

ORDINANCE 3879

AN ORDINANCE FOR THE REMOVAL AND DISPOSAL OF ABANDONED VEHICLES

Whereas, the Goshen Common Council finds that abandoned vehicles create a health and safety hazard;

Whereas, Ordinance 3494 was passed and adopted March 3, 1992 to establish procedures for the removal and disposal of abandoned vehicles within the City of Goshen, and to establish charges for the towing and storage of abandoned vehicles;

Whereas, Ordinance 3494 specifically adopted the provisions of Indiana Code 9-22-1-1 through 9-22-1-32 pertaining to abandoned motor vehicles, and some sections of this chapter have been amended since the ordinance was originally passed; and

Whereas, the Goshen Common Council finds it necessary to update the ordinance for the removal of abandoned vehicles by passage of a new ordinance.

Now, therefore, be it ordained by the Common Council of the City of Goshen, Indiana, that:

Section 1. Adoption of Indiana Code 9-22-1 et seq.

This ordinance specifically adopts the provisions of Indiana Code 9-22-1-1 through 9-22-1-32 inclusive.

Section 2. Vehicle Defined

The term "vehicle" refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle.

(See 9-13-2-196)

Section 3. Abandoned Vehicle Defined

A. The term "abandoned vehicle" means the following:

1. A vehicle located on public property illegally.
2. A vehicle left on public property without being moved for three (3) 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 owner or person in control of that property for more than forty-eight (48) hours.
5. 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.

6. A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance 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.
7. 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.

(See 9-13-2-1)

- B. A vehicle otherwise fitting the definition of an abandoned vehicle shall not be considered an abandoned vehicle if it is:
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 or at a commercial vehicle servicing or leasing facility.
 4. A vehicle located upon property licensed or zoned as an automobile scrapyards.
 5. A vehicle registered and licensed under Indiana Code 9-18-12 as an antique vehicle.

(See 9-22-1-1)

- C. A vehicle shall not be considered an abandoned vehicle if it is stored in a garage or other building or within a fenced area which blocks the vehicle from public view.

Section 4. Parts Defined

The term “parts” refers to all components of a vehicle that as assembled do not constitute a complete vehicle.

(See 9-13-2-122)

Section 5. Enforcement Authority

The City of Goshen Ordinance Administrator, a representative of the Goshen Building Department, a representative of the Goshen Planning and Zoning Department, or any member of the Goshen Police Department, including the Public Services Officer, is hereby designated to carry out the provisions of this ordinance or the provisions of Indiana Code 9-22-1-1 through 9-22-1-32. For the purposes of this ordinance, the preceding authorized persons may hereafter be referred to as “officer.”

(See 9-22-1-2)

Section 6. Responsibility and Liability of Owner of Abandoned Vehicle or Parts

The person who owns an abandoned vehicle or parts is responsible for the abandonment and liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or the

parts. All costs incurred shall constitute a lien against the vehicle or parts, and the vehicle or parts shall not be released until all such costs are paid.

(See 9-22-1-4; 9-22-1-8)

Section 7. Tagging Abandoned Vehicle or Parts

- A. An officer authorized under section 5 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 seventy-two (72) hours.
 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 seventy-two (72) hours.

(See 9-22-1-11)

Section 8. Abandoned Vehicle Report

If a vehicle or a part tagged under section 7 is not removed within the seventy-two (72) hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

(See 9-22-1-12)

Section 9. Disposal of Vehicle or Parts

If, in the opinion of the officer, the market value of an abandoned vehicle or parts determined under section 8 is less than five hundred dollars (\$500.00), the officer may immediately dispose of the vehicle to an automobile scrapyard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the Indiana Bureau of Motor Vehicles. The city shall retain the original records and photographs for at least two (2) years.

(See 9-22-1-13)

Section 10. Towing and Storage of Vehicle or Parts

If, in the opinion of the officer, the market value of the abandoned vehicle or parts determined under section 8 is at least five hundred dollars (\$500.00), 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. After seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage area.

(See 9-22-1-14)

Section 11. Non-Liability for Loss or Damage

The City of Goshen shall not be liable for the loss or damage to a vehicle or parts occurring during the removal, storage or disposition of a vehicle or parts under this ordinance.

(See 9-22-1-32)

Section 12. Search by Indiana Bureau of Motor Vehicles for Owner or Lien Holder

A. Within seventy-two (72) hours after removal of an abandoned vehicle to a storage area under sections 9 or 10, the officer or storage lot shall prepare and forward to the Indiana Bureau of Motor Vehicles an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

1. The make.
2. The model.
3. The identification number.
4. The number of the license plate.

(See 9-22-1-19(a))

B. The officer or storage lot shall request that the bureau advise the officer or storage lot of the name and most recent address of the person who owns or holds a lien on the vehicle.

(See 9-22-1-19(b))

Section 13. Charges Allowed for Towing and Storage

A. The owner of an abandoned vehicle which is not removed within the seventy-two (72) hour period is responsible for the towing and storage charges incurred by the City of Goshen. The towing charge shall be the amount actually incurred by the city, but not exceed the sum of one hundred dollars (\$100.00). The storage charge shall be the amount actually incurred by the city, but not exceed one thousand dollars (\$1,000.00).

(See 9-22-1-25)

B. All costs incurred by the city against the vehicle or parts must be paid before the vehicle or parts will be released.

(See 9-22-1-8)

- C. The proceeds from the sale of an abandoned vehicle or parts by the Indiana Bureau of Motor Vehicles shall be credited against the cost of the removal, storage, and disposal of the vehicle.

(See 9-22-1-26)

- D. Should the proceeds from the sale of an abandoned vehicle or parts be insufficient to meet the total costs incurred for the removal, storage, and disposal of a vehicle or parts, the city may file suit in a court of competent jurisdiction against the person owning the abandoned vehicle or parts to collect the balance due.

Section 14. Abandoned Vehicle Fund

- A. The Abandoned Vehicle Fund established under Ordinance 3494 shall continue.

(See 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.

(See 9-22-1-25)

- C. The costs incurred by the city in administering this ordinance shall be paid from the abandoned vehicle fund.

(See 9-22-1-27(c))

- 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.

(See 9-22-1-27(d))

Section 15. Severability

If any provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions of this ordinance.

Section 16. Other Ordinances or Statutes

- A. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency. It is provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the ordinance or parts of ordinances are hereby ratified, re-established and confirmed.

- B. This ordinance specifically repeals Ordinance 3494.

- C. This ordinance shall not limit the authority of the City of Goshen from towing a vehicle prior to the seventy-two (72) hour period if authorized by another ordinance or statute.

Section 17. Effective Date

This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and publication according to the laws of the State of Indiana.

This Ordinance is duly passed by the Common Council of the City of Goshen, Indiana on April 12, 1999.

Presiding Officer

Attest:

Nancy Hoke, Clerk-Treasurer

This Ordinance, having been passed by the Common Council, is presented by me to the Mayor for his approval on April 12, 1999.

Nancy Hoke, Clerk-Treasurer

This Ordinance, having been passed by the Common Council and presented to me is approved by me and duly adopted on April 12, 1999.

Allan Kauffman, Mayor