

**TOWNSHIP OF HAMILTON
ORDINANCE NO. 1831 –2016**

**AN ORDINANCE CREATING CHAPTER 289 TO BE ENTITLED
“VEHICLES, SALE OF USED”**

WHEREAS, there exists in the Township a problem of persons selling vehicles on private and public property in a manner inconsistent with the Township Code;

WHEREAS, the sale of used vehicles is not a permitted use within any zoning district of the Township except where connected to an authorized dealer of new vehicles;

WHEREAS, the Township’s zoning regulations have proved inadequate to stop the sale of used vehicles on private and public property both vacant and otherwise occupied;

WHEREAS, vehicles displayed for sale on private or public property are often placed there without express permission from the property owner and without the knowledge of the property owner, making enforcement of trespass laws difficult;

WHEREAS, the sale of used vehicles from private and public property, except where authorized by the Township’s zoning regulations, constitutes an impairment of the Township’s visual environment thereby reducing property values and reducing the quality of life of the Township’s citizens;

WHEREAS, the Township finds this ordinance necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the Township and its citizens, in particular the protection of the visual environment, property values, and the property rights of the Township and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hamilton, County of Atlantic and State of New Jersey, that:

SECTION I. CREATION OF CHAPTER 289

Chapter 289 of the Township Code is hereby created and shall be as follows:

CHAPTER 289. VEHICLES, SALE OF USED

§ 289-1 Finding and Purpose.

- A.** There exists in the Township a problem of persons selling vehicles on private and public property in a manner inconsistent with the Township Code.
- B.** Vehicles displayed for sale on private or public property are often placed there without express permission from the property owner and without the knowledge of the property owner, making enforcement of trespass laws difficult.
- C.** The sale of used vehicles from private and public property, except where authorized by the Township’s zoning regulations, constitutes an impairment of the Township’s visual environment thereby reducing property values and reducing the quality of life of the Township’s citizens.
- D.** This Chapter is necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the Township and its citizens, in particular the protection of the visual environment, property values, and the property rights of the Township and its citizens.

§ 289-2 Definitions.

The following terms, phrases, and words used in and for the purpose of this Chapter shall be deemed to have the following meanings:

“DISPLAY FOR SALE” shall mean to park or station a vehicle for the primary purpose of: (a) demonstrating that it is available for purchase; or (b) for the purpose of allowing potential purchasers to view or examine the vehicle. A vehicle need not have a physical “for sale” or similar sign or writing on or in it in order to be “displayed for sale” if the vehicle is listed for sale on any website, web service, application, social media, or bulletin board or in any circular, magazine, periodical, or similar publication.

“PUBLIC PROPERTY” shall mean property owned by the Township, the County of Atlantic, or the State of New Jersey.

“PRIVATE PROPERTY” shall mean property owned by any individuals or entities other than the Township, the County of Atlantic, the State of New Jersey, or the United States of America.

“PROPERTY” shall mean any single tax lot or, in the case of common ownership of more than one connected tax lot whether or not immediately adjoining, multiple tax lots. In reference to public property, “property” shall also mean any roadway.

“USED VEHICLE” shall mean any vehicle that is owned by individuals or entities other than the manufacturer, wholesaler, or licensed and authorized dealer of the vehicle.

“VEHICLE” shall mean any automobile, motorcycle, truck, recreational vehicle, trailer, tractor, boat, watercraft, or other means of transportation, whether or not motorized, which is of a type required to be registered with the State of New Jersey.

“VACANT PROPERTY” shall mean any property that has no structure upon it as the term structure is defined in Section 203-18 of the Township Code.

§ 289-3 Presumptions.

- A. A used vehicle shall be presumed to be displayed for sale if: (a) it is parked or stationed on the same non-vacant property for a continuous period longer than twenty four hours; and (b) the vehicle has in it or on it a “for sale” or similar sign or writing or is listed for sale on any website, web service, application, social media, or bulletin board or in any circular, magazine, periodical, or similar publication. This presumption shall be overcome: (a) where the vehicle is owned by a business entity; and (b) the entity demonstrates that the vehicle continues to be used on a regular basis, and in the normal course of business, for its customary purpose.
- B. A used vehicle shall be presumed to be displayed for sale if: (a) it is parked or stationed on a vacant property without its owner or operator being present; and (b) the vehicle has in it or on it a “for sale” or similar sign or writing or is listed for sale on any website, web service, application, social media, or bulletin board or in any circular, magazine, periodical, or similar publication.
- C. A vehicle shall be presumed to be used unless: (a) it is on the property of the manufacturer, wholesaler, or licensed and authorized dealer of the vehicle; and (b) the sale of vehicles is the principal use of that property.

§ 289-4 Displaying Used Vehicles for Sale Prohibited.

- A. It shall be a violation of this section to display for sale a used vehicle on any private property within the Township, except that a licensed and authorized dealer of vehicles shall be permitted to sell used vehicles on private property the principal use of which is the sale of vehicles.

- B. It shall be a violation of this section to display for sale a used vehicle on any public property within the Township.
- C. Both the owner of the used vehicle displayed for sale and the individuals or entities displaying the vehicle for sale shall be in violation of this section.

§ 289-5 Notice to Property Owner; Violation for Lack of Abatement.

- A. Upon a determination by any enforcing official that a used vehicle may be displayed for sale on private property, the enforcing official shall notify the property owner of record by certified mail return receipt requested at the address of the property and the address provided for the billing of taxes in the office of the Township's Tax Collector.
- B. It shall be a violation of this section if, after the mailing of the notice under subsection A: (a) any enforcing official determines that the used vehicle or vehicles that were the subject of the notice are unlawfully displayed for sale on the property; and (b) any such vehicles remain on the property after the seventh day following the mailing of the notice.

§ 289-6 Exceptions.

- A. It shall not be a violation of this Chapter to display for sale one used vehicle on a single-family residential property where the vehicle is owned by a full-time resident of the property.
- B. In the case of a multi-family residential property, it shall not be a violation of this Chapter for any dwelling-unit owner or tenant to display for sale one used vehicle where the vehicle is owned by a full-time resident of the dwelling unit. In the event that there are multiple owners or tenants in a single dwelling-unit, they may not display for sale more than one used vehicle.

§ 289-7 Enforcement Authority.

- A. This Chapter may be enforced by both the Township of Hamilton Police Department and the Township of Hamilton Zoning Officer and his designees.

§ 289-8 Violations and Penalties.

- A. Any individual or entity convicted of violating § 289-4 shall pay a fine in an amount not to exceed \$500.00 or be imprisoned in the Atlantic County Jail for a period not to exceed ninety days, or both. A new violation shall accrue after each new twenty four hour period after the initial violation is found, but in no event shall the term of imprisonment exceed one hundred eighty days.
- B. Any individual or entity convicted of violating § 289-5 shall pay a fine in an amount not to exceed \$500.00 or be imprisoned in the Atlantic County Jail for a period not to exceed ninety days, or both. A new violation shall accrue after each new seventy two hour period after the initial violation is found, but in no event shall the term of imprisonment exceed one hundred eighty days.
- C. Nothing in this Chapter shall be affected by or prevent the forced removal, by the Township or any individual or entity, of a used vehicle displayed for sale in violation of this Chapter to the extent that such forced removal is otherwise authorized by law.

SECTION II. SEVERABILITY and REPEALER

(a) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

(b) Any Ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION III. EFFECTIVE DATE

This Ordinance shall take effect upon its final passage and publication as provided by law.

WITNESSED:

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF HAMILTON,
COUNTY OF ATLANTIC

RITA MARTINO, RMC
TOWNSHIP CLERK

ROGER SILVA, MAYOR

COMMITTEE MEMBER	MOTION	YES	NO	ABSTAIN	ABSENT
GUISHARD					
KURTZ					
LAWS					
SCHENKER					
MAYOR SILVA					

FIRST READING AND INTRODUCTION: September 19, 2016

FINAL READING AND ADOPTION: