in court on such violation as well as on any other outstanding warrants. In lieu of a bond being posted, the police may accept the driver's license of a state resident, or they may accept payment of the satisfaction fine, penalties and costs of the offense if court appearance is not mandatory, and transmit such moneys to the traffic violations bureau. If the owner or authorized agent posts a bond for an appearance in court or, in lieu of posting a bond, deposits his license, the police department will prepare a statement of towing and storage charges and will forward it to the court. Upon a plea of guilty or a finding of guilty, after trial, the court shall collect the amount due for towing or storing the vehicle or property. If, after trial, a finding of not guilty is rendered, such towing and storage charges will not be collected. If no ticket was issued the owner and/or lienholder may request a hearing under RSMo section 304.156.5. If the owner does not want to reclaim the vehicle, he/she can transfer title to the vehicle to the city or authorized city contractor. No additional storage charges will be assessed after the title is delivered and the vehicle will be sold in the next available sale. Except, if there is a lien against the vehicle, the vehicle must be held until the lienholder, after

receiving notification as required by this article, fails to claim the vehicle or provides a written release of the lien against it.

(b) The owner of any vehicle removed by the authority of the director of public works under the provisions of section 70-642(c) may contest the removal by completing a request for administrative hearing petition and returning it to the director of public works along with a filing fee of \$20.00, within 20 days from the date of the removal.

(1) A request for administrative hearing petition may be obtained from the director of public works.

(2) The person requesting the hearing shall be notified of the time and place set for the hearing at least 10 days prior to the date of the hearing.

(3) The appeal will be heard by the director of public works or a hearing officer who is appointed by the director to consider these appeals.

(4) Following the directors or hearing officers decision pursuant to this subsection, the owner shall be considered to have exhausted such owner's administrative appeal.

(5) If the director or hearing officer finds that there is insufficient evidence to support the removal, the owner shall be refunded all costs for the towing and storing collected by the city. If the director or hearing officer finds sufficient evidence to support the removal then it shall be affirmed.

(c) The city manager, with the advice of the director of neighborhood and community services and the budget officer, shall determine the rate of tow-in and storage charges and shall notify the city council in a written communication of the rates. Calculation of storage charges shall commence immediately after the vehicle or personal property is impounded. No storage charge will be assessed if the vehicle or personal property is released to the owner within the first 24 hours after the property is impounded. The costs and expenses shall be a lien in favor of the city on the motor vehicle or personal property, provided that if at any time the vehicle or personal property is removed under the provisions of section 70-642 the neighborhood and community services department may, under the following guidelines, reduce or waive the cost for the release of the vehicle to the owner:

(1) The vehicle was towed under the provisions of section 70-642(9) and a traffic or parking ticket was not issued.

- (2) The owner or operator is found not-guilty in court for the offense that caused the vehicle to be towed.
- (3) The vehicle was towed and/or stored as evidence in conjunction with a law enforcement investigation that did not involve the arrest of the owner or operator of the vehicle.
- (4) The vehicle was a recovered stolen vehicle.
- (d) The police department may place a hold on a vehicle that is needed for evidence. Placing a vehicle on hold will prevent the release or sale of the vehicle while the hold is in effect. The police chief and director of neighborhood and community services or their designees will establish procedures for placing and removing holds on vehicles.

Approved as to form and legality:

Katherine Chandler
Assistant City Attorney