

ORDINANCE NO. #104- 13

AN ORDINANCE REPEALING CHAPTER 90 OF THE TOWN OF FRANKTON CODE OF ORDINANCES AND ESTABLISHING ABANDONED VEHICLE REGULATIONS WITHIN THE TOWN OF FRANKTON, INDIANA.

WHEREAS, Ind. Code § 9-22 et. al. provides authorization for a municipal legislative body to regulate abandoned vehicles; and

WHEREAS, Chapter 90, Abandoned and Junk Vehicles, of the Town of Frankton Code of Ordinances is hereby repealed; and

WHEREAS, the Town Council of the Town of Frankton, Indiana deems it to be within the public interest to further the public safety, health, welfare, general aesthetics, and common good within the Town of Frankton to adopt an ordinance regulating abandoned vehicles.

NOW, THEREFORE, BE IT ORDAINED, ORDERED, RESOLVED AND ESTABLISHED by the Town Council of the Town of Frankton, Madison County, Indiana, as follows:

Section 1. For the purposes of this Ordinance, and in accordance with Ind. Code § 9-13-2-1, abandoned vehicle shall mean 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 Ind. Code § 9-13-2 et. seq. 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 Section 1(G), a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.

Notwithstanding the foregoing, the phrase "abandoned vehicle" shall not include a vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways, a vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment, a vehicle located on a vehicle sale lot, a vehicle located upon property licensed or zoned as an automobile scrap yard, a vehicle registered and licensed under Ind. Code § 9-18-12 as an antique vehicle, a golf cart, or an off-road vehicle.

Section 2. A Town Marshal, Deputy Marshal, or Reserve Officer of the Town of Frankton, Indiana (each collectively referred to herein as 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:

- (A) The date, time, Officer's name, Town of Frankton, and address and telephone number to contact for information.

- (B) That the vehicle or parts are considered abandoned.
- (C) That the vehicle or parts will be removed after:
 - (1) Twenty-four (24) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under Ind. Code § 8-23-4; or
 - (2) Seventy-two (72) hours, for any other vehicle.
- (D) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.
- (E) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within
 - (1) Twenty-four (24) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under Ind. Code § 8-23-4; or
 - (2) Seventy-two (72) hours, for any other vehicle.

Section 3. If the vehicle or part tagged under Section 2 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. The owner of an abandoned vehicle or parts shall be responsible for the abandonment and liable for all of the costs incidental to the removal, storage, and disposal in accordance with Ind. Code § 9-22-1-4.

Section 4. Storage and disposal of abandoned vehicle or parts.

- (A) In accordance with Ind. Code § 9-22-1-13, if the vehicle is a junk vehicle and the market value of the abandoned vehicle or parts is less than one thousand dollars (\$1,000), and after the applicable notice period described in Section 2, a towing service shall immediately transfer the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs, if any, relating to the abandoned vehicle shall be provided to the storage yard. The towing service or storage yard may dispose of such an abandoned vehicle, and maintain records and provide any required notice to the Bureau of Motor Vehicles of the same, in accordance with Ind. Code. § 9-22-1-13. This Section 4(A) shall not be construed as the adoption of an ordinance by the Town of Frankton in accordance with § 9-22-1-13(b).
- (B) If, in the opinion of the Officer, the market value of the abandoned vehicle or parts is at least one thousand dollars (\$1,000), the Officer, before placing the notice tag described in Section 2 of this Ordinance 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 yard.
- (C) Notwithstanding anything to the contrary in Sections 4(A) and (B) of this Ordinance, within seventy-two (72) hours after removal of a vehicle to a storage yard or towing service, the towing service shall conduct the search and provide the notification prescribed by Ind. Code § 9-22-1-19. However, if the 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 to the extent allowed by law.
- (D) The storage yard or towing service storing a vehicle described in Section 4(B) of this Ordinance shall notify the Town of Frankton if the person who owns or holds a lien upon the vehicle does not appear within twenty (20) days after the notice described by Section 4(C) of this Ordinance, and the Town of Frankton may sell the vehicle or parts to the highest bidder at a public sale, after providing notice of the sale in accordance with Ind. Code § 5-3-1, except that only one newspaper insertion one week before the public sale shall be required. A bill of sale shall be provided in accordance with Ind. Code § 9-22-1-24.

Section 5. Notwithstanding anything provided in Section 4 of this Ordinance, 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, and the towing or storage service shall immediately notify the Town of Frankton of such release. Such notification shall include the name, signature, and address of the person that owns or holds the lien on the vehicle, a description of the vehicle or parts, costs, and the date of release.

Section 6. An abandoned vehicle fund is hereby established in accordance with Ind. Code § 9-22-1-30. The Town Council of the Town of Frankton shall annually appropriate sufficient money to the abandoned vehicle fund to carry out the purposes of this Ordinance, and the money remaining in the abandoned vehicle fund at the end of the year shall remain in the abandoned vehicle fund and shall not revert to the general fund.

(A) The Town of Frankton hereby establishes a towing charge of \$75.00 and a storage charge of \$25.00 per day (not to exceed \$1,500), which shall be filed with the Bureau of Motor Vehicles. The costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on the vehicle shall be paid from the abandoned vehicle fund; however, the proceeds of the sale of an abandoned vehicle or parts shall be credited against the costs of removal, storage, and disposal of the vehicle. All other costs incurred by the Town of Frankton in administering this Ordinance shall be paid from the abandoned vehicle fund.

(B) The proceeds from the sale of abandoned vehicles or parts shall be deposited into the Town of Frankton's abandoned vehicle fund.

Section 7. This ordinance shall be in full force and effect upon its passage and publication as provided by law.

Section 8. This ordinance repeals all ordinances or parts of ordinances in direct conflict therewith.

ORDAINED AND ADOPTED this _____ day of _____ 2013.

TOWN COUNCIL OF THE
TOWN OF FRANKTON,
COUNTY, INDIANA:

MADISON

President

Councilmember

Councilmember

Attest:

Clerk-Treasurer

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