

**ORDINANCE 2020-04**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 96  
OF THE CITY OF AUSTIN, INDIANA CODE OF  
ORDINANCES REGULATING ABANDONED VEHICLES**

**WHEREAS**, the Austin Common Council finds that abandoned vehicles create a health and safety hazard; and

**WHEREAS**, Ordinance 2001-08 was passed and adopted May 8, 2001 to establish procedures for the removal and disposal of abandoned vehicles within the City of Austin, and to establish charges for the towing and storage of abandoned vehicles; and

**WHEREAS**, Ordinance 2001-08 specifically adopted certain provisions of Indiana Code (I.C.) that have been repealed and replaced by I.C. 9-22-1-1 through 9-22-1-32 pertaining to abandoned motor vehicles; and

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

**THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF AUSTIN** that Chapter 96 of the Code of Ordinances is repealed and replaced as follows:

**SECTION 1: Adoption of Indiana Code 9-22-1 et seq.** This ordinance specifically adopts the provisions of I.C. 9-22-1-1 through 9-22-1-32.

**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.

**SECTION 3: Abandoned Vehicle Defined.**

1. The term “abandoned vehicle” means the following:
  - a. A vehicle located on public property illegally.

- b. A vehicle left on public property without being moved for three (3) days.
  - 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 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 the purposes of this section, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.
2. A vehicle otherwise fitting the definition of an abandoned vehicle shall not be considered an abandoned vehicle if it is:
- 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 vehicle sale lot or at a commercial vehicle servicing or leasing facility.
  - d. A vehicle located upon property licensed or zoned as an automobile scrapyard.
  - e. A vehicle registered and licensed under Indiana Code 9-18-12 as an antique vehicle.
3. 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.

**SECTION 5: Enforcement Authority.** The City of Austin Ordinance Enforcement Officer(s) or any member of the Austin Police Department is hereby designated to carry out the provisions of this ordinance or the provisions of I.C. 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.”

**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.

**SECTION 7: Tagging Abandoned Vehicle or Parts.**

1. 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:
  - a. The date, time, officer's name, public agency, 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 seventy-two (72) hours.
  - 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 seventy-two (72) hours.

**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.

**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 seven hundred and fifty dollars (\$750.00), 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.



**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 seven hundred and fifty dollars (\$750.00), 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.

**SECTION 11: Non-Liability for Loss or Damage.** The City of Austin, and any of the City's agents, 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.

**SECTION 12: Search for Owner or Lien Holder.**

1. Within three (3) business days after removal of an abandoned vehicle to a storage area under sections 9 or 10, the officer or towing service shall conduct a search of the National Motor Vehicle Title Information System or an equivalent and commonly available data base, to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle.
2. The officer or towing service that obtains the name and address of the owner of or lienholder on a vehicle shall, not later than three (3) business days after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the following:
  - a. The name, address, and telephone number of the City or towing service.
  - b. That storage charges are being accrued and the vehicle is subject to sale if the vehicle is not claimed and the charges are not paid.

- c. The earliest possible date and location of the public sale or auction.
3. The notice must be made by certified mail or a certificate of mailing or by means of an electronic service approved by the bureau.

**SECTION 13: Disposal of Vehicle.** The provisions of I.C. 9-22-1-23 shall govern the disposition and sale of stored vehicles.

**SECTION 14: Charges Allowed for Towing and Storage.**

1. 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 Austin. The towing charge shall be the amount actually incurred by the city, but not exceed the sum of two hundred dollars (\$200.00). The storage charge shall be the amount actually incurred by the city, but not exceed two thousand dollars (\$2,000.00).
2. All costs incurred by the city against the vehicle or parts must be paid before the vehicle or parts will be released.
3. The proceeds from the sale of an abandoned vehicle or parts shall be credited against the cost of the removal, storage, and disposal of the vehicle.
4. 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 15: Abandoned Vehicle Fund.**

1. The Abandoned Vehicle Fund established under Ordinance 2001-08 shall continue.

2. 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.
3. The costs incurred by the city in administering this ordinance shall be paid from the abandoned vehicle fund.
4. 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.

**SECTION 16: Nuisance Declared.** Abandoned or junk vehicles are detrimental to the health, safety, and welfare of the general public. These vehicles constitute a hazard to the health and welfare in that such vehicles furnish shelter and breeding places for vermin and insects. These vehicles constitute a hazard to safety in that said vehicles can have areas of confinement which cannot be opened from the inside such as trunk compartments and engine compartments and present physical dangers to the safety and well-being of the citizens. In addition, such vehicles are a detriment to the economic welfare of the city, by producing a scenic blight which is averse to the maintenance and continuing development of the city. Such vehicles are declared to be a public nuisance and safety and health hazard.

**SECTION 17: 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 18: Other Ordinances or Statutes.**

1. 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

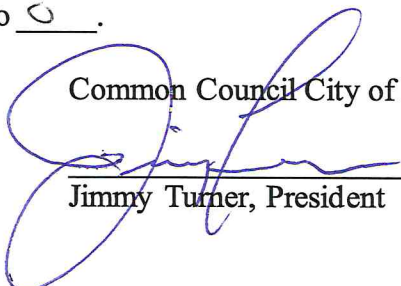
shall be only to the extent of such inconsistency, and in all other respects the ordinance or parts of ordinances are hereby ratified, re-established and confirmed.

2. This ordinance specifically repeals Ordinance 2001-08.
3. This ordinance shall not limit the authority of the City of Austin from towing a vehicle prior to the seventy-two (72) hour period if authorized by another ordinance or statute.

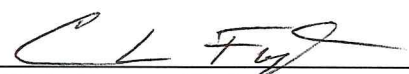
**SECTION 19: Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND ADOPTED by the Common Council of the City of Austin, Indiana on December 8, 2020 by a vote of 5 to 0.

Common Council City of Austin, Indiana

  
Jimmy Turner, President

Attest:

  
Chris Fugate, Clerk-Treasurer


Presented by me to the Mayor of the City of Austin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, on December 8, 2020 at 6:20 p.m.

  
Chris Fugate, Clerk-Treasurer

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1), on December 8, 2020 at 6:20 p.m.

  
Roger Hawkins, Mayor

Attest:

  
Chris Fugate, Clerk-Treasurer



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