

**ORDINANCE NO.**

**AN ORDINANCE PROVIDING FOR THE REMOVAL AND DISPOSAL OF ABANDONED VEHICLES AND ENFORCEMENT OF INDIANA CODE 9-22-1 BY THE ST. JOSEPH COUNTY DEPARTMENT OF INFRASTRUCTURE, PLANNING & GROWTH WITHIN THE UNINCORPORATED AREAS OF ST. JOSEPH COUNTY, AND CREATING A FUND FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS ORDINANCE**

WHEREAS in the unincorporated areas of St. Joseph County, Indiana, vehicles are, or may in the future be, abandoned in the streets and other public premises; and

WHEREAS there are, or may in the future be, abandoned, wrecked, junked, nonoperating, or discarded vehicles in places other than in storage of impoundment yards or in other places appropriate for such activity; and

WHEREAS such conditions have been demonstrated as tending to impede traffic or interfere with the enjoyment of and reduce the value of private property; invite vandalism and plundering; encourage the presence of vermin; create fire hazards and other safety and health hazards to children and adults; interfere with the comfort and wellbeing of the public; and create, extend and aggravate blight; and

WHEREAS adequate protection of the public health, safety, welfare and comfort requires that such conditions be regulated, prohibited or abated; and.

WHEREAS the Indiana legislature has provided, in Indiana Code § 9-22-1, as amended, procedures for the removal and disposal of abandoned vehicles by local governments; and

WHEREAS said law provides that the County Council may establish procedures for the disposal of abandoned vehicles and may establish charges allowed for towing and storage of abandoned vehicles; and

WHEREAS said law further provides that counties may employ such personnel as are necessary to facilitate the removal of abandoned vehicles and parts; and

WHEREAS the County Council of the County of St. Joseph, Indiana wishes to exercise this power;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, THAT:

Section 1. Responsible Department Powers. The St. Joseph County Department of Infrastructure, Planning & Growth is hereby designated and assigned as the public agency with local responsibility for the removal, storage, and disposal of abandoned vehicles and vehicle parts within the unincorporated areas of the County of St. Joseph, Indiana, pursuant to Indiana Code 9-22-1, as now or hereafter amended, and said Department is hereby granted all powers reasonable and necessary for the performance of its responsibilities under this Ordinance. The St. Joseph County Department of Infrastructure, Planning & Growth may authorize in writing agents or employees of the St. Joseph County Department of Planning

and Development to initiate enforcement of this Ordinance as outlined in Section 4, subsection a, subparagraphs 1, 2, and 3.

Section 2. Abandoned Vehicle Fund. There is hereby continued the Abandoned Vehicle Fund which shall be a revolving fund, and all monies paid to the County for the cost of removal, storage, and disposal of abandoned vehicles shall be placed in said fund and in no other place. Monies in existing accounts (if any) designated for the removal, storage and disposal of abandoned or junk vehicles under previously enacted ordinances shall be transferred to the Abandoned Vehicle Fund continued herein. Said fund shall also have added to it such monies as may be appropriated by the County Council. The costs of removal and storage of an abandoned vehicle or parts not claimed by the owner or lienholder shall be paid from the Abandoned Vehicle Fund. The proceeds of sale of an abandoned vehicle or parts by the Department in accordance with subsections 6(a) and (c) shall be credited against all costs and incident to the removal, storage, and disposal of the vehicle. All monies remaining in said fund at the end of each year shall remain in such fund and not revert to the General Fund. The monies in said fund shall be expended and used only for the purposes enumerated in Indiana Code 9-22-1 providing for the disposal of abandoned vehicles.

Section 3. Definitions. As used in this Ordinance, "Abandoned Vehicle" means:

(1) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.

(2) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(3) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.

(4) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days. For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.

(5) A vehicle:

(A) that was repaired or stored at the request of the owner;

(B) that has not been claimed by the owner; and

(C) for which the reasonable value of the charges associated with the repair or storage remain unpaid more than thirty (30) days after the date on which the repair work is completed or the vehicle is first stored.

As used in this Ordinance, "Department" means the St. Joseph County Infrastructure, Planning & Growth Department.

The remaining definitions, not altered or amended by this Section 3, and contained in Indiana Code Section 9-13-2 are adopted for other terms appearing in this Ordinance.

Section 4. Procedure:

(a) Procedure. An enforcement official who finds a vehicle or parts believed to be abandoned, a traffic hazard, or a vehicle parked in violation of traffic ordinance shall do the following:

1. The enforcement official shall identify the vehicle or parts to be removed and classify the vehicle or parts as:

(i) abandoned;

(ii) a traffic hazard; or

(iii) a vehicle parked in violation of a traffic ordinance.

2. If the vehicle or parts are classified as "abandoned," the enforcement official shall attach in a prominent place on the vehicle or parts a notice tag. The enforcement official shall also conduct an owner identification search. If the owner is known or identifiable by the existence of current registration visible on the vehicle, the police enforcement official shall serve notice of hearing on the owner by certified mail, return receipt requested, and first class mail, postage prepaid.

3. The notice served on the owner and placed in a prominent place on the vehicle or parts shall contain the following information:

(i) The date, time, enforcement official's name, public agency, and address and telephone number to contact for information;

(ii) That the vehicle or parts are considered abandoned;

(iii) That the owner has the right to request a hearing regarding the towing of this vehicle or parts;

(iv) The contact information of the Administrative Review Officer with whom to schedule a hearing;

(v) That the owner may avoid costs for the removal, storage, and disposal of the vehicle by the County by removing the vehicle or parts prior to the expiration of seventy-two (72) hours of the notice tagging and notifying the appropriate agency of said removal;

(vi) That the owner will be held responsible for all costs, incidental to the removal, storage, and disposal of the vehicle.

4. If a vehicle or a part tagged as described above is not removed within the applicable period, the enforcement official shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition and missing parts. Photographs may be taken to describe the condition of the vehicle or parts.

5. If the vehicle or parts are classified as a traffic hazard or a traffic violation, or if any other emergency exists requiring immediate removal of the vehicle, the vehicle or parts can be summarily towed or removed. Where the owner is identified, the enforcement official shall immediately serve a notice of the owner's right to request a hearing (concerning the towing or removal of the vehicle or parts) to be held at a designated time and place. Where the owner is not identified, the enforcement official shall conduct a reasonable search for the owner. Once the owner is identified, the enforcement official shall issue notice to the owner via certified mail, return receipt requested and first class mail, postage prepaid. Such notice shall state:

(i) The date, time, enforcement official's name, public agency, and address and telephone number to contact for information;

(ii) That the vehicle or parts are considered a traffic hazard or parked in violation of a traffic ordinance;

(iii) That the vehicle or parts have been towed or removed and the location of said vehicle or parts;

(iv) That the owner has a right to request a post-tow hearing within seven (7) days after receiving the notice regarding the towing of this vehicle and the charges therefor;

(v) The contact information of the Administrative Review Officer with whom to schedule a hearing.

(vi) That the owner may reclaim the vehicle or parts if the owner posts bond in an amount equal to the towing and storage fees;

(vii) That the owner must pay towing and storage fees. If the owner requests a hearing, and the Administrative Review Officer finds in favor of the owner, the owner will not be required to pay any charges and any bond will be refunded.

6. If the owner requests a hearing, but fails to appear, or fails to request a hearing within the applicable time limit, or if the owner appears and fails to establish non-violation of this Ordinance:

The vehicle shall be immediately transferred to a storage yard. A copy of the abandoned vehicle report and photographs, if applicable, relating to the abandoned vehicle shall be provided to the storage yard. A towing service or storage yard may dispose of an abandoned vehicle not less than thirty (30) days after the date on which the abandoned vehicle was towed and removed. If the County operates a storage yard under Ind. Code § 36-9-30-3, it may dispose of an abandoned vehicle to an automobile scrapyards or an automotive salvage recycler upon removal of the abandoned vehicle. The Department shall retain the original records and photographs for at

least two (2) years. If the vehicle is demolished, a copy of the abandoned vehicle report shall be forwarded to the bureau by the automobile scrap yard after the vehicle has been demolished..

(c) Within three (3) business days after removal of a vehicle to a storage yard as described above, the Department shall conduct a search of the National Motor Vehicle Title Information System or an equivalent and commonly available data base, to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle. Upon obtaining the name and address of the owner or lienholder on a vehicle, not later than three (3) business days after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the following:

1. The name, address, and telephone number of the Department;
2. That storage charges are being accrued and the vehicle is subject to sale if the vehicle is not claimed and the charges are not paid.
3. The earliest possible date and location of the public sale or auction.

#### Section 5. Notice.

(a) After removal of a vehicle to a storage area under Section 4, the Department shall prepare and forward to the Bureau an abandoned vehicle report containing a description of the vehicle including the make, model, readily available vehicle identification number, and the number of the license plate (if any), and request that the Bureau advise the Department of the name and most recent mailing address of the owner and any lienholder.

(b) If a reasonable search discloses the name and address of the owner or lienholder, or if the owner's name is otherwise known to the Department, a written notice by certified mail, return receipt requested, and first class mail, postage prepaid, shall be served on the owner, with a copy to any lienholder indicating that the vehicle or parts have been impounded at a certain location and must be removed within twenty (20) days of the date of mailing of the notice and advising that the vehicle or parts will be disposed of after that time, and advising the owner or any lienholder that all costs incurred in removing and storing the vehicle or parts are his legal responsibility.

#### Section 6. Disposal.

(a) Unidentifiable Vehicles - If a vehicle or parts are in such condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle, the vehicle may be disposed of without notice.

(b) The Department shall give notice as provided in Section 5 of this Ordinance. If the owner or lienholder does not appear within twenty (20) days after the mailing of the notice, the Department shall sell the vehicle or parts as unclaimed property under Ind. Code § 36-1-11 *et seq.* The twenty (20) day period for the property to remain unclaimed is sufficient for a sale under this subdivision. The purchaser shall be furnished a bill of sale for each abandoned vehicle sold by the Department. The fee for the bill of sale shall be Six Dollars (\$6.00). A person that purchases a vehicle pursuant to this section must (1)

present evidence from a law enforcement agency that the vehicle purchased is roadworthy, if applicable; and (2) comply with the applicable requirements under Ind. Code § 9-17, to obtain a certificate of title for the vehicle.

Section 7. Exceptions. This Ordinance does not apply to:

- (1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;
- (2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;
- (3) A vehicle located on a vehicle sale lot;
- (4) A vehicle located upon property licensed or zoned as an automobile scrapyard; or
- (5) A vehicle registered and licensed under LC. 9-18-12 as an antique vehicle.

Section 8. Towing Charges. The charge for the towing and storage of abandoned vehicles shall be the customary charge for towing and storage of other vehicles ordered by the County of St. Joseph, Indiana. The towing or storage business used shall be determined by the Department.

Section 9. Hearings. Any hearing requested under this Ordinance by the owner of a vehicle subject to this Ordinance must be requested by the owner within the applicable time limits. Such hearing shall be held by the Administrative Review Officer, at the place and time agreed upon between the owner and the Administrative Review Officer. The Department shall provide all of its files relating to the vehicle to the Administrative Review Officer prior to the hearing. The hearing shall be informal, but shall afford the owner the opportunity to respond to the determination of their vehicle as abandoned, to explain why their vehicle should not be considered to be abandoned or should not have been towed, as applicable, and to defend against charges of violation of this Ordinance. The Department shall provide a representative knowledgeable about the particular violation at issue to be present at the hearing, to provide the Department's perspective on the matter. The Administrative Review Officer shall issue its determination as to the status of the vehicle and whether or not a violation of this Ordinance occurred in writing within seven (7) business days of the hearing. All actions under this Ordinance shall be stayed until such determination is issued.

Section 10. Time. In computing any period of time prescribed in this Ordinance, the day of the act, event, tagging, or mailing from which the designated period of time begins to run shall not be included. Such time shall begin to run on the next succeeding day and shall conclude on midnight of the last day of the period that is not a Saturday, Sunday or legal holiday.

Section 11. Repeal. Any Ordinances in conflict herewith are hereby repealed upon the effective date of this Ordinance.

Section 12. Severability. If any section or part of any section of this Ordinance shall be declared invalid, the remaining portions of this Ordinance shall continue in effect as enacted.

Section 13. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication, according to law.

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