

ORDINANCE NO. 2007 –07

AN ORDINANCE REGULATING ABANDONED VEHICLES, DEMOLITION DERBY CARS
AND/OR ANY OTHER RACE CAR, AND JUNK VEHICLES

ARTICLE I. DEFINITIONS.

1.1 The following terms, phrases, words and their derivations shall have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number. The word “shall” is always mandatory and not merely directory:

A) Abandoned Vehicle.

- 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 vehicle traffic on a public right-of-way;
- 4) 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;
- 5) A vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours;
- 6) A vehicle that has been removed by a towing service or the Town upon request of an officer enforcing a statute or ordinance other than this chapter, if the impounded vehicle is not claimed or redeemed by the owner or the owner’s agent within 20 days of the vehicle’s removal; and
- 7) A vehicle that is at least three (3) model years old, mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days.

(IC 9-13-2-1)

B) Automobile Scrap Yard. A business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junkyard. ((C 9-13-2-9)

C) Bureau. The Indiana Bureau of Motor Vehicles. (IC 9-13-2-16)

D) Fiscal Body. The Council of the Town of Wolcott.

E) Officer. The Town Marshal, his or her designee, or a member of the Wolcott Police Department. (IC 9-22-1-2)

F) Owner. The last known record titleholder of a vehicle, according to the records of the State Bureau under IC 9-17. (IC9-13-2-121c).

G) Parts. All components of a vehicle that, as assembled, do not constitute a complete vehicle. (IC 9-13-2-122).

H) Private Property. All property other than public property. (IC 9-13-2-144).

I) Towing Service. A business that engages in moving or removing disabled vehicles and, once removed, stores or impounds vehicles. (IC 9-13-2-179)

J) Vehicle. An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, or motorized bicycle. (IC 9-13-2-196(d)).

ARTICLE II. REGULATION OF DEMOLITION DERBY CARS, JUNK CARS, ABANDONED VEHICLES, ETC.

2.1 ADOPTION OF INDIANA CODE 9-13-2 ET SEQ. AND 9-22-1 ET SEQ. This ordinance specifically adopts the provisions of the Indiana Code 9-13-2 e seq. and 9-22-1 et seq., a periodically amended.

2.2 RESPONSIBILITY OF OWNER. The person who owns an abandoned vehicle or parts is responsible for the abandonment and is liable for the entire costs incidental to the removal storage, and disposal of the vehicle or the parts under this chapter. (IC 9-22-1-4)

2.3 DEMOLITION DERBY CARS. Vehicles in an operable condition specifically adapted or constructed for exclusive operation on privately owned raceways, or parts thereof, shall not be stored on private or public property unless stored inside a closed structure out of public view.

2.4 JUNK CARS. It shall be unlawful for any person to park a motor vehicle without current license plates or in an inoperable condition on private or public property unless stored inside a closed structure out of public view.

3.0 VEHICLES IN POSSESSION OF PERSON OTHER THAN OWNER.

- A) When an officer discovers a vehicle in the possession of a person other than the person who owns the vehicle, and the person cannot establish the right to the possession of the vehicle, the vehicle shall be taken to and stored in a suitable place. The State Bureau of Motor Vehicles shall be notified within 72 hours of the location and description of the vehicle. Upon receipt of notification, the Bureau shall cause a search to be made to determine and notify the person who owns the vehicle. (IC 9-22-1-5 and 9-22-1-6)
- B) If the person who owns the vehicle cannot be determined by a search under subtitle 4.0 B, the Bureau shall declare the vehicle abandoned and provide for its disposal in accordance with this chapter. (IC 9-22-1-7)
- C) 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. The release must state the name, signature, and address of the person who owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and date of release, and, if possible, a picture identification of that person who owns or holds a lien on the vehicle. A towing operator shall notify the Bureau of all releases under this section. (IC 9-22-1-8 and 9-22-1-9)

4.0 RENTAL PROPERTY.

- A) A person who finds a vehicle believed to be abandoned on the person's rental property shall attach in a prominent place a notice tag containing the following information:
 - 1. The date, time, name, and address of the person who owns the rental property, and a telephone number to contact for information.
 - 2. That the vehicle is considered abandoned;
 - 3. That the vehicle will be removed after 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; and
 - 5. That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours. (IC 9-22-1-15)
- B) If, after 72 hours, the person who owns a vehicle believed to be abandoned on rental property has not removed the vehicle from the rental property, the person who owns the rental property may have the vehicle towed from the rental property. The towing operator shall do the following:
 - 1. Contact the Bureau of Motor Vehicles to obtain the name and address of the person who owns the vehicle; and

2. Deliver, by certified mail, a copy of the information contained in the notice required under division (B) of this section to the person who owns the vehicle. The notice required by this Division (C) (2) must be given not later than five (5) days after the vehicle is removed. (IC 9-22-1-16(a))
- C) Notwithstanding Division (B) of this section, in an emergency situation, a vehicle may be removed immediately. As used in this section, EMERGENCY SITUATION means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the owner of the rental property or poses a threat to the safety or security of persons or property, or both. (IC 9-22-16(b))
- D) A towing operator who tows a vehicle under Division (C) of this section shall give notice to the Town and Bureau of Motor Vehicles that the abandoned vehicle is in the possession of the towing operator. (IC 9-22-1-17)

5.0 REMOVAL OF ABANDONED VEHICLE AND/OR PARTS

- A) 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:
1. The date, time, officer's name, Wolcott Police Department, 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 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; and
 5. That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours. (IC 9-22-1-110)
- B) If a vehicle or a part tagged under Division (A) of this section is not removed within the 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition of 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. (IC 9-22-1-12)

6.0 DISPOSITION OF ABANDONED VEHICLES AND/OR PARTS VALUED OF \$500.00 OR LESS.

- A) If in the opinion of the officer, the market value of an abandoned vehicle or parts determined under Division 4.0 B of this section is less than Five Hundred Dollars (\$500), 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 forwarded to the State Bureau of Motor Vehicles. The Wolcott Police Department or Town Marshal shall retain the original records and photographs for at least two (2) years. (IC 9-22-1-13)
- B) If, in the opinion of the officer, the market value of the abandoned vehicle or parts determined under Division 4.0 B of this section is at least \$500, 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 72 hours, the officer shall require the vehicle or parts to be towed to a storage area. (IC 9-22-1-18)
- C) Upon complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in Divisions 3.0 – 4.0 of this section.

7.0 DISPOSAL OF ABANDONED VEHICLES.

- A) Within 72 hours after removal of an abandoned vehicle to a storage area under Divisions 2.4, 3.0, or 4.0, the Wolcott Police Department, Town Marshal, or storage lot shall prepare and forward to the State Bureau of Motor Vehicles, an abandoned vehicle report containing a description of the vehicle, including the make, the model, the identification number, and the number of the license plate.

The Town or storage lot shall request that the Bureau advise the Town or storage lot of the name and most recent mailing address of the person who owns or holds a lien on the vehicle. (IC 9-22-1-19)

- B) The Bureau shall dispose of the vehicle in accordance with IC 9-22-1-20.
- C) The Bureau or town shall further advise the person who owns or holds a lien on the vehicle that all costs incurred in removing and storing the vehicle or parts are the person's legal responsibility. (IC 9-22-1-20)

7.1 TOWING CONTRACTS. To facilitate the removal of abandoned vehicles or parts, the Town may employ personnel; acquire equipment, property, and facilities; and enter into towing contracts for the removal, storage and disposition of abandoned vehicles and parts (IC 9-22-1-3).

7.2 LIABILITY FOR LOSS OR DAMAGE. The following are not liable for loss or damage to a vehicle or parts occurring during the removal, storage, or disposition of a vehicle or parts under this chapter:

- A) A person who owns, leases, or occupies property from which an abandoned vehicle or parts are removed;
- B) The Town;
- C) A towing service; and
- D) An automobile scrap yard.

(IC 9-22-1-32)

8.0 OTHER ORDINANCES OR STATUTES:

- A) All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency. Provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the ordinance or parts of ordinance are hereby ratified, re-established, and confirmed.
- B) This ordinance shall not limit the authority of the Town of Wolcott from towing a vehicle prior to the seventy-two (72) hour period if authorized by another ordinance or statute.

8.1 CONSTRUCTION OF CLAUSE HEADINGS. The clause headings appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain.

8.2 SEVERABILITY OF PROVISIONS. If any part of this ordinance is held to be invalid, such part will be deemed severable and its invalidity will have no effect upon the remaining provisions of this ordinance.

8.3 DURATION AND EFFECTIVE DATE. This ordinance shall be in full force and effect beginning July 1, 2007 from and after its passage by the Council of the Town of Wolcott, and publication according to the laws of the State of Indiana.

Introduced and Filed on the 15th day of May, 2007. A motion to consider same on the First Reading or day of introduction was sustained by a vote of 3 in Favor and 0 Opposed, pursuant to Indiana Code 36-4-6-13).

DULY PASSED AND ADOPTED this 15th day of May, 2007 by the Council of the Town of Wolcott, White County, Indiana, having been passed by a vote 3 in Favor and 0 Opposed.

AYE

NAY

Not in Attendance
Robin D. Hensler, Council President

Robin D. Hensler, Council President

Marsha L. Mackey, Member

Marsha L. Mackey, Member

Danny L. Sheets, Member

Danny L. Sheets, Member

Jon H. Evans, Member

Jon H. Evans

Richard A. Lynn, Member

Richard A. Lynn, Member

ATTEST:

Linda S. Bajzatt, IAMC, CMC
Clerk-Treasurer