

**AN ORDINANCE SUPERSEDING ORDINANCE NO. 452, AN ORDINANCE OF
THE CITY OF ROCKPORT, INDIANA REGARDING
THE DISPOSAL OF ABANDONED VEHICLES**

WHEREAS, in 1990 the City of Rockport Common Council passed Ordinance No. 452 regarding the disposal of abandoned vehicles; and

WHEREAS, the Common Council of the City of Rockport deems it in the best interest of the citizens of the City of Rockport to adopt a new Ordinance regarding abandoned vehicles that supersedes Ordinance No. 452.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ROCKPORT, INDIANA AS FOLLOWS:

Section One. Definitions.

(1) "Abandoned vehicle" means the following:

- (a) A vehicle located on public property illegally.
- (b) A vehicle left on public property without being moved for twenty-four (24) hours.
- (c) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.

(h) A vehicle:

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

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

(iii) 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.

(2) "Officer" means any member of the Rockport Police Department.

(3) "Owner" means the last known record title holder to a vehicle according to the records of the Bureau of Motor Vehicles of the State of Indiana under the provisions of I.C. 9-1-1.

(4) "Parts" means all component parts of a vehicle which are in a state of disassembly, or are assembled with other vehicle component parts, but which, in their state of assembly, do not constitute a complete vehicle.

(5) "Person" means all natural persons, firms, partnerships and corporations.

(6) "Public agency" means the City of Rockport Police Department, which is the local agency given the responsibility by ordinance for the removal, storage, and disposal of abandoned vehicles.

(7) "Vehicle" means any motor vehicle, automobile, motorcycle, truck, trailer, semi-trailer, truck tractor, bus, school bus, recreational vehicle, motorized bike, or parts from any said vehicles.

(8) "Visible" means located in an open area and not:

a. Kept or stored inside a closed structure out of public view; or

b. Kept or stored inside a carport attached to a house; or

c. Kept or stored within the boundaries of a six foot (6') tall or taller privacy fence. Such privacy fence shall completely enclose the area in which the vehicle is kept or stored. The fence shall be constructed and maintained in a manner to hide the vehicles from view from outside the fence, to the extent reasonably possible. The fence shall be of sound construction and solid vertical board or stockade-type construction, and shall be neatly maintained and in good repair. Such a fence shall not be used for advertising signs or other displays that are visible from the main traveled way of a public street.

Section Two. Exemptions from Ordinance.

This Ordinance does not apply to the following:

- (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 scrap yard.
- (5) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.
- (6) A golf cart.
- (7) An off-road vehicle.

Section Three. Abandonment prohibited. No person shall abandon his or her vehicle on any public premises or private premises in a location which is visible from public premises.

Section Four. Removal authority designated. The Police Department of the City of Rockport is the authorized public agency assigned the responsibility for removing vehicles defined as abandoned under the provisions of this Ordinance, and is assigned the obligation to enforce this Ordinance.

Section Five. Responsibility of owner.

- (a) Except as provided in subsection (c), the owner of an abandoned vehicle or parts is:
 - (1) responsible for the abandonment; and
 - (2) liable for all of the costs incidental to the removal, storage, and disposal; of the vehicle or the parts under this chapter.
- (b) The costs for storage of an abandoned vehicle may not exceed one thousand five hundred dollars (\$ 1,500.00).
- (c) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.
- (d) If an abandoned vehicle is sold by a person who removed, towed, or stored the

vehicle, and proceeds from the sale of the vehicle covered the removal, towing, and storage expenses, any remaining proceeds from the sale of the vehicle shall be returned to the previous owner of the vehicle if the previous owner is known.

Section Six. Notice by City of Rockport.

When the City of Rockport learns or is notified of a vehicle or parts believed to be abandoned in an area other than on or within the right of way of any public road, street, or highway, the City of Rockport shall, through a City representative, send written notice to the owner of the real property upon which the abandoned vehicle or vehicle parts are situated advising that they have seven days within which to remove the abandoned vehicle or vehicle parts, and that if they fail to do so that the vehicle will be tagged by the City of Rockport Police Department for removal.

Section Seven. Notice tag prepared by police officer.

Subject to the provisions of Section Six above, an officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(A) twenty-four (24) hours, if the vehicle is located on or within the right-of-way of any public road, street, or highway; or

(B) seventy-two (72) hours, for any other vehicle.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) twenty-four (24) hours, if the vehicle is located on or within the right-of-way of any public road, street, or highway; or

(B) seventy-two (72) hours, for any other vehicle.

Section Eight. Preparation of report -- Photographs.

If a vehicle or a part tagged under Section Six of this Ordinance is not removed within the applicable period, the officer 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.

Section Nine. Disposition of vehicle of less than \$ 500 in value.

If in the opinion of the officer the market value of an abandoned vehicle or parts is less than five hundred dollars (\$500), a towing service shall immediately transfer the vehicle 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 towing service removed the abandoned vehicle. The public agency or storage yard disposing of the vehicle 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 of Motor Vehicles by the automobile scrap yard after the vehicle has been demolished.

Section Ten. Disposition of vehicle of \$ 500 in value or more.

(a) If in the opinion of the officer the market value of the abandoned vehicle or parts is at least five hundred dollars (\$500), the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts.

(b) After seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

Section Eleven. Abandoned vehicle report -- Forwarding to City of Rockport.

(a) Within seventy-two (72) hours after removal of a vehicle to a storage yard or towing service under Sections Eight or Nine of this Ordinance, the public agency or towing service shall conduct a search of national data bases, including a data base of vehicle identification numbers, 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.

(b) A public agency or towing service that obtains the name and address of the owner of or lienholder on a vehicle shall, not later than seventy-two (72) hours after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the:

(1) name;

(2) address; and

(3) telephone number;

of the public agency or towing service. The notice must be made by certified mail or a certificate of mailing or by means of an electronic service approved by the City of Rockport. Notwithstanding Section Five or this Ordinance, a public agency or towing service that fails to notify the owner of or lienholder on the vehicle as set forth in this subsection may not collect additional storage costs incurred after the date of receipt of the name and address obtained.

Section Twelve. Release to owner or lien holder.

If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released. A towing service shall notify the appropriate public agency of all releases under this section. The notification must include the name, signature, and address of the person that owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and the date of release.

Section Thirteen. Declaration of abandonment -- Inability to locate owner.

If the owner or lienholder under Section Eleven of this Ordinance does not appear and pay all costs; or the owner of a vehicle cannot be determined by a search conducted under Section Ten of this Ordinance; the vehicle is considered abandoned and must be disposed of under this chapter.

Section Fourteen. Disposal of vehicle without notice.

If a vehicle or parts are in such a 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.

Section Fifteen. Disposal of vehicle by City.

(a) If the person who owns or holds a lien upon a vehicle does not appear within twenty (20) days after the mailing of a notice or the notification made by electronic service under Section Ten of this Ordinance, the City of Rockport may sell the vehicle or parts by either of the following methods:

(1) The City may sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given under IC 5-3-1, except that only one (1) insertion in an appropriate publication one (1) week before the public sale is required.

(2) The City may sell the vehicle or part as unclaimed property under IC 36-1-11. The twenty (20) day period for the property to remain unclaimed is sufficient for a sale under this subdivision.

(3) The proceeds of sale of an abandoned vehicle or parts under this Section shall be credited against the costs of the removal, storage, and disposal of the vehicle.

Section Sixteen. Bill of sale -- Fee -- Title.

A person that purchases a vehicle under Section Fourteen of this Ordinance shall be furnished a bill of sale for each abandoned vehicle sold by the public agency upon paying the fee for a bill of sale imposed by the public agency. The fee may not exceed six dollars (\$ 6) for each bill of sale.

Section Seventeen. Abandoned Vehicle Fund.

There is created in the City of Rockport an abandoned vehicle fund which shall be a revolving fund, and all moneys paid to the City for the cost of removal, storage, and disposal of abandoned vehicles shall be placed in said fund and in no other place. Said fund shall also have added to it such moneys as may be appropriated by the common council and such moneys also shall not revert to the general fund but shall remain in the abandoned vehicle fund.

Section Eighteen. Impoundment Costs.

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 shall be paid from the City's abandoned vehicle account. The charge payable by the person who owns or holds a lien on a vehicle for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established by ordinance adopted under section 30 of this chapter.

Section Nineteen. Emergency Situations.

Notwithstanding any other section of this Ordinance, in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct or normal business operations of the property owner, impedes the property owner's use of said property, or poses a threat to the safety or security of persons, property, or both.

Section Twenty. Administrative Immunity from Liability.

No officer, agent, or employee of the City of Rockport shall render himself or herself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his or her duties under this Ordinance. Any suit brought against any officer, agent, or employee of the City of Rockport as a result of any act required or permitted in the discharge of his duties under this Ordinance shall be defended by the City Attorney until the final determination of the proceedings therein.

Section Twenty-One. Penalty for Violation.

Any person, persons, firm or corporation causing or violating any of the provisions of this Ordinance shall, upon conviction, be fined not less than fifty dollars (\$50.00) nor more than one hundred fifty dollars (\$150.00) for the first violation. Second and subsequent violations will result in a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00). In the event of a continuing or maintaining of a violation of any section of this Ordinance, any person, firm or corporation causing or maintaining said violation may, upon conviction, be fined in a sum not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00).

Section Twenty-Two. Repeal of Ordinance 452 and Inconsistent Ordinances.

This Ordinance repeals, rescinds, and supersedes Ordinance 452 and all other Ordinances or parts of Ordinances in conflict herewith.

Section Twenty-Three. Severability.

If any paragraph, sentence, clause or phrase in this Ordinance is declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected by such declaration and shall remain in full force and effect.

Section Twenty-Four.

This Ordinance shall become effective upon passage by the Common Council of the City of Rockport, attested by the Clerk/Treasurer, and published as required by Indiana Code §5-3-1-2.

Section Twenty-Five.

This Ordinance specifically adopts the provisions of Indiana Code 9-13-2 and 9-22-1 et seq., and all amendments thereto. This Ordinance shall be subservient to and consistent with the abandoned vehicle provisions of the Indiana Code.

Passed and adopted by the Common Council of the City of Rockport, Indiana on the 19 day of September 2016.

COMMON COUNCIL OF THE
CITY OF ROCKPORT, INDIANA

Connie L. Hargis
Connie L. Hargis

Donna Lashley

Ferman Yearby, III
Ferman Yearby, III

Roxanna Decker
Roxanna Decker

Joseph Carpenter
Joseph Carpenter

ATTEST:

Susie Roberts by Andrea Lester
Susie Roberts, by Andrea Lester
Clerk-Treasurer

Rep.

Presented by me to the Mayor of the City of Rockport, Indiana on the 19th day of
September, 2016 at 5:10 o'clock p.m.

Susie Roberts by Andrea Lester
Susie Roberts, by Andrea Lester
Rep. Clerk-Treasurer

Approved and signed by me this 19th day of September, 2016 at 5:10pm
o'clock p.m.

Gay Ann Harney
Gay Ann Harney, Mayor
City of Rockport