

ORDINANCE NO. 17, 2019

AN ORDINANCE ESTABLISHING STANDARDS AND REQUIREMENTS FOR THE SALE OF USED VEHICLES IN THE CITY OF LINWOOD.

BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey as follows:

SECTION 1: Finding and purpose.

A. There exists in the City a problem of persons selling vehicles on private and public property in a manner inconsistent with the City 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 City's zoning regulations, constitutes an impairment of the City's visual environment thereby reducing property values and reducing the quality of life of the City'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 City and its citizens, in particular the protection of the visual environment, property values, and the property rights of the City and its citizens.

SECTION 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

A. To park or station a vehicle for the primary purpose of:

(1) Demonstrating that it is available for purchase; or

(2) For the purpose of allowing potential purchasers to view or examine the vehicle.

B. 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

Property owned by the City, the County of Atlantic, or the State of New Jersey.

PRIVATE PROPERTY

Property owned by any individuals or entities other than the City, the County of Atlantic, the State of New Jersey, or the United States of America.

PROPERTY

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

Any vehicle that is owned by individuals or entities other than the manufacturer, wholesaler, or licensed and authorized dealer of the vehicle.

VACANT PROPERTY

Any property that has no structure upon it as the term "structure" is defined in § 277-3 of the City Code.

VEHICLE

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.

SECTION 3: Presumptions.

A. Used vehicles on nonvacant property.

- (1) A used vehicle shall be presumed to be displayed for sale if:
 - (a) It is parked or stationed on the same nonvacant property for a continuous period longer than 24 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.

(2) 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:

(1) It is parked or stationed on a vacant property without its owner or operator being present; and

(2) 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:

(1) It is on the property of the manufacturer, wholesaler, or licensed and authorized dealer of the vehicle; and

(2) The sale of vehicles is the principal use of that property.

SECTION 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 City, except in a driveway or designated parking area and except that a licensed auto repair business 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 City.

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.

SECTION 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 City's Tax Collector.

B. It shall be a violation of this section if, after the mailing of the notice under Subsection **A**:

(1) 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

(2) Any such vehicles remain on the property after the seventh day following the mailing of the notice.

SECTION 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 multifamily 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.

SECTION 7: Enforcement authority.

A. This chapter may be enforced by both the City of Linwood Police Department and the City of Linwood Zoning Officer and/or Code Enforcement Officer and his/her designees.

SECTION 8: Violations and penalties.

A. Any individual or entity convicted of violating Section 4 of this Chapter shall pay a fine in an amount not to exceed \$500 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 180 days.

B. Any individual or entity convicted of violating Section 5 of this Chapter shall pay a fine in an amount not to exceed \$500 or be imprisoned in the Atlantic County Jail for a period not to exceed 90 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 City 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 9: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 10: Should any sentence, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 11: This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

FIRST READING: September 11, 2019
PUBLICATION: September 16, 2019
PASSAGE: September 25, 2019

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on September 11, 2019 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on September 25, 2019.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR