

ORDINANCE NO. 09-02

AN ORDINANCE PROHIBITING THE KEEPING, PARKING AND STORAGE OF ABANDONED JUNKED VEHICLES IN THE TOWN OF LAPAZ

WHEREAS, the Town of LaPaz is desirous of prohibiting nuisances caused by Abandoned or Junk Vehicles, and

WHEREAS, the previous Abandoned Vehicle Ordinance No. 2000-06 needs to be strengthened and revised in order to provide more enforcement authority concerning the prohibition of said vehicles,

NOW, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAPAZ THAT:

Section 1. ABANDONED, JUNKED VEHICLE EXPOSED TO PUBLIC UNLAWFUL

(A) The keeping, parking or storing of any wrecked, junked or abandoned vehicle or parts thereof, on private or public property, exposed to public view, except as provided in this chapter, is hereby declared to be a nuisance.

(B) It shall be unlawful for any person to keep, park or store any wrecked, junked or abandoned automobile or other vehicle, or parts thereof on public or private property within the Town, not kept in a garage or other enclosure so as not to be exposed to public view, except as otherwise set forth herein.

Section 2. VEHICLE WITHOUT LICENSE PLATE MAY BE INCLUDED

Any vehicle shall be deemed to be included in the terms of this Ordinance if such vehicle does not have attached thereto a valid and current license plate; but such license plate shall not be the sole factor in determining the status of such a vehicle.

Section 3. LAWFUL BUSINESSES EXCEPTED

Nothing contained in this subsection shall be construed to apply to any person, firm or corporation lawfully engaged in the junk business, the garage, body shop or other vehicle repair business, auto sales business or other lawful business in a properly zoned area, in which automobiles or other vehicles are kept, stored or parked as an incident to the conduction of such business.

Section 4. DEFINITIONS

For the purposes of this subsection, the following definitions shall apply unless the context clearly indicates or required a different meaning:

ABANDONED VEHICLE

- (1) a vehicle located on public property illegally;
- (2) a vehicle left on public property continuously without being moved for three days;
- (3) 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;
- (4) a vehicle that has remained on private property without the consent of the property owner or persons in control of the property for more than forty-eight hours;
- (5) a vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperative and left on public property;
- (6) 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; or
- (7) a vehicle that is six or more model years old and mechanically inoperable, and is left on private property continuously in a location from public property for more than thirty days.

AUTOMOBILE SCRAPYARD. A business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junk yard.

BUREAU. The State Bureau of Motor Vehicles.

OFFICER. A regular member of the LaPaz Police Department.

OWNER. The last known record title holder of a vehicle, according to the records of the Indiana Bureau of Motor Vehicles, or any other comparable bureau or agency of any other state.

PARTS. Refers to all components of a vehicle that as assembled do not constitute a complete vehicle.

PERSON. An individual, firm, corporation, association, fiduciary, or governmental entity.

PRIVATE PROPERTY. All property other than public property.

PUBLIC PROPERTY. A public right-of-way, street, highway, alley, sidewalk, park or other municipal property.

TOWING SERVICE. A business that engages in moving, removing, storing, and impounding disabled vehicles.

VEHICLE. An automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, recreational vehicle, camper, or motorized bicycle.

VEHICLE FROM PUBLIC PROPERTY. A vehicle which can be seen from public property and includes vehicles which have been covered by a temporary covering that allows the form and outline of the vehicle to remain visible from public property.

Section 5. CITATION, REMOVAL, DISPOSAL OF ABANDONED VEHICLES

(A) No person shall abandon a vehicle or parts on any public street or private property.

(B) The owner of an abandoned vehicle or parts is responsible for the abandonment and is liable for all of the costs incidental to the removal, storage, and disposal of the vehicle and its parts.

(C) In accordance with I.C. 9-22-1-11, if, in the opinion of the officer, the market value of the abandoned vehicle or parts is less than \$500 the officer shall attach thereto in a prominent place a citation containing the following information:

- (1) the date, time, officer's name, public agency, address, and telephone number to contact for information;
- (2) the vehicle or collection of parts is considered abandoned.
- (3) The vehicle or parts will be removed after 72 hours.
- (4) The owner will be held responsible for all costs incidental to removal, storage, disposal, and if not paid the owner's registration privileges will be suspended on that car.
- (5) The owner may avoid costs by removal of the vehicle or collection of parts within seventy-two (72) hours.

(D) If the tagged vehicle or parts, which, in the opinion of the officer, has a market value of less than \$500, is not removed within seventy-two (72) hours the officer shall, in accordance with I.C. 9-22-1-12:

- (1) Prepare a written abandoned vehicle report of the vehicle or parts including information on the condition, missing parts, and other facts that substantiate that the market value is less than \$500.
- (2) Take photographs to illustrate the condition of the vehicle or parts.
- (3) Immediately order the removal of the vehicle or parts to an automobile scrapyard or holding area.

(E) In accordance with I.C. 9-22-1-14, if, in the opinion of the officer, the market value of an abandoned vehicle or parts is \$500 or more, the officer shall make reasonable effort to ascertain the owner or persons who may be in control of the vehicle or parts. Thereafter, the officer shall attach to the vehicle or parts in a prominent place a citation containing the following information:

- (1) The date, time, officer's name, public agency, address and telephone number to contact for information.
- (2) The vehicle or parts is considered abandoned.
- (3) The vehicle or parts will be removed after seventy-two (72) hours.
- (4) The owner will be responsible for all costs incidental to removal, storage, and disposal, and if not paid the owner's registration privileges will be suspended on that car.
- (5) The owner may avoid costs by removal of the vehicle or parts within seventy-two (72) hours.

(F) If the tagged vehicle or parts which, in the opinion of the officer, has a market value of \$500 or more is not removed within the seventy-two (72) hour period, the officer shall in accordance with 9-22-1-14:

- (1) Take photographs to illustrate the condition of the vehicle or parts and require the vehicle or parts to be towed to a storage area.
- (2) Immediately order the removal of the vehicle or parts to a storage area.
- (3) In accordance with I.C. 9-22-1-19, within seventy-two (72) hours after the removal of an abandoned vehicle or parts to the storage area, the public agency shall prepare and forward to the Bureau an abandoned vehicle report, including the make, model, if any, identification number, and number of the license plate (and engine number if applicable), and request that the Bureau advise the agency of the name and most recent mailing address of the owner and of any lien holder.
- (4) Upon receipt of the requested information from the Bureau, the public agency shall mail notice to the owner or any lien holder that the vehicle or parts have been impounded at a certain location, that the vehicle or parts must be claimed within fifteen days of the date of the mailing notice, and that the vehicle or parts will be disposed of after that time. The notice shall also advise the owner that all costs incurred in removing and storing the vehicle or parts are the owner's legal responsibility, all in accordance with I.C. 9-22-1-19.

(5) If the owner or lien holder appears to claim the vehicle before the fifteen (15) day time period, he shall be entitled to claim the impounded vehicle. The costs of towing, storing and keeping of the impounded vehicle must be paid to the service holding the vehicle before the vehicle may be released. If the owners or lien holder does not appear within fifteen days after the mailing of the second notice, the Town of LaPaz shall sell the vehicle or parts to the highest bidder at a public sale conducted after notice under I.C. 5-3-1, except only one newspaper insertion one week before the public sale is required. The Town may also elect to sell the vehicle or parts as unclaimed property under I.C. 36-1-11.

(6) If the vehicle is in such condition that the vehicle identification numbers or other means of identification are not available to determine the owner of record with the Bureau, the vehicle may be disposed of without notice as permitted by I.C. 9-22-1-21.

(7) Upon complaint of a private property owner or persons in control of the property upon which a vehicle has been left for more than forty-eight hours without the consent of the owner or persons in control, the private property owner shall follow the procedure set forth in this chapter.

(8) Neither the owner, lessee, nor occupant of the property from which an abandoned vehicle is removed, nor any public agency, towing service, or automobile scrapyard is liable for any loss or damage to the vehicle or parts occurring during its removal, storage, or disposition.

Section 6. VEHICLE ABANDONED ON RENTAL PROPERTY

A person who finds a vehicle believed to be abandoned on the person's rental property shall do the following:

- (A) Attach in a prominent place a notice tag containing the following information:
- (1) The date, time, name and address of the person who owns the rental property and a telephone number to contact for information.
 - (2) That the vehicle is considered to be abandoned.
 - (3) That the vehicle will be removed after seventy-two hours.
 - (4) That the person who owns the vehicle will be 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 seventy-two hours.
- (B) Contact the bureau to obtain the name and address of the person who owns the vehicle.
- (C) Deliver, by certified mail, a copy of the information contained in the notice required under division (A) above to the person who owns the vehicle.

(D) If after seventy-two hours the person who owns a vehicle believed to be abandoned on rental property has not removed the vehicle from the rental property, the person who owns the rental property may have the vehicle towed from the rental property. The person who owns the rental property shall give the towing operator a copy of the certified letter required under division (C) above as proof that notice of the towing has been given.

Section 7. EXEMPTIONS

This chapter does not apply to the following vehicles:

(A) a vehicle in operable condition specifically adapted 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 designated vehicle sales lot or at a commercial servicing facility.

(D) a vehicle located upon property licensed or zoned as a automobile scrapyard.

(E) a vehicle registered and licensed under I.C. 9-18-12 as an antique motor vehicle.

Section 8. COSTS CHARGED TO AN ABANDONED VEHICLE ACCOUNT

The costs for removal and storage of an abandoned vehicle or parts not claimed by the owner or lienholder shall be paid from the Abandoned Vehicles Account. The charge payable by the owner for towing, storing, or removing the abandoned vehicle or parts may not exceed the limits established by ordinance from time to time.

Section 9. DISPOSITION OF PROCEEDS OF SALE

The proceeds of a sale of an abandoned vehicle or parts in accordance with this chapter shall be credited against all costs incident to the removal, storage and disposal of the vehicle.

Section 10. USE OF ABANDONED VEHICLE ACCOUNT

All costs incurred by the public agency in administering this chapter shall be paid from the Abandoned Vehicle Account. The LaPaz Town Council shall annually appropriate sufficient monies to that account for the purposes of this chapter. All monies remaining in the account at the end of each year remain in the account and do not revert to the general fund.

Section 11. CHARGES FOR TOWING, STORING OR REMOVING ABANDONED VEHICLES

The following charges are established as maximum charges for towing, storing, or removing abandoned vehicles, and are payable by the owner or lien holder.

- (A) The charge for towing the abandoned vehicle or parts shall not exceed \$125.00.
- (B) The charge for removing abandoned vehicles or parts shall not exceed \$125.00.
- (C) The charge for storing abandoned vehicles or abandoned parts shall not exceed \$25.00 per day storage.

Section 12. PENALTY

Any person violating any provision of this chapter shall, on conviction, be fined in any sum not less than \$25.00 nor more than \$100.00. In addition, any person violating the provision would also be responsible for any related court costs, reasonable attorney fees, and for charges and costs of towing, storing or removing the subject vehicle or parts.

Dated: 11-9-09

LAPAZ TOWN COUNCIL

Juanita Dora

Ronella Emmons

ATTEST:

Jane Harris
Jane Harris, Clerk-Treasurer