

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF DELPHI,
INDIANA TO AMEND CHAPTER 91 OF THE CITY OF DELPHI CODE OF
ORDINANCES: JUNKED, WRECKED, AND ABANDONED VEHICLES**

WHEREAS, Indiana Code 36-1-3, *et seq.*, confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government; and

WHEREAS, Indiana Code 36-4-6-18 authorizes the Common Council of the City of Delphi, Indiana to pass such ordinances, orders, resolutions, and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit; and

WHEREAS, it is the desire of the Common Council to appropriately regulate abandoned, inoperable, and unlicensed vehicles within the City of Delphi.

NOW THEREFORE, Title IX, Chapter 91 titled "Junked, Wrecked and Abandoned Vehicles" is hereby amended by the Common Council and shall read as follows:

CHAPTER 91: ABANDONED, INOPERABLE, AND UNLICENSED VEHICLES

SECTION I

- 91.01 Purpose
- 91.02 Declared Unlawful and a Public Nuisance
- 91.03 Exemptions
- 91.04 Definitions
- 91.05 Liability of Owner
- 91.06 Declaration of Abandonment – Release to Owner or Lienholder Upon Payment of Costs – Disposal
- 91.07 Abandoned Vehicles -- Notice Tags – Report
- 91.08 Stored Vehicles
- 91.09 Stored Vehicles Disposition and Sale
- 91.10 Vehicles Left on Private Property Considered to be Abandoned – Complaints
- 91.11 Unlicensed and Inoperable Vehicles Prohibited
- 91.12 Liability for Loss or Damage During Removal, Storage, or Disposition
- 91.13 Charges
- 91.14 Abandoned Vehicle Fund Established
- 91.15 Violation – Penalty

§ 91.01 PURPOSE

The purpose of this chapter is to monitor, control, or prohibit the keeping of motor vehicles which are (1) abandoned, (2) without current license plates, and/or (3) in an inoperable condition, on private or public property and to issue penalties and violations thereof.

§ 91.02 DECLARED UNLAWFUL AND A PUBLIC NUISANCE

The Common Council finds that abandoned, unlicensed, and inoperable vehicles are a public nuisance, a safety and health hazard to the citizens of the city, and unlawful within the City of Delphi.

§ 91.03 EXEMPTIONS

This chapter does not apply to:

- (A) A vehicle in operable condition specifically adopted or constructed for operation on privately owned raceways;
- (B) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;

- (C) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility;
- (D) A vehicle located upon property being properly used as a vehicle repair business;
- (E) A vehicle located upon property licensed or zoned as an automobile scrapyard;
- (F) A golf cart; or
- (G) A vehicle registered and licensed under Indiana Code 9-22-1 as an antique vehicle.

§ 91.04 DEFINITIONS

As used in this chapter, the following terms have the following definitions unless otherwise designated:

Abandoned Vehicle:

- (1) A vehicle located on public property illegally;
- (2) A vehicle located on public property continuously without being moved for three days, but the timeframe shall be extended to thirty (30) days for a properly licensed vehicle located on public property in front of the legal or temporary residence of the owner of said vehicle;
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;
- (4) A vehicle from which there has been a removed engine, transmission or differential, or that is otherwise partially dismantled, or inoperable and left on public property; or
- (5) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than this chapter, if the vehicle once impounded is not claimed or redeemed by the owner or his agent within fifteen days of its removal.

Automobile scrapyard refers to a business organized for the purpose of scrap metal processing, automobile wrecking or operating a junkyard.

Board refers to the Board of Public Works and Safety of the city.

Bureau refers to the Indiana Bureau of Motor Vehicles (BMV).

Enforcement Officer refers to a code of enforcement officer of the city, i.e. a regular member of the state police department, city police department, a city marshal or town marshal deputy, county police force, or an individual of an agency designated by ordinance.

Inoperable vehicle refers to a motor vehicle from which there has been a removed engine, transmission or differential, or that is otherwise partially dismantled or mechanically inoperable.

Lienholder refers to a person holding a valid lien, mortgage, security interest or interest under a conditional sales contract, or a person noted as a lienholder according to the records of the bureau.

Officer:

1. A regular member of the police department;
2. An individual of an agency other than the police department designated by the board to enforce this chapter.

Owner refers to the last known titleholder of record of a vehicle according to the records of the bureau under Indiana Code 9-22-, *et seq.*

Parts refers to all components of a vehicle that as assembled do not constitute a complete vehicle.

Person is an individual, firm, corporation, association, fiduciary or governmental entity.

Private property refers to all property other than public property.

Public property refers to a public right-of-way, street, highway, alley, part or other state, county or municipal property.

Towing service refers to a business that engages in moving or removing disabled vehicles and, once removed, to store or impound vehicles.

Unlicensed vehicle refers to a vehicle which does not have a current license plate or is improperly registered.

Vehicle refers to any land vehicle which can be used for towing or transporting people or materials including, but not limited to, an automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, recreational vehicle or motor home.

§ 91.05 LIABILITY OF OWNER

The owner of an abandoned, unlicensed or inoperable vehicle is responsible for the current condition and is liable, to the extent of the fair market value of the vehicle, for all of the costs incidental to the removal, storage and disposal of the vehicle or the parts.

§ 91.06 DECLARATION OF ABANDONMENT, RELEASE TO OWNER OR LIENHOLDER UPON PAYMENT OF COSTS, DISPOSAL

- A. When an officer discovers a vehicle in the possession of a person other than the owner and said person cannot establish his right to the possession of that vehicle, the vehicle shall be removed and stored in a suitable place. The bureau shall be notified within seventy-two (72) hours of the location and description of the vehicle. Upon receipt of notification, the bureau shall cause a search to be made to determine and notify the owner in accordance with Indiana Code 9-22-1.
 1. If the owner of the vehicle cannot be determined, the bureau shall declare the vehicle abandoned and provide for its disposal in accordance with Indiana Code 9-22-1.
- B. If the properly identified owner or lienholder appears at the storage site before disposal of the vehicle and pays all proper costs incurred against the vehicle at that time, then the vehicle shall be released. A copy of the release of the vehicle shall be sent to the bureau. The release must contain the owner or lienholder's signature, name, address, vehicle or parts description, costs, and date of release.
 1. If the vehicle is not released to the owner or lienholder, the bureau shall declare the vehicle abandoned and provide for disposal in accordance with Indiana Code 9-22-1.

§ 91.07 ABANDONED VEHICLES, NOTICE TAGS, REPORT

An officer who finds a vehicle or parts believed to be an abandoned as defined in this Chapter shall attach in a prominent place a notice tag continuing the following information:

- (1) The date, time, officer's name, and address and telephone number of the police department;
- (2) That the vehicle or parts are considered abandoned;
- (3) That the vehicle or parts will be removed after seventy-two (72) hours;
- (4) That the owner will be held responsible for all costs incidental to the removal, storage and disposal. If not paid, the owner's registration privileges, including but not limited to the seizure of the license plate for that vehicle, will be suspended on that vehicle;
- (5) That the owner may avoid costs by removal of the vehicle or parts within seventy-two (72) hours of the notice.

If the tagged vehicle is not removed within seventy-two (72) hours, the officer shall prepare a written abandoned vehicle report on the vehicle on the bureau's form 322B.

After seventy-two (72) hours, the officer shall require the vehicle to be towed to a storage area.

§ 91.08 STORED VEHICLES

Within seventy-two (72) hours after removal of an abandoned vehicle to a storage area under Section 91.07, the police department shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including the make, model and manufacturer's identification number, the color and style of said vehicle, and the number of the license plate, and request that the bureau advise the police department of the name and most recent mailing address of the owner and any lienholder. The police department shall then advise the owner or lienholder that all costs incurred in removing and storing the vehicle or parts are his/her legal responsibility.

§ 91.09 STORED VEHICLES, DISPOSITION AND SALE

Disposition and sale of stored vehicles shall be conducted by the bureau pursuant to Indiana Code 9-22-1.

§ 91.10 VEHICLES LEFT ON PRIVATE PROPERTY CONSIDERED TO BE ABANDONED, COMPLAINTS

Upon receipt of a complaint that a private property owner or person occupying the property has a vehicle that has been left on the property for at least forty-eight (48) hours or more, without the consent of the owner or person occupying the property, an officer shall follow the procedures set forth in Section 91.07.

§ 91.11 UNLICENSED AND INOPERABLE VEHICLES PROHIBITED

- A. It is a violation of this chapter for any person to keep, park, or store an unlicensed or inoperable vehicle(s) or parts thereof on private or public property exposed to public view except in a legally conforming garage, carport, or other enclosure.
- B. After investigation by the Enforcement Officer or police officer and a confirmed violation of this chapter, the Enforcement Officer or police officer is authorized to issue a warning or written demand to the owner of the vehicle or person occupying the premises on which any unlicensed or inoperable vehicle(s) in violation of this chapter is kept. The warning or written demand shall notify the person to remove the vehicle(s) from the premises within thirty (30) days from the receipt of the notice or to correct the issue rendering the vehicle unlicensed or inoperable. Upon the failure or refusal of the person to remove the vehicle(s) or correct the issue within the time period specified, a citation will then be issued requiring the individual to remove the vehicle(s) or correct the issue within ten (10) days or be subject to further penalties as provided herein.
- C. In the event the vehicle(s) is not removed or the issues corrected within the ten (10) day period, the Enforcement Officer or police officer may order that the vehicle(s) be removed and assess the cost of the removal and storage to the person owning the vehicle or person occupying the property. In the event any vehicle(s) is removed and stored and in the event that the vehicle(s) is not claimed by the owner of the vehicle from the storage location within fifteen (15) days from its removal by paying the actual cost of the removal and storage, the vehicle may be sold and disposed of as provided in Indiana Code 9-22-1. The responsibility and liability of the vehicle's owner shall be that as set forth in Indiana Code 9-22-1.

§ 91.12 LIABILITY FOR LOSS OR DAMAGE DURING REMOVAL, STORAGE, OR DISPOSITION

Neither the owner, lessee, nor occupant of the property from which an abandoned vehicle is removed nor the police department is liable for loss or damage to the vehicle or contents of an abandoned vehicle occurring during its removal, storage, or disposition.

The officer or police department is not liable for loss or damage to the vehicle or contents of an unlicensed or inoperable vehicle occurring during its removal, storage, or disposition.

§ 91.13 CHARGES

The amount that may be charged for an authorized towing service and storage of a vehicle under this chapter shall be equal to the amount charged to other users of the same or comparable services. The number of storage days shall be calculated from the day the vehicle was towed to the storage facility to its release or disposal.

§ 91.14 ABANDONED VEHICLE FUND ESTABLISHED

- A. There is established an Abandoned Vehicle Fund pursuant to IC 9-22-1-30.
- B. The fund shall be used to pay for the costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle.
- C. The costs incurred by the city in administering this ordinance shall be paid from the abandoned vehicle fund.
- D. The Common Council shall annually appropriate sufficient money to the fund to carry out this ordinance. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general fund.

§ 91.15 VIOLATION – PENALTY

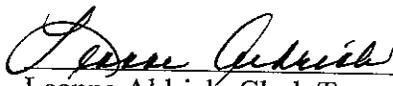
A person who violates any provision of this chapter shall be fined not more than two hundred dollars (\$200.00).

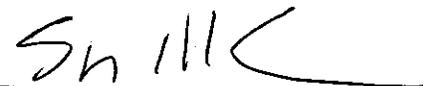
SECTION II. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

SECTION III. This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

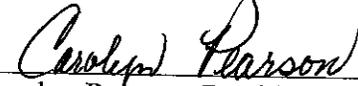
(I.C. 9-22-1-32, Ord. 2011, n/a, Am. Ord. 2016- 4, passed 4-4-16)

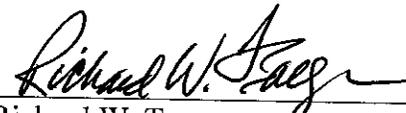
Passed and adopted by the Common Council of the City of Delphi, Indiana this 4th day of APRIL, 2016 at 7:00 o'clock, p.m.


Leanne Aldrich, Clerk Treasurer


Shane Evans, Mayor

COUNCIL MEMBERS


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