

ORDINANCE NO.: 07-O-07
SPONSOR: COUNCIL AS A WHOLE
INTRODUCED: JULY 18, 2007

AN ORDINANCE TO REGULATE JUNK AND UNLICENSED VEHICLES IN NEW FRANKLIN.

WHEREAS, there are certain properties in New Franklin that have junk and/or unlicensed vehicles on them; and

WHEREAS, an Ordinance is necessary to address these vehicles on properties in New Franklin; and

WHEREAS, the interests of public safety and health require that this Ordinance be adopted to address these vehicles; and

WHEREAS, the Ordinance does provide that the owners of vehicles and properties affected by this Ordinance be afforded an opportunity for a hearing and due process before final action is taken.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE: DEFINITIONS

- A. **"Junk motor vehicle."** Any motor vehicle which meets any three (3) of the following requirements:
1. Is three (3) years old or older;
 2. Is extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motors or transmission;
 3. Does not comply with all safety laws and requirements provisions as found in Chapter 4513 et seq. of the Ohio Revised Code.
 4. Has a fair market value of One Thousand Five Hundred Dollars (\$1,500.00) or less;
 5. Is not running and not operable ("operable" meaning able to be started and driven under its own power).

B. “Motor vehicle” shall be defined as in Ohio Revised Code 4501.01(B).

SECTION TWO: PROHIBITIONS

A. STORAGE OF JUNK MOTOR VEHICLES

1. No person shall willfully permit a junk motor vehicle to remain in the open on private property, which the person owns, occupies, or controls after receipt of an order to remove the junk motor vehicle. The order shall state that a hearing appealing the order to remove the junk motor vehicle may be had, shall describe the vehicle to be removed, and shall be served by the Police Department or by the Zoning Department in any manner provided by the Ohio Rules of Civil Procedure.
2. If any recipient of an order to remove a junk motor vehicle fails to appeal the same in writing within ten (10) days after its receipt to the Property Maintenance Enforcement Board, it shall be conclusively presumed to establish the junk motor vehicle as a nuisance and the junk motor vehicle shall be removed by the Police Department immediately. The fact that a junk motor vehicle is left on private property without the filing of an appeal by the recipient of an order to remove a junk motor vehicle is prima facie evidence of willful failure to comply with the order.
3. No person shall leave a junk motor vehicle for any period of time on private property to which such person does not have the right of possession without the authorization of the person having the right of possession of such property.

B. STORAGE OF UNLICENSED VEHICLES

1. No person shall willfully permit a unlicensed motor vehicle to remain in the open on private property, which the person owns, occupies, or controls after receipt of an order to remove the unlicensed motor vehicle . The order shall state that a hearing appealing the order to remove the unlicensed motor vehicle may be had, shall describe the vehicle to be removed, and shall be served by the Police Department or by the Zoning Department in any manner provided by the Ohio Rules of Civil Procedure.
2. If any recipient of an order to remove a unlicensed motor vehicle fails to appeal the same in writing within ten (10) days after its receipt to the

Property Maintenance Enforcement Board, it shall be conclusively presumed to establish the unlicensed motor vehicle as a nuisance and the unlicensed motor vehicle shall be removed by the Police Department immediately. The fact that a unlicensed motor vehicle is left on private property without the filing of an appeal by the recipient of an order to remove an unlicensed motor vehicle is prima facie evidence of willful failure to comply with the order.

3. No person shall leave an unlicensed motor vehicle for any period of time on private property to which such person does not have the right of possession without the authorization of the person having the right of possession of such property.

C. HISTORICAL MOTOR VEHICLE DEFENSE

Any person claiming Historical Motor Vehicle status for any motor vehicle in defense of a violation of this section must provide proof that said vehicle is registered as an Historical Motor Vehicle with the Ohio Bureau of Motor Vehicles, has been inspected, and is currently safe to operate on the highways of the state.

SECTION THREE: APPEALS

- A. Any person receiving an order to remove a motor vehicle pursuant to Section Two shall have a right to appeal the order to remove to the Property Maintenance Enforcement Board. The appeal shall be filed in writing within ten (10) days after the order to remove is served.
- B. The Property Maintenance Enforcement Board Shall hear any appeals within forty-five (45) days after the appeal is filed. The Board shall determine if the motor vehicle is in violation of Section Two of this Ordinance. If the vehicle is found to be in violation by the Board, the Board shall order that the vehicle be removed by the Police Department.

SECTION FOUR: STORAGE AND DISPOSAL OF MOTOR VEHICLES

- A. After a motor vehicle has been determined to be a junk motor vehicle, as provided herein, the Police Department shall immediately cause the junk motor vehicle to be removed from the property where the junk motor vehicle is located by a salvage service and stored in a designated facility.

- B. Any junk motor vehicle which has been removed and stored pursuant to this section shall be disposed of in accordance with the following procedures:
1. The Police Department shall cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the owner and any lienholder of the motor vehicle ordered into storage. If known, the Police Department shall send or cause to be sent notice to the owner or lienholder at the owner's or lienholder's last known address by certified mail, return receipt requested, that the motor vehicle has been declared a nuisance and will be disposed of if not claimed within ten (10) days of the date of mailing of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle. If the owner or lienholder of the motor vehicle reclaims it after a search of the records of the Bureau has been conducted and after notice has been sent to the owner or lienholder as described in this section, the owner or lienholder shall pay to the City of New Franklin a processing fee of Three Hundred Dollars (\$300.00) plus Fifty Dollars (\$50.00) per vehicle.
 2. If the owner or lienholder makes no claim to the motor vehicle within ten (10) days of the date of mailing of the notice, the motor vehicle shall be disposed of by a motor vehicle salvage service or other facility as provided in Section 4513.62 of the Ohio Revised Code. The Police Department shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it will be disposed of, and that all requirements of this section have been complied with. The Police Department shall retain the original of the affidavit for its records, and shall furnish two copies to the motor vehicle salvage service or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage service, the Clerk of Courts shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.
 3. Whenever a motor vehicle salvage service or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the designated salvage service or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the salvage service's

or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.

SECTION FIVE: EXPENSES AS A LIEN

All expenses incurred by the city in removing any junk motor vehicle, together with an administrative charge of Three Hundred Dollars (\$300.00) plus Fifty Dollars (\$50.00) per vehicle, shall be reported to the City Director of Finance, who shall mail a statement thereof to the owner of the property, if his or her address is known. If after thirty (30) days the amount remains unpaid, the City Director of Finance shall certify the total amount of the expense, the name of the owner of the land, and a sufficient description of the premises to the Summit County Fiscal Officer to be entered upon the tax duplicate, to be a lien on the land from the date of entry, to be collected as other taxes and assessments and returned to the city, pursuant to Ohio Revised Code Section 731.54.

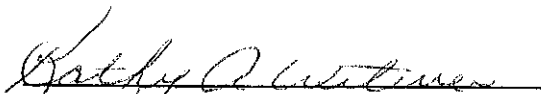
SECTION SIX: ADDITIONAL PENALTIES

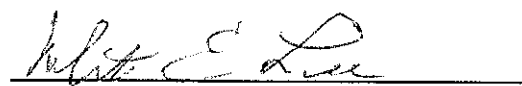
In addition to the penalties set forth herein, whoever fails to remove a junk motor vehicle or unlicensed motor vehicle, after receipt of a proper order to remove, is guilty of a misdemeanor of the third degree. Each motor vehicle found to be in violation of this Ordinance shall constitute a separate offense. Every twenty (20) days that a motor vehicle is in violation of this Ordinance shall constitute a separate offense.

SECTION FOUR: OPEN MEETINGS

The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

ADOPTED September 5, 2007


Kathy A. Witwer, Clerk


Robert E. Lee, President, Pro-Tem

APPROVED: September 5, 2007



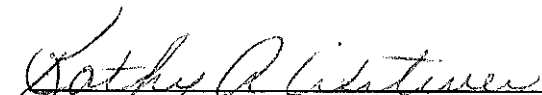
Al Bollas, Mayor

ENACTED EFFECTIVE: October 5, 2007

ON ROLL CALL:

Adamson, Yes.	Hess, Yes.	Jones, Yes.
Lee, Absent.	Mobley, Yes.	Stock, Yes.

Akron Legal News Publications on September 17, & September 24, 2007.



Kathy A. Witwer, Clerk