

**GENERAL ORDINANCE 1-2009 AN ORDINANCE
AMENDING THE SWEETSER TOWN CODE BY PROVIDING FOR
THE REMOVAL AND FEES PAYABLE FOR THE REMOVAL OF
ABANDONED VEHICLES WITHIN THE TOWN OF SWEETSER,
INDIANA (AMMENDS 1989-8)**

WHEREAS, the Town Council of Sweetser has deemed it necessary for the public health and safety to provide for the removal and fees payable for the removal of abandoned vehicles within the Town of Sweetser, Indiana.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Sweetser, Indiana, the Sweetser Town Code is amended by adding to Title 9 Highways, Article 9 Abandoned and Stolen Vehicles-Miscellaneous Provisions, Chapter 1 Removal and Disposal of Abandoned Vehicles to read as follows:

(9-22-1 and 9-13-2-1)

**Title 9
Highway**

**Article 9. Abandoned and Stolen Vehicles-Miscellaneous Provisions
Article 9
Abandoned and Stolen Vehicles-Miscellaneous Provisions
Chapter 1. Abandoned Vehicles**

Section: 9-9-1.1:

Abandoned Vehicles-Removal-Fees

(a). Definitions. The following definitions shall apply to the interpretation and enforcement of this Ordinance.

- (1) "Vehicle" means a machine propelled by power other than human power designed to travel along the ground or in the air by use of wheels, treads, runners, slides or similar devices, and transport persons or property, or pull machinery, and includes but is not limited to the automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, motorized bicycle, buggy and wagon.
- (2) "Abandon Vehicle" means:
 - (A) A vehicle located on public property illegally;
 - (B) 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;

(C) A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperable and left on public property;

(D) A vehicle left on public property continuously without being moved from Seventy-two (72) hours;

(E) A vehicle that has remained on private property without the consent of the owner, or person in control of that property, for more than seventy-two (72) hours. (Nothing in this statute shall prevent a property owner from removing, at any time and in any lawful manner, a vehicle left on his own property without his consent, except in a case where the owner of the vehicle also resides on the property where the vehicle is left. If the owner requests the town's assistance in removal of the vehicle, however, this statute governs all stages of removal);

(F) A vehicle from which there has been removed the engine, transmission or differential or that is otherwise dismantled or inoperable and is left on private property continuously in a location visible from public property for more than thirty (30) days;

✓ (G) A vehicle that is more than three (3) or more model years old and mechanically inoperable, continuously in a location visible from public property for more than twenty (20) days.

(H) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance of this chapter if the vehicle once impounded is not claimed or redeemed by the owner or his agent within fifteen (15) days of its removal; or

(I) The following described vehicles do not fit within the definition of "abandoned vehicles":

- a. A vehicle in operable condition specifically adopted or constructed for operation on private 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 servicing facility;
- d. A vehicle located upon property licenses or zones as an automobile scrap yard;

- e. A vehicle registered and licensed under IC 9-7-6 as an antique vehicle;
- f. A vehicle being dismantled to keep another vehicle in running condition if the owner has obtained a 60-day permit from the Marshal's Office, Director of the Area Plan Commission, or Nuisance Abatement Office for the Town of Sweetser, for the completion of the work, which permit is conditioned upon the owner or operator of the dismantled vehicle hauling away the dismantled vehicle after the 60-day period has expired or;
- g. A vehicle concealed in a garage or other building, with the owner's knowledge and consent.

(J) "Parts" refers to all components of a vehicle that as assembled do not constitute a complete vehicle and are placed in the same manner as an "abandoned vehicle" in Section (a) (2).

(K) "Towing Service" means a business that engages in moving or removing disabled vehicles and, once removed, to store or impound vehicles.

(L) "Person" means any individual, firm, partnership, association, corporation, company, fiduciary, government entity or organization of any kinds.

(M) "Owner" means that last record titleholder of a vehicle according to the records of the Bureau of Motor Vehicles under IC 9-1-2.

(N) "Public Property" means a public right-of-way, street, highway, alley, park, or other state, country or municipal property located within the Town of Sweetser.

(O) "Private Property" means all property other than public property within the Town of Sweetser.

(b) Rule. No person shall leave an abandoned vehicle, as described above in Sections (a) (1) and (2) (A) – (H), or parts, as described above in Sections (a) (4), on public or private property in the Town of Sweetser.

(c) Enforcement Authority. The Marshal's Department, Director of the Area Plan Commission, and the Nuisance Abatement Officer of the Town of Sweetser (hereinafter collectively called "Officer") are hereby authorized to enforce this ordinance in accord with the procedure described below.

(d) Enforcement Procedure.

(1) Identification of Abandoned Vehicle: Abandoned Vehicles shall be identified in the following manner:

(A) If the Officer finds a vehicle her believes to be abandoned vehicle, he may immediately follow the procedures set forth below in Section (d) (2), et. seq.;

(B) Upon complaint of a private property owner or person in control of the property that a vehicle has been left on the property for forty-eight (48) sours or more without the consent of the owner or person in control, an officer shall follow the procedures set forth in Section (d) (2), et. seq.;

(C) (i) When an Officer discovers a vehicle in the possession of a person other than the owner and the person cannot established his right to the possession of that vehicle, the vehicle shall be taken to and stored in a suitable place. The Bureau of Motor Vehicles shall be notified within seventy-two (72) hours of the location and the description of the vehicle. Upon receipt to be made to determine and notify the owner in accordance with section (d) (3). (ii) If the owner of the vehicle cannot be determined, the Bureau shall declare the vehicle abandoned and provide for its disposal in accordance with this chapter. (iii) If the properly identified owner or lien holder appears at the site of storage before disposal of the vehicle or parts and pays all property costs incurred against it at the time, then the vehicle or parts shall be released. A copy of the releases of all vehicles or parts shall be sent to the Bureau. The release must contain the owner or lien holder's signature, name, address, vehicles or parts description, costs, and date or release. (iv) If the vehicle is not released to the owner or lien holder, the Bureau shall declare the vehicle abandoned and provide for disposal in accordance with this chapter.

(2) Marking, Reporting and Possessing of Abandoned Vehicle

(A) An Officer who finds a vehicle or parts believed to be abandoned shall attach in a prominent place, a notice tag, containing the following information: (i) The date, time, officer's name, public agency, and address and telephone number to contact for information. (ii) That the vehicle or parts are considered abandoned. (iii) that the vehicle or parts will be removed after seventy-two (72) hours or, if the vehicle fits in section (a) (2) (F) or (G), after thirty (30) days. (iv) That the owner will be held responsible for all costs incidental to the removal, storage, and disposal, and if not paid the owner's registration privileges will be suspended on that car. (v) That the power may avoid costs by removal of the vehicle or parts within seventy-two (72) hours, or within thirty (30) days if the vehicle fits in Section (a) (2) (F) or (G).

(B) If the tagged vehicle or parts are not removed within that seventy-two (72)hour period or the thirty (30) day period if applicable, the Officer or his designee under the supervision of 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 that the market value is less than One Hundred Dollars (\$100.00). Photographs shall be taken to described the condition of the vehicle or parts.

- (C) If, in the opinion of the Officer, the market value of the abandoned vehicle or parts is less than One Hundred Dollars (\$100.00), the Officer or his designee under the supervision of the Officer shall immediately dispose of the vehicle to an automobile scrap yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forward to the Bureau. The public agency shall retain the original records and photographs for at least two (2) years.
- (D) If, in the opinion of the Officer, the market value of the abandoned vehicle or parts is One Hundred Dollars (\$100.00) or more, the Officer, before placing a notice tag on the vehicle or parts shall make a reasonable efforts to ascertain the owner or person 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.

(3) Report to Bureau of Motor Vehicles, Tracing of Owner

(A) Within seventy-two (72) hours after removal of the abandoned vehicle to a storage area under this chapter, the officer, or his designee, under the supervision of the Officer, shall prepare and forward to the Bureau an abandoned vehicle report containing a description of the vehicle including the make, model, engine number, if any, identification number, the number of the license plate, and request that the Bureau advise the Officer of the name and most recent mailing address of the owner and any lienholder.

(B)The Bureau shall:

(i) Conduct a reasonable search through the National Automobile Theft Bureau and the Indiana State Police Department to determine whether the vehicle or parts have been reported as stolen; (ii) Conduce a reasonable search of Bureau records to determine the owner of the vehicle or parts or lienholder or record; and (iii) If a reasonable search discloses the name and address of the owner or lienholder, mail a written notice, by first class mail to:

- (a) The owner, with a copy to any lienholder if the Bureau disposes of the vehicle; and
- (b) The Officer, indicating that the vehicle or parts have been impounded ata certain location and

must be removed within fifteen (15) days of the date of mailing of the notice and advising that the vehicle or parts will be disposed of after that time. (iv) The Bureau or the officer shall further advise the owner or any lienholder that all costs incurred in removing and storing the vehicle or removing and storing the vehicle or parts are his legal responsibility.

(4) Disposal of Vehicle if Owner or Lienholder Fails to Appear

- (A) If the vehicle or parts are in such condition that the vehicle identification numbers or other means of identification are not available to determine the owner or lienholder, the vehicle may be disposed of without notice by the Town of Sweetser.
- (B) If the owner or lienholder does not appear within fifteen (15) days after mailing of notice, the Town of Sweetser shall sell the vehicle or parts to the highest bidder at a public sale conducted after notice under IC 5-3-1, except only one (1) newspaper insertion one (1) week before the public sale is required. The town may elect to sell the vehicle or parts as unclaimed property in accordance with IC 36-1-11, except that the fifteen (15) day period for the property to remain unclaimed is sufficient.
- (C) The purchaser shall be furnished a bill of sale for each abandoned vehicle sold by the Bureau or the Town of Sweetser. The fee for the bill of sale is Six Dollars (\$6.00). Should the purchaser wish to obtain a title for the vehicle acquired, he shall present evidence from a law enforcement agency that the vehicle is roadworthy and pay the appropriate title fee.

(5) Costs of Enforcement and Application of Costs

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

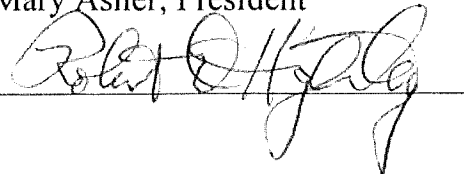
- (B) Exempt from Liability. Neither the owner, lessee, or occupancy of the property from which an abandoned vehicle or parts are removed nor a public agency, towing service, or automobile scapyard is liable for loss or damage to the vehicle or parts occurring during its removal, storage, or disposition.
- (C) Abandoned Vehicle Account. The Town of Sweetser shall keep an abandoned vehicle account to help defray the costs of enforcing this ordinance. At the end of each fiscal years, all monies in this account in excess of Twenty-Thousand Dollars (\$20,000.00) shall be transferred from the abandoned vehicle account to the motor vehicle highway account.
- (D) Allocation of Costs. The costs of towing, storing and removing and disposing of an abandoned vehicle shall be allocated as follows: (i) The owner or lienholder shall pay this cost in an amount not in excess of One Hundred Fifty Dollars (\$150.00). (ii) The rest of the costs shall be paid from the abandoned vehicles account.
- (E) Proceeds. All proceeds from the sale shall be deposited with the Clerk Treasurer and placed by her in the Town's Abandoned Vehicle Account.
- (F) Penalty. A violation shall be punishable in a fine of note more than One Hundred Dollars (\$100.00). Each day a violation continues constitutes a separate ordinance violation.

THIS ORDINANCE SHALL BECOME EFFECTIVE ON February 12, 2009 and after its required publication.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SWEETSER, INDIANA, this 12th day of February, 2009.

THE TOWN COUNCIL OF SWEETSER, INDIANA

Mary Asher, President



Robert Highley, Vice President

Virginia Hiatt
Virginia Hiatt

Howard Schick
Howard Schick

Charles Briede
Charles Briede

ATTEST:

V. Jill Johnson
V. JILL JOHNSON
CLERK-TREASURER

Parallel Citations

9-22-1

9-13-2-1

Publish on _____

(Res. Kin 2/13/09 - He
will get published.)