

ORDINANCE NO. 04-22-19-A

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY PROHIBITING ACCUMULATION OF INOPERABLE VEHICLES, JUNK AND TO LIMIT THE ACCUMULATION OF OPERABLE VEHICLES WITHIN THE UNINCORPORATED AREAS OF HAMILTON COUNTY, INDIANA

WITNESS THAT:

WHEREAS, the accumulation of Junk, Inoperable Vehicles, and other excessive vehicles on Private Property (“the Prohibited Activities”) is undesirable and has a substantial adverse impact on the quality of life within Hamilton County, Indiana, (“the County”); and,

WHEREAS, the existence of the Prohibited Activities referred to above, reduces the value of Private Property contiguous, near, or visible to Private Property where Prohibited Activities occur; and,

WHEREAS, because of the danger to health by providing places for vermin and insects; the fire hazard danger caused by the accumulation of discarded materials; the risk caused by the attraction of children; the potential pollution of surface and underground water; and the reduction in property values caused by the Prohibited Activities on Private Property in Hamilton County, the Prohibited Activities are hereby declared to be a nuisance; and,

WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens of Hamilton County to prohibit the accumulation of junk, and inoperable and operable vehicles

upon Private Property within the unincorporated part of the County, unless such accumulation is located in a properly zoned and established landfill or junkyard; and,

WHEREAS, it is the purpose of this Ordinance to insure the public health, safety, and general welfare of the citizens of Hamilton County by establishment of requirements upon

private landowners for the removal and disposal of Junk, Inoperable Vehicles, and excessive vehicles.

IT IS THEREBY ORDAINED by the Board of Commissioners of Hamilton County as follows:

SECTION I. APPLICABILITY.

The terms of this Ordinance shall apply to all real estate privately owned in Hamilton County, which is located outside of the municipal boundaries of a city or town.

SECTION II. DEFINITIONS.

For the purpose of this Section the following definitions shall apply:

a. “Abandoned Vehicle” shall mean a vehicle that has been removed and impounded by a towing service or a public agency upon request of an officer enforcing this Ordinance, and is not claimed or redeemed by the owner or the owner’s agent within twenty (20) days after the vehicle’s removal from Private Property.

b. “Apparent Inoperable Vehicle” shall mean a vehicle that is at least five (5) model years old, is mechanically inoperable, is missing wheels, motors, tires, transmission, or other

major parts that affect operability; and any other vehicle that is so damaged it cannot be self-propelled or moved from Private Property within the time limits provided in this Ordinance.

c. “Automobile Junkyard” shall mean a business legally zoned, permitted, and operated for the purpose of storing scrap metal processing, storing wrecked or inoperable vehicles, or operating a junkyard.

d. “Building Materials” shall mean any wooden materials, concrete, metal, glass, or other used material formerly used for construction of buildings that are not in good or usable condition; not kept on the property in an orderly manner; or are not actively being used as part of a construction project, with an approved building permit.

e. “Excess Motor Vehicles” shall mean the number of vehicles, both operable and inoperable, which are parked outside of a garage or other enclosed building on a Residential Lot and are in excess of the number described in Section III(d) of this Ordinance.

f. “Junk” shall mean any article in any form, consisting of any of the following enumerated discarded, abandoned, or cast-off materials. The term shall include, but not limited to, paper, cardboard, rags, tin, metals, residue from burning, broken glass, clothing, rubber, plastics, synthetic substances and fabrics, bottles, building materials, automobile parts detached from the vehicle as a whole, and household items not intended for exposure to rain and other inclement weather, which includes furniture, mattress, and appliances.

g. “Junk Vehicle” shall mean any automobile, truck, or other equipment or device, which could be used upon a public street, including travel trailers, mobile homes, motor homes, motorcycles, boats, buses, trailers, and other similar equipment, which meets any of the following criteria:

1. Is an Apparent Inoperable Vehicle;
2. Is without valid registration or current license plates;
3. Is partially dismantled;
4. Has been substantially damaged intentionally or wrecked; or,
5. Has a fair market value equal only to the approximate value of the scrap value of the Junk Vehicle.

h. "Operable Vehicle" shall mean any vehicle which is properly registered and licensed and has no apparent damage which would prevent it from being operated on public streets.

i. "Parts" shall refer to all components of a vehicle, which are detached from the vehicle.

j. "Private Property" shall mean all real estate in the unincorporated parts of Hamilton County, other than Public Property.

k. "Public Property" shall mean a public right of way, street, highway, alley, park, or other state, county, or municipally owned or used by a governmental unit.

l. "Real Property Owner" means the owner of record of a parcel of land, as shown on the real property tax records in Hamilton County, Indiana

m. "Residential Lot" shall mean any parcel of real property located in the unincorporated area of Hamilton County, which is zoned for residential use and is either included in a recorded, platted subdivision, or is less than one (1) acre.

n. "Sheriff" shall mean any regular member of the Hamilton County Sheriff's Department.

o. "Towing Service" shall mean a person or company that engages in moving or removing abandoned or disabled vehicles and/or once the vehicles are moved or removed, stores or impounds the vehicles.

p. "Vehicle" shall mean an automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, recreational vehicle, a trailer or semitrailer used in the transportation of other vehicles, watercraft, or motorized bicycle. The term shall not include operable agricultural equipment located upon land zoned and used for agricultural purposes or operable construction equipment located on an active construction site authorized by a properly issued building permit, or stored upon a parcel of real estate zoned for the storage of the construction equipment.

q. "Vehicle Owner" shall mean the last known record titleholder of a Vehicle according to the records of the bureau under Indiana Code 9-18, or a Bill of Sale. If there is no title, Bill of Sale, or other proof of ownership produced by the person in possession of the real estate, the Vehicle Owner shall be presumed to be the owner of the real estate where the Vehicle is located.

### SECTION III. VIOLATIONS OF THIS ORDINANCE.

a. All Real Property Owners or a person controlling any real estate in the unincorporated part of Hamilton County shall maintain the Private Property in a clean and orderly manner. It shall be a violation of this Ordinance for the owner or party in possession of any Private Property to abandon, neglect, or disregard the condition or appearance of any real property so as to permit the accumulation of Junk, or Inoperable Vehicles on Private Property.

b. No person or Real Property Owner shall store, or to allow to remain, upon Private Property within Hamilton County, any disassembled, or unlicensed, junked, wrecked, or other

Apparent Inoperable Vehicle for a period of more than fifteen (15) days, unless the vehicle is in connection with a legally zoned automobile sales or repair business.

c. No person shall permit the accumulation of Junk, Junk Vehicles, or Inoperable Vehicles upon any Private Property within the unincorporated part of the County unless located in a properly zoned and established landfill or Junkyard. This prohibition shall include the accumulation of any of the following:

1. Junk and Apparent Inoperable Vehicles.
2. Abandoned, discarded, or unused objects or equipment such as mobile homes, trailers, campers, furniture, stoves, refrigerators, freezers, appliances, cans, or containers.
3. Automobile parts, including tires and any other portion or parts of any motor vehicle detached from the Vehicle as a whole.
4. Scrap metal or pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether intact or in parts.

d. No person shall park, store, or permit the storage of Excess Vehicles upon a Residential Lot for more than two (2) consecutive days and nights. For purpose of this prohibition, the number of Operable or Inoperable Vehicles parked outside of a garage on a Residential Lot shall not exceed the number of bedrooms located within the residence, as shown on the County property record card for the Residential Lot, plus one. Vehicles in excess of the above number of Vehicles parked outside of a building on a Residential Lot are considered Excess Vehicles. The Excess Vehicles may be removed from the Residential Lot after notice pursuant to the Enforcement Procedures of Section IV of this Ordinance.

e. The property owners and contractors in charge of any construction site shall maintain the construction site in such manner as to avoid the accumulation of Junk or debris and no Junk or debris shall be allowed to be carried by natural elements, such as wind, to adjoining properties. All Junk and debris from construction or related activities shall be picked up at the end of each work day and placed in a container for removal.

f. It is not a defense under this Ordinance for any Apparent Inoperable or Operable Vehicle, or Junk to be covered by a tarpaulin or other plastic, vinyl, rubber, or cloth. It is also not a defense under this Ordinance if the Operable Vehicle, Apparent Inoperable Vehicle, or Junk, is fully or partially screened from contiguous real estate by a fence, vegetation, buildings, or other material.

#### SECTION IV. ENFORCEMENT PROCEDURES.

Any person who owns and maintains any Private Property in violation of this Ordinance shall be guilty of an Ordinance violation and may be subject to the enforcement action under this Ordinance as authorized by Indiana Code 36-1-6-2, and subject to fines as described herein. The enforcement procedures of this Ordinance are as follows:

- a. Any sworn or reserve officer of the Hamilton County Sheriff's Department or the Director of the Hamilton County Planning Department may:
  1. Enter upon the real estate where the materials described in this Ordinance are located, to take photographs of the real estate showing violation(s) of this Ordinance. If entrance upon the real estate is not possible, photographs may be

taken from outside the real estate, including the use of the County's GIS tax mapping information.

2. Post a Notice of Violation on the entry door of the residence located on the Private Property where the violation exists. The Notice shall also be mailed to the last owner of record as shown on the property record card maintained by Hamilton County.
3. The Notice of Violation shall provide the following:
  - a. Generally described the condition of the Private Property, which is in violation of this Ordinance.
  - b. The date of the Notice and the number of days the Real Property Owners are given to remedy the violation, which shall be no less than ten (10) days, nor more than sixty (60) days pursuant to Indiana Code 36-1-6-2(a).
  - c. In the event the Private Property is not brought into compliance with this Ordinance, the County may:
    1. File an Ordinance violation citation upon a Uniform Traffic Ticket or other form, in the appropriate Court in Hamilton County seeking Court costs and a fine of up to Two Thousand Five Hundred Dollars (\$2,500) for a first offense, and up to Seven Thousand Five Hundred Dollars (\$7,500) for any subsequent offense. The citation shall refer to the number of this Ordinance and the Section of the Ordinance, describing the violation.
    2. Seek a mandatory Order to bring the Private Property into compliance within timelines established by the Court.



3. In the event the Private Property is not brought into compliance, the County may initiate an action to enforce any or all of the terms of this Ordinance pursuant to Indiana Code 34-28-5, including requesting a Court Order for a representative of the County, or its designated contractors, may come onto the Private Property, remove any or all materials located on the Private Property in violation of this Ordinance; charge the owner of the Private Property the costs of the removal and storage of the material; record a lien against the Private Property to recover the County's costs; and foreclose the lien upon the Private Property in the annual Hamilton County Tax Sale, all as permitted by Indiana Code 36-1-6-2.
4. None of the penalties or remedies of this Ordinance are exclusive of the other penalties and remedies listed above, and the County may seek any, or all, of such remedies.
5. The issuance of each second or subsequent Notice of Violation to a Real Property Owner shall be deemed a separate offense.

SECTION V. EFFECTIVE DATE AND REPEAL OF PRIOR ORDINANCE.

1. This Ordinance shall be in full force and effect on the 20<sup>th</sup> day of June, 2019, which is more than thirty (30) days after publication of Notice of Adoption. The Hamilton County Auditor is directed to have the provisions of this Ordinance codified in the Hamilton County Code of Ordinances.

2. All of the terms of Ordinance 5/22/89/2 previously approved by the Board of Commissioners of Hamilton County in July of 1989 are repealed.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Hamilton County

this \_\_13th\_\_ day of May, 2019.

BOARD OF COMMISSIONERS  
OF HAMILTON COUNTY

Mark E. Heirbrandt

Christine Altman

Steven C. Dillinger

ATTEST:

Robin Mills, Auditor