

# ORDINANCE NO. 176

## AN ORDINANCE ESTABLISHING AN ABANDONED AND STOLEN VEHICLE LAW

WHEREAS, the state legislature has passed legislation providing for the enforcement of an abandoned and stolen vehicle statute, namely I.C. 9-9-1.5-1, et seq.

WHEREAS, the Town of Battle Ground by the Board of Trustees presently has in full force and effect [Ordinance No. 144](#), which Ordinance pertains to the removal and disposal of abandoned and stolen vehicles.

WHEREAS, pursuant to the statutory authority granted to local government under I.C. 9-9-1.5-1, et seq., the Board of Trustees of the Town of Battle Ground is desirous of repealing [Ordinance No. 144](#) and adopting Ordinance No. 176.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF BATTLE GROUND THAT THE FOLLOWING ORDINANCE IS HEREBY AS OPTED:

SECTION 1: Title. This Ordinance shall hereafter be known and signed as the Abandoned and Stolen Vehicle Ordinance.

SECTION 2: Definitions. For the purpose of this Ordinance the following terms shall have the following meanings:

(a) "Vehicle" means any motor vehicle, automobile, motorcycle, truck, trailer, semi-trailer, truck tractor, bus school bus, recreational vehicle, or motor bicycle.

(b) "Abandoned" when used in conjunction with the term vehicle means:

(1) Any vehicle located on public premises which does not have lawfully affixed thereto or displayed thereon a valid unexpired license plate permitting its operation upon the highways of the State of Indiana.

(2) Any vehicle which is left on public premises continuously without being moved for a period of seven (7) days.

(3) Any vehicle located on public premises illegally or in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, street or highway.

(4) Any vehicle that has remained on private premises without the consent of the owner or person in control of such premises, for more than forty- eight (48) hours.

(5) Any vehicle from which there has been removed the engine or transmission or differential or which is otherwise partially dismantled or inoperable and left on public premises.

(6) Any vehicle which has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than in this ordinance, the violation of which may require the removal and impoundment of said motor vehicle, and which motor vehicle once impounded is not claimed

or redeemed by the owner or his agent within thirty (30) days of its removal.

(c) "Public premises" means any public right-of-way, street, highway, alley, park or other state, county, or municipally owned property.

(d) "Private premises" means all privately owned property which is not classified within the definition of public premises.

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

(f) "Officer" means any regular member of the Indiana State Police, any regular member of a city or town police department, any town marshal or town marshal deputy or any regular member of the county sheriff's department.

(g) "Bureau" means the bureau of motor vehicles of the State of Indiana.

(h) "Owner" means the last known record title holder to a vehicle according to the records of the bureau.

(i) "Public agency" means the department of local government which is assigned the local responsibility for removal, storage and disposal of abandoned vehicles by ordinance of the common council, town board or county council.

(j) "Scrap metal processor" means an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and scrap steel or nonferrous scrap for sale for remelting purposes.

(k) "Automobile wrecker" means an automobile wrecking and parts business.

(l) "Disposal agent" means any firm or individual engaged in business as a scrap metal processor or automobile wrecker.

(m) "Commissioner" means the commissioner of the bureau.

(n) "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.

(o) "Towing service" means a business organized for the purpose of moving or removing disabled motor vehicles and, once removed, to store or impound such motor vehicles.

**SECTION 3: Abandonment Prohibited.** No person shall abandon a vehicle on any public premises or private premises without the permission of the person having the right to possession of the property upon which the motor vehicle was left.

**SECTION 4: Presumption of Abandonment.** There is hereby created a prima facie presumption that the owner of an abandoned vehicle is responsible for the abandonment and is thereby liable for all of the costs incidental to the removal, storage, and disposal of such vehicle. Notwithstanding any other provisions of this Ordinance, any person, firm, corporation, or unit of government upon whose property or whose possession is found any abandoned motor vehicle, or any person being the owner of a motor

vehicle whose title certificate is lost or destroyed may dispose of such motor vehicle to a disposal agent as in Section 2 (1) of this Ordinance, without that title or without securing a title if the motor vehicle is valued at less than one hundred dollars (\$100.00) and removal is made in conformity with Section 5 of this Ordinance.

**SECTION 5:** Removal and Disposal of Vehicles Valued at less than \$100.00. Any officer who shall find a vehicle or parts abandoned, by the terms of this Ordinance, and therefore in violation hereof, and having a current market value of less than one hundred dollars (\$100.00) in the opinion of said officer, shall attach thereto in a prominent place, a notice tag which shall contain the following information:

- (a) That the vehicle or parts are considered abandoned,
- (b) That the vehicle or parts will be removed seventy-two (72) hours thereafter, and immediately disposed of to a scrap processor or auto wrecker;
- (c) That the owner will be held responsible for all costs incidental to the removal and disposal, and if not paid, the owner's registration privileges will be suspended;
- (d) That the owner may avoid costs, or suspension of registration privileges by removal of the vehicle or parts within seventy-two (72) hours; and
- (e) The date, time officer's name and the address and telephone number of the public agency to contact for information.

If the tagged vehicle is not removed within said seventy-two hour period, it shall be photographed in the place where abandoned by an officer who shall also detail the damage or missing equipment or condition of the vehicle to substantiate the value of less than one hundred dollars (\$100.00). The officer shall thereupon immediately dispose of the vehicle to a scrap processing yard or auto wrecker. A copy of the records and photographs relating to the abandoned vehicle shall be forwarded to the bureau, and the law enforcement agency ordering the disposition of such vehicle shall retain the original records photographs for a period of at least two (2) years.

In order to facilitate the removal of such abandoned vehicles or parts, the county, city, or town may employ such personnel, and acquire such equipment, property and facilities as are necessary for the purpose of removal and disposition of such abandoned vehicles and establish by ordinance of the county council, common council, or town board, such procedures, not in conflict with this ordinance, as may be necessary to accomplish the purposes stated herein. The county, city, or town through its board of public works, board of public works and safety, or such other agency as is legally capable of entering into such contracts may contract with private towing firms, or individuals in such business, or scrap processors or auto wreckers, on a semi-annual basis, to provide the equipment and facilities for removal and disposal.

**SECTION 6:** Removal of Vehicles Valued at \$100 or more. Any officer who shall find a vehicle or parts which he has reason to believe have been abandoned, by the terms of this Ordinance, and therefore in violation hereof and having a current market value of one hundred dollars (\$100.00) or more in the opinion of said officer, shall attach thereto in a prominent place, a notice tag which shall contain the following information:

- (a) That the vehicle or parts are considered abandoned;

(b) That the vehicle or parts will be removed seventy-two (72) hours thereafter, impounded and subsequently disposed of;

(c) That the owner will be held responsible for all costs incidental to the removal and storage.

(d) That the owner may avoid such costs by removal of the vehicle or parts within seventy-two (72) hours; and

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

Prior to placing such notice tag on a vehicle or parts, the Officer shall make a reasonable effort to ascertain the owner or person who may be in control of the vehicle or parts by inquiring of other persons in the neighborhood. In order to facilitate the removal of such abandoned vehicles or parts, the county, city or town may employ such personnel, and acquire such equipment, property and facilities as are necessary for the purpose of removal, storage, and disposition of such abandoned vehicles and establish by ordinance of the county council, common council, or town board, such procedures not in conflict with this Ordinance as may be necessary to accomplish the purposes stated herein. The county, city or town through its board of public works, board of public works and safety or such other agency as is legally capable of entering into such contracts may contract with private towing firms, or individuals in such business, or on an annual basis, to provide the equipment, storage area and facilities for removal and storage.

SECTION 7: Impounded Vehicles/Notice to Owner and Lienholder/Sale. Within forty-eight (48) hours after removal of an abandoned vehicle to a storage area, pursuant to Section 6 of this Ordinance, the public agency shall:

(a) Prepare and forward to the bureau a notice containing a description of the vehicle including the make, model, engine number, if any, identification number, and the number of any license plates affixed thereto, and request that the bureau advise the public agency of the name and most recent mailing address of the owner and any lienholder or furnish an abstract of title to such vehicle. The bureau shall give priority to the furnishing of this information and shall in all cases provide data in conformity with this section within thirty- (30) days of a request from a public agency.

(b) Upon receipt of the information requested from the bureau, the public agency shall cause to be placed in the United States mail, by certified mail, a written notice to the owner with a copy to any lienholder that the vehicle has been impounded and must be removed within (30) days of the date of mailing said notice, advising that the vehicle will be disposed of after that time and further advising the owner that all costs incurred in removing and storing such vehicle are his legal responsibility, listing all costs and anticipated costs thereon.

(c) If the owner or lienholder appears prior to disposal of said vehicle and pays all costs incurred against it at that time, then he shall be entitled to the return of said vehicle. If the owner cannot be located and he and any lienholder do not appear, the public agency shall sell such vehicle to the highest bidder at public sale. Notice of such sale shall be given as provided in this Ordinance. The purchaser at public sale shall be furnished a certificate of sale by the public agency. On presentation of such certificate together with a proper application from the purchaser, the bureau shall issue a title thereon to such purchaser. All funds derived from the sale of abandoned vehicles shall be received, accounted for and expended pursuant to

the terms of this Ordinance.

(d) If the vehicle or parts are in such condition that 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 in accordance with the provisions of Section 5 of this Ordinance.

**SECTION 8:** Vehicles Left on Private Property. Upon complaint of any owner or person in control of the premises that a vehicle has been left on said premises for forty-eight (48) hours or more without the consent of said owner or person in control thereof, an officer shall follow the procedures set forth in Section 5 or Section 6 of this Ordinance, depending upon his appraisal of the value of the vehicle shall be disposed of following the procedures outlined in said section.

**SECTION 9:** No Liability For Loss or Damage to Vehicle. Neither the owner, lessee, or occupant of the premises from which any abandoned vehicle shall be removed or the city or any scrap processor or auto wrecker shall be liable for any loss or damage to said vehicle which occurs during its removal or while in the possession of said city or its contractual agent as a result of any subsequent disposition.

**SECTION 10:** Proceeds of Sale/Credited Against Cost of Sale. The proceeds of sale of an abandoned vehicle in accordance with Section 5, 7 or 8 of this Ordinance shall be credited against all costs incident to the removal, storage and disposal of such vehicle.

**SECTION 11:** Maximum Towing and Storage Cost. In no event shall the owner of the motor vehicle be charged for towing or removing the vehicle a sum in excess of fifteen dollars (\$15.00), nor shall the cost of storage exceed the sum to two dollars (\$2.00) per day. The storage charge shall be limited to the number of days of actual storage.

**SECTION 12:** Proceeds of Sale/Disposition. All proceeds from the sale of abandoned vehicles or parts shall go to the county treasurer, city controller or clerk-treasurer and be placed by him in a revolving fund to be known as the "junk vehicle fund." The county council, common council or town board shall annually appropriate sufficient tax moneys to said fund in order to provide an adequate junk vehicle fund to be used only for the purposes enumerated in this Section. All moneys paid to the county, city or town by owners for the costs of removal, storage, and disposal of abandoned vehicles shall be placed in the junk vehicle fund.

**SECTION 13:** Exceptions. The provisions of this Ordinance shall not apply to:

- (a) Any vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;
- (b) Any vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;
- (c) Any vehicle located on a vehicle sale lot, at a commercial vehicle servicing facility or a vehicle located upon premises duly licensed or zoned as a junkyard, auto graveyard or scrap processing facility; and
- (d) Any motor vehicle eligible for registration and licensing as an antique motor vehicle.

SECTION 14: Penalty. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined an amount not exceeding twenty- five dollars (\$25.00) or be imprisoned not more than fifteen (15) days or be subject to fine and imprisonment.

SECTION 15: Separability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereunder.

SECTION 16: Repealer. [Ordinance No. 144](#) and any other ordinances in conflict herewith are hereby repealed.

SECTION 17: Effective Date. The Ordinance shall be in full force and effect from and after notice, passage by the Board of Trustees, all in the manner provided by law.

PASSED AND ADOPTED by the Board of Trustees of the Town of Battle Ground, Tippecanoe County, Indiana, on this 8th day of September, 1980.

Hugh Ralstin

ATTEST:

Judith E. Marks  
Judith E. Marks, Clerk-Treasurer