Prepared by the City Attorney

ORDINANCE NO. 14-05 (Amended)

AN ORDINANCE TO AMEND THE WEST LAFAYETTE CITY CODE CONCERNING PARKING AND VEHICLE IMMOBILIZATION FINES

WHEREAS, the fine for basic parking violations has not been increased for many years and if left unchanged may be insufficient to cover the expenses of enforcement or to deter improper parking; and

WHEREAS, the clerk-treasurer has requested changes to West Lafayette City Code chapter 49 to eliminate obsolete provisions;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE that:

Section 1. Section 44.11 shall be amended to read as follows:

(a) ~~$10~~ $15for each violation of time duration restricted parking.

(b) $25 for each violation of section 44.09 (unauthorized parking on private property) and section 44.12 (prohibited parking of vehicles in off-street parking areas in commercial zones.).

(c) $50 for each violation of stopping or parking in a tow away zone or stopping or standing in a loading zone in violation of any restrictions on the zone.

(d) $100 for each violation of parking in the traveled portion of the roadway for any reason other than mechanical breakdown, or standing in the traveled portion of the roadway for the purposes of freight loading or unloading, in any business district or any major or minor arterial street.

(e) ~~$15~~$20 for each violation for any other violation of this chapter not specified above.

(f) If a written appeal under subsection (g) below or payment for the fine is not postmarked or received by the city clerk-treasurer's office within ~~14~~10 days, the fine shall be double the amount set forth above.

(g) Appeals of parking fines may be filed with the clerk-treasurer within 10 days of issuance of a parking ticket. Appeals filed after this date will not be accepted. The police chief or designee will review the appeal, and concur or deny the appeal under such administrative procedures as the police chief may approve. If this appeal is denied, the person appealing the parking fine must by the date specified on the appeal form, either appear in city court or pay the fine, or the fine will be doubled as provided in subsection (f) above.

Section 2. Chapter 49 shall be amended to read as follows:

Sec. 49.01. Forms and records of traffic citations and arrests.

~~(a) The city clerk-treasurer shall provide books to include traffic citation forms for notifying alleged violators to appear and answer to charges of violating traffic laws and ordinances in the city court. The books shall include serially numbered sets of citations in quadruplicate in the form prescribed and approved jointly by the city court judge, traffic administrative officer and the chief of police.~~

~~(b) The city clerk-treasurer shall issue such books to the chief of police or the chief's duly authorized agent and shall maintain a record of every book so issued and shall require a written receipt for every such book.~~

~~(c)~~ The chief of police or designee shall be responsible for the issuance of ~~such~~ books of forms for citing alleged violators to appear and answer to charges of violating traffic or parking laws and ordinances of the city to individual members of the police department. ~~The chief of police shall require written receipt for every book so issued and shall maintain a record of every such book and each set of citations contained therein.~~

Sec. 49.02. Procedure of police officers.

Except when authorized or directed under state law to immediately take a person before a city judge for the violation of any traffic laws, a police officer who halts a person for such violations other than for the purpose of giving a warning or warning notice and does not take such person into custody under arrest, shall take the name, address and the operator's license number of such person, the registered number of the motor vehicle involved and such other pertinent information as may be necessary, and shall issue, in writing on a form provided by the city, a traffic citation containing a notice to answer to the charge in the traffic court of this city at a time at least five days after such alleged violation to be specified in the citation. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody.

Sec. 49.03. Disposition and records of traffic citations.

(a) Every police officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of this city shall deposit all copies of the citation with the officer's immediate superior ~~officer~~, who shall then forward all tickets to the central records section of the police department. The records division of the police department shall forward two copies of the citation to the appropriate City or County Court. One copy of the citation will be filed with the court bailiff of the department.

(b) Upon the filing of such original citation in the city court ~~of this city as aforesaid~~, the citation may be disposed of only by guilty plea, dismissal by the prosecuting official, trial in the court ~~or by other action by a judge of the court, including forfeiture of bail~~ or by payment of a fine to the traffic violations bureau of the court.

(c) The chief of police shall require all traffic citations and copies that have been spoiled or upon which any entry has been made and has not been issued to an alleged violator be voided and destroyed ~~the return of each traffic citation and all copies thereof, except that copy required to be retained in the book as provided herein, which has been spoiled or upon which any entry has been made and has not been issued to an alleged violator~~.

(d) The chief of police shall also maintain or cause to be maintained in connection with every traffic citation issued by a member of the police department a record of the disposition of the charge by the city court ~~of this city~~ or its traffic violations bureau.

(e) The chief of police shall also maintain or cause to be maintained a record of all warrants issued by the city court of this city or by any other court on the traffic violation charges and which are delivered to the police department for service, and of the final disposition of all such warrants.

(f) It shall be unlawful and official misconduct for any member of the police department or other officer or public employee to dispose of, alter or deface a traffic citation or any copy thereof, or the record of the issuance or disposition of any traffic citation, complaint or warrant, in a manner other than as required in this citation.

Sec. 49.04. Illegal cancellation of traffic citations.

It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this chapter.

Sec. 49.05. Audit of records and reports.

~~(a)~~ Every record of traffic citations, complaints thereon and warrants issued therefor required in this article shall be ~~audited at least quarterly by the city clerk-treasurer who shall submit a report of such audit together with a summary thereof to the mayor and city council. Such reports shall be~~ a public record~~s~~ and shall be subject to audit as provided by law.

~~(b) For the purpose of this article, the city clerk-treasurer or a duly authorized representative shall have access at all times to all, necessary records, files and papers of the city court of this city, its traffic violations bureau and the police department.~~

Sec. 49.06. When copy of citation to be deemed a lawful complaint.

In the event the form of citation provided under § 49.02 includes information and is sworn to as required under the general laws of this state in respect to a complaint charging commission of the offense alleged in the citation to have been committed, then such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this chapter.

Sec. 49.07. Failure to obey citation.

It shall be unlawful for any person to violate a written promise to appear given to an officer upon the issuance of a traffic citation regardless of the disposition of the charge for which such citation was originally issued.

Sec. 49.08. Citation on illegally parked vehicle.

Whenever any motor vehicle ~~without driver~~ is found parked or stopped in violation of any of the restrictions imposed by ordinance of this city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation, or a parking citation, on a form provided by the ~~city clerk-treasurer~~police department, for the driver to answer to the charge ~~within five days during the hours of 8:00 A. M. and 4:00 P. M.~~at a time and ~~at a~~ place specified in the citation.

Sec. 49.09. Failure to comply with traffic citation or parking citation attached to parked vehicle.

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not ~~appear in response to a traffic~~respond to a citation affixed to such motor vehicle within a period of ~~five~~ ten days, the ~~traffic~~ ordinance violations bureau shall send to the owner of the motor vehicle to which the traffic or parking citation was affixed a letter informing the owner of the violation and warning the owner that in the event such letter is disregarded, the vehicle may be subject to additional fines, immobilization, towing and/or suspension of registration ~~for a period of five days a warrant of arrest will be issued~~.

Sec. 49.10. Presumption in reference to illegal parking.

(a) In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(b) The foregoing stated presumption shall apply only when the procedure as prescribed in §§ 49.09 and 49.10 has been followed.

Sec. 49.11. When warrant to be issued.

In the event any person fails to comply with a traffic citation given to such person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in the city court or if any person fails or refuses to deposit bail as required and within the time permitted by ordinance, the city ~~clerk-treasurer~~judge shall ~~secure and~~ issue a warrant for arrest upon application therefor.

Sec. 49.12. Record of traffic cases; report of convictions to state department of motor vehicles.

(a) The judge of the city court shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form of traffic charge deposited with or presented to the court or its traffic violations bureau, and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of the fine or forfeiture resulting from every traffic complaint or citation deposited with or presented to the court or traffic violations bureau.

(b) Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicles on highways, every magistrate of the court or clerk of the court of records in which such conviction was had or bail was forfeited shall prepare and immediately forward to the state department of motor vehicles an abstract of the record of the court covering the case on which the person was so convicted or forfeited bail, which abstract shall be certified by the person so required to prepare the same to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(c) The abstract shall be made upon a form furnished by the state department of motor vehicles and shall include the name and address of the party charged, the number, if any, of any operator's or chauffeur's license, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited and the amount of the fine or forfeiture as the case may be.

(d) The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal there from.

Sec. 49.13. Disposition of traffic fines and forfeitures.

All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter shall be paid into the city treasury as required by law, and it is recommended that a substantial portion of the anticipated revenue be budgeted and appropriated for the construction, maintenance and repair of public streets, and street structures, or for the installation and maintenance of traffic-control devices thereon, and for the administration and supervision of traffic activities that will lead to more efficient enforcement.

Sec. 49.14. Official misconduct.

Failure, refusal or neglect on the part of any judicial or other officer or employee receiving or having custody of any such fine or forfeiture, either before or after a deposit in the street and traffic safety improvement fund to comply with the foregoing provisions of this section shall constitute misconduct in office and shall be ground for removal therefrom.

Sec. 49.15. Authority to impound vehicles.

(a) Members of the police department are hereby authorized to remove a vehicle from a street or highway under the circumstances hereinafter enumerated.

(1) When any vehicle is left unattended upon any bridge, viaduct or causeway or in any tube or tunnel where such vehicle constitutes an obstruction to traffic.

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

(3) When any vehicle is left unattended upon a street or alley and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(4) When a vehicle is permitted to be immobilized under § 49.16 and the officer determines that immobilization is not practical for any reason.

(b) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner and record such information on the appropriate department documents. ~~thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefore and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.~~

Sec. 49.16. Vehicle immobilization.

(a) In the event the owner or operator of a vehicle shall have received: (1) ~~three~~ two or more parking violations and/or violations of any other traffic laws of the state or ordinances of the city, ~~of~~ which ~~none~~ have not been paid in full or adjudicated as provided in this chapter, or (2) owe a fine of $100 or more which is unpaid; and after notification as required by such traffic laws or ordinances to the owner or operator of his/her overdue fines, in addition to any other issuance of warrant of arrest and/or penalties or fines permitted, the vehicle may be immobilized by employees of the city or any other person or firm that the city may appoint or hire, by the use of what is known as a "wheel lock". The owner or operator of the vehicle can obtain possession of the vehicle by paying to the clerk-treasurer of the city a ~~fifty~~ seventy-five dollar service fee for removal of the wheel lock and the fines as imposed on all overdue parking violations and/or violations of any other traffic laws of the state or ordinances of the city, of such owner or operator as of that date, subject to approval of the city court.

(b) If, after the wheel lock has been attached to the vehicle, and the owner or operator fails to respond within a twenty-four hour period, the police department may cause the vehicle to be impounded until such time as the owner or operator has paid such service fee, parking violations, and/or other fines and penalties. ~~Within twenty-four hours after impoundment of the vehicle, the police department shall notify the owner or operator of the fact that there was an impoundment, and the location thereof along with a copy of the unpaid parking violations and/or other fines and penalties, together with a copy of the ordinance codified in this section, such notification to be by ordinary mail.~~ All charges for towing and impoundment become the responsibility of the owner or operator of the vehicle. An impoundment shall occur by having the vehicle removed by a junk or salvage yard or wrecker service to their particular place of storage.

(c) *Wheel lock* means any device which shall be placed on a wheel of a vehicle to immobilize the vehicle.

This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

INTRODUCED AND FILED ON _____, 2005.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA ON _____, 2005, HAVING BEEN PASSED BY A VOTE OF ____ IN FAVOR AND ____ OPPOSED.

_____
Presiding Officer

Attested:

_____
Clerk-Treasurer

PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA _____, 2005, AT THE HOUR OF _____ ___.M.

_____
Clerk-Treasurer

THIS ORDINANCE APPROVED AND SIGNED BY ME ON _____, 2005, AT THE HOUR OF _____ ___.M.

_____
Jan H. Mills, Mayor

Attested:

_____
Clerk-Treasurer