ORDINANCE NO. 2, 2014

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, TO AMEND CHAPTER 10.48 OF THE COLUMBUS CITY CODE, ABANDONED VEHICLES

WHEREAS, Indiana Code 36-1-3 et. seq. confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government;

WHEREAS, Indiana Code 36-4-6-18 authorizes the Common Council of the City of Columbus, Indiana to pass such ordinances, orders, resolutions and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit; and

WHEREAS, it is the desire of the Common Council to appropriately regulate abandoned, inoperable, and unlicensed vehicles operations within the City of Columbus.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AS FOLLOWS:

Section I. Chapter 10, Section 48 of the Columbus City Code, is hereby amended to read as follows:

Chapter 10.48 – Abandoned, Unlicensed, and Inoperable Vehicles

10.48.001 Purpose.

The purpose of this chapter is to monitor, control, or prohibit the keeping of motor vehicles 1) which are abandoned, 2) without current license plates and 3) which are in an inoperable condition, on private or public property and to provide penalties and violations thereof.

10.48.010 Declared a public nuisance.

The common council finds that abandoned,, unlicensed and inoperable vehicles are a public nuisance and a safety and health hazard to the citizens of the city.

10.48.020 Exemptions.

This chapter does not apply to:

A. A vehicle in operable condition specifically adopted 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 facility;

D. A vehicle located upon property being properly used as a vehicle repair business.

E. A vehicle located upon property licensed or zoned as an automobile scrapyard; or

F. A vehicle registered and licensed under Indiana Code 9-22-1 as an antique vehicle.

10.48.030 Definitions.

As used in this chapter, the following terms have the following definitions unless otherwise designated:

"Abandoned vehicle" means:

1. A vehicle located on public property illegally;

2. A vehicle located on public property continuously without being moved for three days, but the timeframe shall be extended to thirty days for a properly licensed vehicle located on public property in front of the legal or temporary residence of the owner of said vehicle;

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 there has been removed the engine, transmission or differential or that is otherwise partially dismantled or inoperable and left on public property; or

5. A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than this chapter, if the vehicle once impounded is not claimed or redeemed by the owner or his agent within fifteen days of its removal.

"Automobile scrapyard" means a business organized for the purpose of scrap metal processing, automobile wrecking or operating a junkyard.

"Board" refers to the board of public works and safety of the city.

"Bureau" refers to the Indiana Bureau of Motor Vehicles.

"Enforcement Officer" means a code enforcement officer of the city.

"Inoperable vehicle" means a motor vehicle from which there has been removed the engine, transmission or differential, or that is otherwise partially dismantled or mechanically inoperable.

"Lienholder" refers to a person holding a valid lien, mortgage, security interest or interest under a conditional sales contract, or a person noted as a lienholder according to the records of the bureau.

"Officer" means:

1. A regular member of the police department;

2. An individual of an agency other than the police department designated by the board to enforce this chapter.

"Owner" means the last known record titleholder of a vehicle according to the records of the bureau under Indiana Code 9-22-1 *et seq.*

"Parts" refers to all components of a vehicle that as assembled do not constitute a complete vehicle.

"Person" means individual, firm, corporation, association, fiduciary or governmental entity.

"Private property" means all property other than public property.

"Public property" means a public right-of-way, street, highway, alley, part or other state, county or municipal property.

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

"Unlicensed vehicle" means a vehicle which does not have a current license plate or is improperly registered.

"Vehicle" refers to any land vehicle which can be used for towing or transporting people or materials including, but not limited to, an automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, recreational vehicle or motor home.

10.48.040 Liability of owner.

The owner of an abandoned, unlicensed or inoperable vehicle is responsible for the current condition and is liable, to the extent of the fair market value of the vehicle, for all of the costs incidental to the removal, storage and disposal of the vehicle or the parts.

10.48.050 Declaration of abandonment--Release to owner or lienholder upon payment of costs--Disposal.

A. When an officer discovers a vehicle in the possession of a person other than the owner and the person cannot establish his right to the possession of that vehicle, the vehicle shall be taken to and stored in a suitable place. The bureau shall be notified within seventy-two 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 owner in accordance with Indiana Code 9-22-1.

B. If the owner of the vehicle cannot be determined, the bureau shall declare the vehicle abandoned and provide for its disposal in accordance with Indiana Code 9-22-1.

C. If the properly identified owner or lienholder appears at the site of storage before disposal of the vehicle and pays all proper costs incurred against the vehicle at that time, then the vehicle shall be released. A copy of the release of all vehicles shall be sent to the bureau. The release must contain the owner or lienholder's signature, name, address, vehicle or parts description, costs and date of release.

D. If the vehicle is not released to the owner or lienholder, the bureau shall declare the vehicle abandoned and provide for disposal in accordance with Indiana Code 9-22-1.

10.48.060 Abandoned vehicles--Notice tags--Report.

A. An officer who finds a vehicle or parts believed to be an abandoned vehicle as defined in this Chapter shall attach in a prominent place a notice tag continuing the following information:

1. The date, time, officer's name, and address and telephone number of the police department;

2. That the vehicle or parts are considered abandoned;

3. That the vehicle or parts will be removed after seventy-two hours;

4. 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, including but not limited to the seizure of the license plate for that vehicle, will be suspended on that vehicle;

5. That the owner may avoid costs by removal of the vehicle or parts within seventy-two hours.

B. If the tagged vehicle is not removed within that seventy-two hour period, the officer shall prepare a written abandoned vehicle report on the vehicle on the bureau's form 322B.

C. After seventy-two hours, the officer shall require the vehicle to be towed to a storage area.

10.48.070 Stored vehicles.

Within seventy-two hours after removal of an abandoned vehicle to a storage area under Section 10.48.060, the police department shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including the make, model and manufacturer's identification number, the color and style of said vehicle, and the number of the license plate, and request that the bureau advise the police department of the name and most recent mailing address of the owner and any lienholder. The police department shall then advise the owner or lienholder that all costs incurred in removing and storing the vehicle or parts are his/her legal responsibility.

10.48.080 Stored vehicles--Disposition and sale.

Disposition and sale of stored vehicles shall be conducted by the bureau pursuant to Indiana Code 9-22-1.

10.48.090 Vehicles left on private property considered to be abandoned--Complaints.

Upon complaint of a private property owner or person occupying the property that a vehicle has been left on the property they own or occupy for forty-eight hours or more without the consent of the owner or person occupying the property, an officer shall follow the procedures set forth in Section 10.48.060.

10.48.095 Unlicensed and Inoperable Vehicles Prohibited

A. It is a violation of this chapter for any person to keep, park or store any unlicensed or inoperable vehicles or parts thereof on private or public property exposed to public view except in a legally conforming garage, carport or other enclosure.

B. After investigation by the Enforcement Officer or a police officer and a finding of a violation of this chapter, the Enforcement Officer or police officer is authorized to issue a warning or written demand to the owner of the vehicle or person occupying the premises on which any unlicensed or inoperable vehicle(s) in violation of this chapter is/are kept. The warning or written demand shall notify the person to remove the vehicle(s) from the premises within 30 days from the receipt of the notice or to correct the issue rendering the vehicle unlicensed or inoperable. Upon the failure or refusal of the person to remove the vehicle(s) or correct the issue within the time period specified, a citation will then be issued requiring the individual to remove the vehicle(s) or correct the issue within ten days or be subject to further penalties as provided herein. In the event the vehicle(s) is not removed or the issues corrected within the ten-day period, a court of competent jurisdiction may order that the vehicle(s) be removed and assess the cost of the removal and storage to the person owning the vehicle or person occupying the property. In the event any vehicle(s) is removed and stored and in the event that the vehicle(s) is not claimed by the owner of the vehicle from the storage location within 15 days from its removal by paying the actual cost of the removal and storage, the vehicle may be sold and disposed of as provided in Indiana Code 9-22-1. The responsibility and liability of the vehicle's owner shall be that as set forth in Indiana Code 9-22-1.

10.48.100 Liability for loss or damage during removal, storage or disposition.

Neither the owner, lessee or occupant of the property from which an abandoned vehicle is removed nor the police department, is liable for loss or damage to the vehicle or contents of an abandoned vehicle occurring during its removal, storage or disposition.

The police department is not liable for loss or damage to the vehicle or contents of an unlicensed or inoperable vehicle occurring during its removal, storage or disposition.

10.48.110 Charges.

The amount that may be charged for an authorized towing service and storage of a vehicle under this chapter shall be equal to the amount charged to other users of the same or comparable services. The number of storage days shall be calculated from the day the vehicle was towed to the storage facility.

10.48.120 Violation--Penalty.

Whoever violates any provision of this chapter shall be fined not more than two hundred dollars.

Section II. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

Section III. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, on this the 4th day of February, 2014, by a vote of 5 ayes and 1 nays.

Kristen Brown, Mayor
Presiding Officer of the Common Council

ATTEST:

Clerk of the Common Council of Columbus, Indiana
Luann Welmer

Presented by me to the Mayor of Columbus, Indiana, this 6th day of Feb., 2014 at 3:30 o'clock P.m.

Luann Welmer
Clerk-Treasurer

Approved and signed by me this 6th day of Feb, 2014 at 3:30 o'clock P.m.

Kristen Brown
Mayor of the City of Columbus, Indiana