

CITY OF FRANKLIN, OHIO
ORDINANCE 2017-23

**AMENDING CERTAIN SECTIONS AND ENACTING SECTIONS 353.10 AND 373.14
OF THE CITY OF FRANKLIN TRAFFIC CODE TO BE CONCURRENT WITH
STATE LAW THROUGH SEPTEMBER 29, 2017**

WHEREAS, Ohio Revised Code Section 4511.06 and 4511.07 allows this Council to enact traffic laws and regulations that are not in conflict with the general laws of the State;

WHEREAS, the City has in place a Traffic Code, contained in Part Three, Titles One, Three, Five, Seven and Nine of the Codified Ordinances of the City of Franklin; and

WHEREAS, this Council finds it to be in the best interests of the health, safety and welfare of the residents of the City to update the City Traffic Code to incorporate changes made in state law between January 1, 2017, and September 29, 2017,

THE CITY OF FRANKLIN HEREBY ORDAINS, a majority of the members of Council present concurring, that:

Section 1. Sections 303.06, 311.19, 313.02, 331.03, 331.39, 333.08, 333.11, 333.15, 335.07, 339.23, 341.01, 351.02, 353.01, 353.02, 353.03, 353.04 and 353.09 of the City of Franklin Traffic Code are hereby amended as shown in the attached Exhibit A.

Section 2. Existing Sections 303.06, 311.19, 313.02, 331.03, 331.39, 333.08, 333.11, 333.15, 335.07, 339.23, 341.01, 351.02, 353.01, 353.02, 353.03, 353.04 and 353.09 of the City of Franklin Traffic Code are hereby repealed.

Section 3. Section 353.10 and Section 373.14, as shown in the attached Exhibit B, are hereby enacted, to be included in the City's Traffic Code under Part Three of the Codified Ordinances.

Section 4. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 5. This Ordinance shall become effective on September 20, 2017.

INTRODUCED: August 7, 2017

ADOPTED: August 21, 2017

ATTEST:

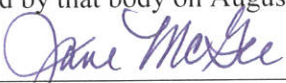

Clerk of Council

APPROVED:


Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Ordinance 2017-23 passed by that body on August 21, 2017 and published in the Middletown Journal on August 25, 2017.


Clerk of Council

303.06 STREET WORKERS AND EQUIPMENT EXEMPTED.

(a) Application of Traffic Code: The provisions of this Traffic Code, except for Sections 311.02, 331.42, 333.08 to 333.13, 337.26, and 339.06, do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a street or highway within an area designated by traffic-control devices, but apply to those persons and vehicles when traveling to or from such work.

(b) Criminal Prosecution: The driver of a street or highway maintenance vehicle owned by this City, State, or any political subdivision of this State, while the driver is engaged in the performance of official duties upon a street or highway, provided the maintenance vehicle is equipped with flashing lights and such other markings as are required by law and the lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01, 331.02, 331.03, 331.04, 331.06, 331.07, 331.08, 331.31, 333.01, 337.01, 351.01 or Chapter 339 of this Traffic Code. This section does not exempt the driver of a vehicle that is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Chapter 339 of this Traffic Code.

(c) Civil Liability:

(1) This section does not exempt a driver of a street or highway maintenance vehicle from civil liability arising from a violation of Sections 331.01, 331.02, 331.03, 331.04, 331.06, 331.07, 331.08, 331.31, 333.01, 337.01, 351.01 or Chapter 339 of this Traffic Code.

(2) **This section does not exempt a driver of a vehicle who is not a City employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Sections 339.24 to 339.31 of this Traffic Code.**

(d) Definitions: As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment or materials to and from a work location.

(ORC 4511.04)

313.02 DRIVER'S DUTIES UPON APPROACHING INTERSECTION WITH AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.

(a) Driver's Duties: The driver of a vehicle who approaches an intersection where traffic is controlled by traffic-control signals shall do all of the following if the signal facing the driver either exhibits no colored lights or colored lighted arrows, or exhibits a combination of such lights or arrows that fail to clearly indicate the assignment of right-of-way, **or, if the vehicle is a bicycle, the signals are otherwise malfunctioning due to the failure of a vehicle detector to detect the presence of a bicycle:**

- (1) Stop at a clearly marked stop line, but if ~~none there is no stop line~~, stop before entering the crosswalk on the near side of the intersection or, if ~~none there is no crosswalk~~, stop before entering the intersection;
- (2) Yield the right-of-way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways; and
- (3) Exercise ordinary care while proceeding through the intersection.

(b) Penalties: Except as otherwise provided in this section, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pled guilty to one (1) predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pled guilty to two (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.132)

(c) Stop Signs at Crossings:

- (1) The Ohio Department of Transportation and the City, with the approval of the Department, may designate dangerous street or highway crossings over railroad tracks whether on state highways or on streets or ways within the City, and erect stop signs thereat.
- (2) The Department and the City shall erect stop signs at a railroad highway grade crossing in either of the following circumstances:
 - A. New warning devices that are not active grade crossing warning devices are being installed at the grade crossing, and railroad crossbucks were the only warning devices at the grade crossing prior to the installation of the new warning devices; or
 - B. The grade crossing is constructed after July 1, 2013, ~~the effective date of this amendment~~ and only warning devices that are not active grade crossing warning devices are installed at the grade crossing.
 - C. Division (c)(2) of this section does not apply to a railroad highway grade crossing that the Director of the Ohio Department of Transportation has exempted because of traffic flow or other considerations or factors.
- (3) When stop signs are erected pursuant to division (c)(1) or (c)(2) of this section, the operator of any vehicle shall stop within 50 feet (50'), but not less than 15 feet (15'), from the nearest rail of the railroad tracks and shall exercise due care before proceeding across the grade crossing.
(ORC 4511.61)

(d) Penalties:

- (1) Whoever violates division (a) or (b) this section is guilty of a misdemeanor of the fourth degree.
(ORC 4511.62)
- (2) Except as otherwise provided in division (d)(2) of this section, whoever violates division (c)(3) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pled guilty to one (1) predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pled guilty to two (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.61)

(e) Definitions: As used in this section, "active grade crossing warning device" has the same meaning as in ORC 4511.61 5733.43.
(ORC 4511.61)

311.19 PROHIBITIONS ON OPERATION OF LOW-SPEED, UNDER-SPEED OR UTILITY VEHICLES, MINI-TRUCKS, MOTOR-DRIVEN CYCLES AND MOTOR SCOOTERS.

(a) Prohibitions:

- (1) No person shall operate a low-speed vehicle upon any street or highway having an established speed limit greater than thirty-five miles per hour (35 mph).
- (2) No person shall operate an under-speed vehicle, utility vehicle or a mini-truck upon any street or highway except as follows:
 - A. Upon a street or highway having an established speed limit not greater than thirty-five miles per hour (35 mph); and/or
 - B. The person is a City employee or volunteer operating a utility vehicle exclusively within the boundaries of a City park for the operation or maintenance of the park.

- (5) "Utility Vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.
(ORC 4501.01)

333.08 OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(a) Operating a Vehicle under the Influence:

- (1) No person shall operate any vehicle within this City if, at the time of the operation, any of the following apply:
- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - B. The person has a concentration of eight-hundredths of one per cent (0.08) or more, but less than seventeen-hundredths of one per cent (0.17), by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of ninety-six-thousandths of one per cent (0.096) or more, but less than two hundred four-thousandths of one per cent (0.204), by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of eight-hundredths of one gram (0.08 g) or more, but less than seventeen-hundredths of one gram (0.17 g), by weight of alcohol per two hundred ten liters (210 L) of the person's breath.
 - E. The person has a concentration of eleven-hundredths of one gram (0.11 g) or more, but less than two hundred thirty-eight-thousandths of one gram (0.238 g), by weight of alcohol per one hundred milliliters (100 ml) of the person's urine.
 - F. The person has a concentration of seventeen-hundredths of one percent (0.17) or more by weight per unit volume of alcohol in the person's whole blood.
 - G. The person has a concentration of two hundred four-thousandths of one per cent (0.204) or more by weight per unit volume of alcohol in the person's blood serum or plasma.
 - H. The person has a concentration of seventeen-hundredths of one gram (0.17 g) or more by weight of alcohol per two hundred ten liters (210 L) of the person's breath.
 - I. The person has a concentration of two hundred thirty-eight-thousandths of one gram (0.238 g) or more by weight of alcohol per one hundred milliliters (100 ml) of the person's urine.
 - J. Except as provided in division (a)(1)K. of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - (i) The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms (500 ng) of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms (100 ng) of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - (ii) The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms (150 ng) of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms (50 ng) of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - (iii) The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms (150 ng) of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms (50 ng) of

- (xi) The state board of pharmacy has adopted a rule pursuant to ORC 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this City, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.
- (2) No person who, within twenty (20) years of the conduct described in division (a)(2)A. of this section, previously has been convicted of or pled guilty to a violation of this division, a violation of divisions (a)(1) or (b) of this section, a violation of ORC 4511.19, or any other equivalent State or municipal offense shall do both of the following:
 - A. Operate any vehicle within this City while under the influence of alcohol, a drug of abuse, or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in division (a)(2)A. of this section, being asked by a law enforcement officer to submit to chemical test(s) under Section 333.09 of this Traffic Code, and being advised by the officer in accordance with Section 333.09 of the consequences of the person's refusal or submission to the test(s), refuse to submit to the test(s).
- (b) Underage Operating a Vehicle under the Influence of Alcohol or Drugs: No person under twenty-one (21) years of age shall operate any vehicle within this City if, at the time of the operation, any of the following apply:
 - (1) The person has a concentration of at least two-hundredths of one per cent (0.02), but less than eight-hundredths of one per cent (0.08), by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least three-hundredths of one per cent (0.03), but less than ninety-six-thousandths of one per cent (0.096), by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least two-hundredths of one gram (0.02 g), but less than eight-hundredths of one gram (0.08 g), by weight of alcohol per two hundred ten liters (210 L) of the person's breath.
 - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram (0.028 g), but less than eleven-hundredths of one gram (0.11 g), by weight of alcohol per one hundred milliliters (100 ml) of the person's urine.
- (c) Limitation on Convictions: In any proceeding arising out of one incident, a person may be charged with a violation of division (a)(1)A. or division (a)(2) of this section, and a violation of division (b)(1), (b)(2) or (b)(3) of this section, but the person may not be convicted of more than one violation of these divisions.
- (d) Evidence; Tests; Immunity: In any criminal prosecution for a violation of division (a) or division (b) of this section, the evidentiary rules and procedures regarding the admission of any chemical tests, field sobriety tests, or laboratory reports shall be the same as those contained in ORC 4511.19(D) and (E), and the immunity provided by ORC 4511.19(F) shall also apply.
- (e) Penalties:
 - (1) Whoever violates divisions (a)(1)A. through (a)(1)I. or (a)(2) of this section is guilty of operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them. The Court shall sentence the offender in accordance with ORC 4511.19(G) and (I).

- (2) The person is arrested for a violation of Section 333.08(a) of this Traffic Code and the person previously has been convicted of or pled guilty to a violation of ORC 4511.19(A) under circumstances in which the violation was a felony, regardless of when the prior felony violation of ORC 4511.19(A) and the conviction or guilty plea occurred.

(b) Rented or Leased Vehicle: The Franklin Police Division, when the arresting officer makes an arrest of a type described in division (a) of this section and that involves a rented or leased vehicle that is being rented or leased for a period of thirty (30) days or less shall notify, within twenty-four (24) hours after the officer makes the arrest, the lessor or owner of the vehicle regarding the circumstance of the arrest and the location at which the vehicle may be picked up. At the time of the seizure of the vehicle, the arresting officer shall give the arrested person written notice that the vehicle and its license plates have been seized; that the vehicle either will be kept by the Franklin Police Division or will be immobilized at least until the operator's initial appearance on the charge of the offense for which the arrest was made; that, at the initial appearance, the court in certain circumstance may order the vehicle and its license plates be released to the arrested person until the disposition of that charge; and that, if the arrested person is convicted of that charge, the court generally must order the immobilization of the vehicle and the impoundment of its licenses plates or the forfeiture of the vehicle.

(c) Notice to the Vehicle Owner by the Court:

- (1) The arresting officer or another officer of the Franklin Police Division shall give written notice of the seizure to the court that will conduct the initial appearance of the arrested person the charges arising out the arrest. Upon receipt of the notice, the court promptly shall determine whether the arrested person is the vehicle owner. If the court determines that the arrested person is not the vehicle owner, it promptly shall send by regular mail written notice of the seizure to the vehicle's registered owner. The written notice shall contain all of the information required by division (b) of this section to be in a notice to be given to the arrested person and also shall specific the date, time and place of the arrested person's initial appearance. The notice shall also inform the vehicle owner that if title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and ORC 4503.234(B)(2) or (B)(3) applies, the court may fine the arrest person the value of the vehicle. The notice also shall state that if the vehicle is immobilized under ORC 4503.233(A), seven (7) days after the end of the period of immobilization the Franklin Police Division will send the vehicle owner a notice, informing the owner that if the release of the vehicle is not obtained in accordance with ORC 4503.233(D)(3), the vehicle shall be forfeited. The notice also shall inform the vehicle owner that the vehicle owner may be charged expenses or charges incurred under this section and ORC 4503.233 for the removal and storage of the vehicle.
- (2) The written notice that is given to the arrested person also shall state that if the person is convicted of or pleads guilty to the offense and the court issues an immobilization and impoundment order relative to that vehicle, ORC 4503.233(D)(4) prohibits the vehicle from being sold during the period of immobilization without the prior approval of the court.

(d) Motion for Release: At or before the initial appearance, the vehicle owner may file a motion requesting the court to order that the vehicle and its license plates be released to the vehicle owner. Except as provided in this division and subject to the payment of expenses or charges incurred in the removal and storage of the vehicle, the court, in its discretion, then may issue an order releasing the vehicle and its license plates to the vehicle owner. Such an order may be conditioned upon such terms as the court determines appropriate, including the posting of a bond in an amount determined by the court. If the arrested person is not the vehicle owner and if the vehicle owner is not present at the arrested person's initial appearance, and if the court believes that the vehicle owner was not provided with adequate notice of the initial appearance, the court, in its discretion, may allow the vehicle owner to file a motion within seven (7)

(h) Final Disposition: If a vehicle and its license plates are seized under division (a) of this section and are not returned or released to the arrested person pursuant to division (g) of this section, the vehicle and its license plates shall be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court shall do whichever of the following is applicable:

- (1) If the arrested person is convicted of or pleads guilty to the violation of Section 333.08(a) of this Traffic Code, the court shall impose sentence upon the person as provided by law or ordinance and shall order the immobilization of the vehicle the person was operating at the time of the offense if it is registered in the arrested person's name and the impoundment of its license plates under ORC 4503.233 and ORC 4511.19 or 4511.193, or the criminal forfeiture of the vehicle if it is registered in the arrested person's name under ORC 4503.233 and ORC 4511.19 or 4511.193, whichever is applicable.
- (2) If the arrested person is found not guilty of the violation of Section 333.08(a) of this Traffic Code, the court shall order that the vehicle and its license plates immediately be released to the arrested person.
- (3) If the charge that the arrested person violated Section 333.08(a) of this Traffic Code is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the arrested person.
- (4) If the impoundment of the vehicle was not authorized under this section, the court shall order that the vehicle and its license plates be returned immediately to the arrested person or, if the arrested person is not the vehicle owner, to the vehicle owner, and shall order that the political subdivision of the law enforcement agency served by the law enforcement officer who seized the vehicle pay all expenses and charges incurred in its removal and storage.

(i) Immobilization: If a vehicle is seized under division (a) of this section, the time between the seizure of the vehicle and either its release to the arrested person under division (g) of this section or the issuance of an order of immobilization of the vehicle under ORC 4503.233 shall be credited against the period of immobilization ordered by the court.

(j) Towing and Storage Charges; Liens:

- (1) Except as provided in division (h)(4) of this section, the arrested person may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the court finds that the arrested person does not intend to seek release of the vehicle at the end of the period of immobilization under ORC 4503.233 or that the arrested person is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage.
- (2) Any lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the person or entity that receives title to the vehicle is the person or entity that removed it, the person or entity shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title either may keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.
- (3) If the person or entity that receives title assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage

~~(b) Exemptions:~~ Division (a)(2) of this section does not apply to a person in the following circumstances:

- ~~(1) The person is an offender with limited driving privileges;~~
- ~~(2) The person breathes into an immobilizing or disabling device that is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or otherwise starts a motor vehicle equipped with an immobilizing or disabling device; and~~
- ~~(3) The person breathes into the device or starts the vehicle for the purpose of providing the person with an operable motor vehicle.~~

~~(b) (e) Penalties:~~ Whoever violates this section is guilty of an immobilizing or disabling device violation, a misdemeanor of the first degree.
(ORC 4510.44)

335.07 DRIVING UNDER SUSPENSION OR IN VIOLATION OF LICENSE RESTRICTION.

(a) Driving Under Suspension: Except as provided in division (b) of this section and in sections 335.08 and 335.11 of this Traffic Code, no person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of this Traffic Code, other than Sections 335.13, 335.14, 335.18, and 335.22, or under any provision of the Ohio Revised Code, other than ORC Chapter 4509., or under any applicable law in any other jurisdiction in which the person's license or permit was issued, shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this City during the period of suspension, unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(b) Driving in Violation of License Restriction: No person shall operate any motor vehicle upon a street, highway, or any public or private property used by the public for purposes of vehicular travel or parking in this City in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under ORC 4506.10(D) or 4507.14. (c) Prima-Facie Evidence: Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of division (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of division (a) of this section or the person operated a motor vehicle in violation of a restriction at the time of the alleged violation of division (b) of this section. The person charged with a violation of division (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) Penalties: Whoever violates division (a) or (b) of this section is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in ORC 4510.02(A)(7).

(e) Immobilization:

- (1) Except as provided in division (e)(2) or (f)(1) of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three (3) years of the offense, the offender previously has been convicted of or pled guilty to one (1) violation of this section or Section 335.08 or 335.11 of this Traffic Code, or a substantially equivalent State law or municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty (30) days and the

(3) The offenses established under division (h)(1) and (h)(2) of this section are strict liability offenses and ORC 2901.20 does not apply.
(ORC 4510.17)

339.23 LOAD LIMITS ON CITY STREETS AND BRIDGES; TRUCK ROUTES.

(a) Limitations on Bridges: No person shall operate a vehicle exceeding the posted maximum allowable gross weight upon any bridge or culvert in this City, except upon those bridges designated as a truck route and marked as such by appropriate traffic signs.

(b) Limitations on Local Streets:

- (1) No person shall operate a vehicle, except for school buses, exceeding a gross weight of five tons (5T.) upon any street, alley or highway in this City other than a State route, where not prohibited, except upon those local streets designated as a truck route and marked as such by appropriate signs; however, a person may operate a vehicle deviating from either a State Route or a designated truck route within the City if such operation is necessary to load or unload property, to go to or from the usual place of storage of such vehicle, or to perform any other legitimate business or act other than passage through the City.
- (2) Signs shall be posted indicating "NO THRU TRUCKS - GROSS WEIGHT 5 TONS," or words of similar import, in conformance with the *Ohio Manual of Uniform Traffic Control Devices* to alert operators of the limitations imposed by this section, and no person shall operate a vehicle in violation of any signs so posted.

(Ord. 1998-36, passed 05/02/88; Ord. 2004-41, passed 12/20/04)

~~(c) Limitations on State Routes under City Jurisdiction: Whenever the City determines, upon the basis of an engineering and traffic investigation, that the weight limits permitted on State routes under sections 339.24 to 339.31 of this Traffic Code or ORC 5577.01 to 5577.14, or the weight limits permitted when compact, self-contained, portable, sealed scales, specially adapted to determining the wheel loads of vehicles on highways, are used on any part of a State route under their jurisdiction is greater than is reasonable under the conditions found to exist at such location, the City may, by resolution, request the Ohio Director of Transportation to determine and declare reasonable weight limits. Upon receipt of such request the Director may determine and declare reasonable weight limits at such location, and if the Director alters the weight limits permitted on State routes under sections 339.24 to 339.31 of this Traffic Code or ORC 5577.01 to 5577.14, then such altered weight limits shall become effective only when appropriate signs giving notice thereof are erected at such location by the City.~~
(ORC 4513.33)

~~—(d) Penalties: Whoever violates this section is guilty of a minor misdemeanor.~~
(ORC 4513.99(B))

(Editor's Note: see Section 339.31 of this Traffic Code for penalty provisions)

341.01 DISPLAY OF LICENSE PLATES.

(a) Display of License Plates or Temporary License Placard:

- (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle **a license plate that bears** the distinctive number and registration mark **assigned to the motor vehicle by the Ohio Director of Public Safety**, including any county identification sticker and any validation sticker issued under ORC 4503.19 and 4503.191, furnished by the Ohio Director of Public Safety; except **as follows:**
that a

A. A manufacturer of motor vehicles or dealer therein, the holder of an in-transit permit, and the owner or operator of a motorcycle, motorized bicycle or moped, motor-driven

(b) Exceptions: The requirements of this section relating to the stopping of the engine, locking of the ignition, and removing the key from the ignition of a motor vehicle do ~~shall~~ not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
 - (2) A motor vehicle that is locked, regardless of where it is parked;
 - (3) On emergency vehicle; or
 - (4) A public safety vehicle.
- (ORC 4511.661)

(c) Removal of Illegally Parked Vehicle: Whenever any police officer finds a vehicle standing upon a street or highway in violation of this section, such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled part of such street or highway.
(ORC 4511.67)

(d) Penalties: Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pled guilty to one (1) predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pled guilty to two (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.661)

353.01 IMPOUNDING MOTOR VEHICLE LEFT ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY OR AT REPAIR GARAGE.

(a) Impoundment:

- (1) The City's Chief of Police, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Section 353.08 of this Traffic Code, that has been left on private residential or private agricultural property within the City for at least four (4) hours without the permission of the person having the right to the possession of the property. The Chief of Police, upon complaint of ~~the owner of~~ a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this division, the Chief of Police may arrange for the removal of the motor vehicle by a private towing service and shall designate a storage facility.
- (2) A towing service towing a motor vehicle under division (a)(1) of this section shall remove the motor vehicle in accordance with that division. The towing service shall deliver the motor vehicle to the location designated by the Chief of Police not more than two (2) hours after the time it is removed from private property, unless the towing service is unable to deliver the motor vehicle within two (2) hours due to an uncontrollable force, natural disaster or other event that is not within the power of the towing service.
- (3) Subject to division (b) of this section, the owner of a motor vehicle that has been removed pursuant to this division may recover the vehicle only in accordance with division (d) of this section.

(b) Reclamation While Vehicle is being Prepared for Removal:

- (1) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to division (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or

- B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle or a lease agreement.
- C. When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Section 353.04 of this Traffic Code or under ORC 4513.611.
- (2) Upon presentation of proof of ownership as required under division (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under division (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Ohio Public Utilities Commission in rules adopted under ORC 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under ORC 4513.69, if applicable. However, the The owner of a motor vehicle shall may not do either of the following:
- A. Retrieve any personal item that has been determined by the Chief of Police to be necessary to a criminal investigation; or
- B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.
- For the purposes of division (d)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.
- (3) If a motor vehicle that is ordered into storage pursuant to division (a)(1) of this section remains unclaimed by the owner for thirty (30) days, the procedures established by Sections 353.03 and 353.05 of this Traffic Code shall apply.
- (e) Duties of Towing Service:
- (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with division (a)(1) of this section or Sections 353.03 to 353.08 of this Traffic Code.
- (2) No towing service or storage facility shall fail to comply with the requirements of this section.
- (f) Limitations: This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 353.02 of this Traffic Code.
- (g) Penalties: ~~Whoever~~ The owner of any towing service or storage facility that violates division (e) of this section is guilty of a minor misdemeanor.
- (h) Definitions: As used in this section, "private residential property" means private property on which is located one (1) or more structures that are used as a home, residence, or sleeping place by one (1) or more persons, if no more than three (3) separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one (1) or more structures that are used as a home, residence, or sleeping place by two (2) or more persons, if more than three (3) separate households are maintained in the structure or structures.
(ORC 4513.60)
- 353.02 PRIVATE TOW-AWAY ZONES.
- (a) Establishing Private Tow-Away Zones: The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:

- (2) If the City requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the City shall cause the removal and storage of any vehicle pursuant to division (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) **No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.**

(c) Reclamation While Vehicle is being Prepared for Removal: If the owner or operator of a vehicle that is being removed under authority of division (b) of this section arrives after the vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half (1/2) of the fee for the removal of the vehicle **established by the Ohio Public Utilities Commission in rules adopted under ORC 4921.25** ~~under division (g) of this section~~, in order to obtain release of the vehicle. **That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.** Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner **of the private property** or in violation of any posted parking condition or regulation.

(d) Duties of Towing Service:

- (1) Prior to towing a vehicle under division (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under division (a) of this section. The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty (30) days after the date on which the vehicle is recovered by the owner or lienholder or at least two (2) years after the date on which the vehicle was towed, whichever is earlier.
- (2) A towing service shall deliver a vehicle towed under division (b) of this section to the location from which it may be recovered not more than two (2) hours after the time it was removed from the private tow-away zone, **unless the towing service is unable to deliver the motor vehicle within two (2) hours due to an uncontrollable force, natural disaster or other event that is not within the power of the towing service.**

(e) Notice to Police Division; Record of Vehicles:

- (1) If an owner of a private property that is established as a private tow-away zone in accordance with division (a) of this section causes the removal of a vehicle from that property by a towing service under division (b) of this section, the towing service, within two (2) hours of removing the vehicle, shall provide notice to the City's Police Division, if the private property is located within the City, concerning all of the following:
 - A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed;
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered; and
 - E. The address of the place from which the vehicle may be recovered.
- (2) The Chief of Police shall maintain a record of any vehicle removed from private property within the City that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing

- (ii) ~~Not more than twelve dollars (\$12) per twenty-four (24) hour period for the storage of the vehicle. However, if the motor vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds (10,000 lbs.) and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer, not more than twenty dollars (\$20) per twenty-four (24) hour period of storage.~~
- (ii) (iii)** If notice has been sent to the owner and lienholder as described in division (f) of this section, a processing fee of twenty-five dollars (\$25).
- (2) A towing service or storage facility in possession of a vehicle that is removed under authority of division (b) of this section shall show the vehicle owner, operator or lienholder who contest the removal of the vehicle all photographs taken under division (d) of this section. Upon request, the towing service or storage facility shall provide ~~a copy~~ **copies** of all photographs in the medium in which the photographs are stored, whether paper, electronic or otherwise.
- (3) **When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under section 353.04 of this Traffic Code or ORC 4513.611.**
- (4) (3) Upon presentation of proof of ownership, which may be evidence by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of division (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. **The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.** For the purposes of division ~~(g)(4)~~ **(g)(3)** of this section, "personal items" do not include any items that are attached to the vehicle.
- (h) Duty of Towing Service: No ~~person~~ **person** towing service or storage facility shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under section, ~~or~~ store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.
- (i) Limitations: This section does not affect or limit the operation of Section 353.01 or 353.03 to 353.08 of this Traffic Code as they relate to property other than private property that is established as a private tow-away zone under division (a) of this section.
- (j) Penalties: ~~Whoever~~ **Whoever** The owner of any towing service or storage facility that violates division ~~(h)(1)~~ of this section is guilty of a minor misdemeanor.
- (k) Definitions: As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:**
- (1) Any person who holds title to the property;**
- (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;**
- (3) A person who is authorized to manage the property;**
- (4) A duly authorized agent of any person listed in divisions (k)(1) to (k)(3) of this section.**
- (ORC 4513.601)
- (Editor's Note: see Section 351.13 of this Traffic Code regarding parking on private property violations)

B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.

For the purposes of division (c)(2) of this section, "personal items" do not include any items that are attached to the vehicle.

- (3) 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, and the search was conducted by ~~the owner~~ of the place of storage ~~or the owner's employee~~, and the notice was sent to the motor vehicle owner by the owner of the place of storage or the owner's employee, the owner or lienholder shall pay to the place of storage a processing fee of twenty-five dollars (\$25), in addition to any expenses or charges incurred in the removal and storage of the vehicle.

(d) Disposal of Vehicle When Unclaimed:

- (1) If the owner or lienholder makes no claim to the motor vehicle within ten (10) days of the date of mailing of the notice, and if the vehicle is to be disposed of at public auction, as provided in Section 353.05 of this Traffic Code, the Chief of Police shall proceed in accordance with ORC 4513.61(D).

(e) Duties of Towing Service or Storage Facility: No towing service or storage facility shall fail to comply with this section.
(ORC 4513.61)

353.04 CIVIL ACTION AGAINST TOWING SERVICE OR STORAGE FACILITY.

(a) Civil Action:

- (1) A vehicle owner may bring a civil action in a court of competent jurisdiction against a towing service or storage facility that commits a major or minor violation, violates Section 353.01 or 353.02 of this Traffic Code.
- (2) If a court determines that the towing service or storage facility committed a minor the violation, the court shall award the vehicle owner the following:
- A. If the towing service or storage facility has not committed a prior minor violation within one year of the minor violation for which the court has determined the towing service or storage facility is liable, one hundred fifty dollars (\$150).**
- B. If the towing service or storage facility has committed one (1) prior minor violation within one year of the minor violation for which the court has determined the towing service or storage facility is liable, three hundred fifty dollars (\$350).**
- C. If the towing service or storage facility has committed two (2) prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, the violation constitutes a major violation and division (a)(3) of this section applies.**
- D. If the towing service or storage facility has committed three (3) prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, one thousand five hundred dollars (\$1,500).**
- E. If the towing service or storage facility has committed four (4) prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, two thousand dollars (\$2,000).**
- F. If the towing service or storage facility has committed five (5) prior minor violations within one year of the minor violation for which the court has**

(e) Definitions: As used in this section:

(1) "Minor violation" means any of the following:

- A. Failure to deliver a vehicle to the designated location within two (2) hours after removal, unless the towing service was unable to deliver the motor vehicle within two (2) hours due to an uncontrollable force, natural disaster or other event that was not within the power of the towing service, as required under Section 353.01(a)(2) or Section 353.02(d)(2) of this Traffic Code;**
- B. Failure to provide a receipt as required under Section 353.01(b) or Section 353.02(c) of this Traffic Code;**
- C. Failure to take a towed vehicle to a location that meets the requirements of Section 353.02(a)(2) of this Traffic Code as required under that division;**
- D. Failure to comply with any photograph-related requirement established under Section 353.02(d)(1) or (g)(2) of this Traffic Code. If a court determines that a towing service or storage facility committed more than one (1) violation of Section 353.02(d)(1) or (g)(2) of this Traffic Code with regard to the same transaction, the court shall find the towing service or storage facility liable for only one (1) minor violation under this section;**
- E. Failure to send notice to the owner and any lienholder as required under Section 353.03(f)(1)A. of this Traffic Code;**
- F. Failure to provide an estimate as required under ORC 4513.68, containing the information required under that section;**
- G. Charging a fee that does not comply with ORC 4513.68(C) if the towing service fee is required to be reduced under that division;**
- H. Failure to post a notice pertaining to fee limitations as required under ORC 4513.68(D).**

(2) "Major Violation" means any of the following:

- A. Failure to give the owner of a vehicle, who arrives after the owner's vehicle has been prepared for removal but prior to its actual removal, notification that the owner may pay a fee of not more than one-half (½) of the fee for the removal of the vehicle for the immediate release of the vehicle, as required under Section 353.01(b) or 353.02(c) of this Traffic Code;**
- B. Failure to release a vehicle upon payment of not more than one-half (½) of the fee for the removal of the vehicle as permitted under Section 353.01(b) or Section 353.02(c) of this Traffic Code;**
- C. Refusal to allow a vehicle owner to reclaim the owner's vehicle upon payment of the applicable fees established by the Ohio Public Utilities Commission and presentation of proof of ownership as permitted under Section 353.01(d)(2) or Section 353.02(g)(1) of this Traffic Code;**
- D. Refusal to allow a vehicle owner to retrieve personal items from the owner's vehicle under circumstances in which the owner is permitted to retrieve personal items under Section 353.01(d)(2) or Section 353.02(g)(4) of this Traffic Code;**
- E. Failure to provide notice to the appropriate law enforcement agency within two (2) hours of removing a vehicle as required under Section 353.02(e)(1) of this Traffic Code;**
- F. Failure to send notice that a vehicle has been towed to the vehicle owner and any known lienholder within thirty (30) days of removal of the vehicle from a private tow-away zone under Section 353.02 of this Traffic Code. If a court determines that a towing service or storage facility committed a violation specified in division (d)(2)F. of this section and a violation of division (d)(1)E. of this section with regard to the same transaction, the court shall find the towing service or storage facility liable for only the major violation;**

- (4) The offenses established under division (b) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of ORC 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(ORC 4513.67)

(d) Definitions: As used in division (b) of this section, "towing service" means any for-hire motor carrier that is engaged on an intrastate basis anywhere in this State in the business of towing a motor vehicle over any public highway in this State.
(ORC 4513.67)

353.13 PERSONAL DELIVERY DEVICES.

(a) Operation of Personal Delivery Devices: An eligible entity may operate a personal delivery device on sidewalks and crosswalks so long as all of the following requirements are met:

- (1) The personal delivery device is operated in accordance with all regulations, if any, established by the City;
- (2) A personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device;
- (3) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars (\$100,000) for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity; and
- (4) The device is equipped with all of the following:
 - A. A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;
 - B. A braking system that enables the personal delivery device to come to a controlled stop; and
 - C. If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible in clear weather from a distance of at least five hundred feet (500') to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

(b) Prohibitions:

- (1) No personal delivery device operator shall allow a personal delivery device to do any of the following:
 - A. Fail to comply with traffic or pedestrian control devices and signals;
 - B. Unreasonably interfere with pedestrians or traffic;
 - C. Transport any hazardous material that would require a permit issued by the Ohio Public Utilities Commission; or
 - D. Operate on a street or highway, except when crossing the street or highway within a crosswalk.
- (2) No person shall operate a personal delivery device unless the person is authorized to do so under this section and complies with the requirements of this section.
- (3) An eligible entity is responsible for both of the following:
 - A. Any violation of this section that is committed by a personal delivery device operator; and
 - B. Any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by division (b)(1) of this section. (ORC 4511.513)

353.10 ~~353.09~~ APPLICABILITY.

Nothing in this Chapter shall be deemed to apply to stolen vehicles, which shall be disposed of in accordance with ORC 2981.11 to 2981.13. (Ord. 2012-17. Passed 10/01/12)

373.14 ~~373.13~~ DEFINITIONS.

For the purposes of this Chapter:

(a) Autocycle: means a three-wheeled motorcycle that is manufactured to comply with federal safety requirements for motorcycles and that is equipped with safety belts, a steering wheel, and seating that does not require the operator to straddle or sit astride to ride the motorcycle.
(ORC 4501.01)

(b) Bicycle: means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two (2) or more wheels, any of which is more than fourteen inches (14") in diameter.
(ORC 4501.01; 4511.01)

(c) Cab-enclosed motorcycle: means a motor vehicle with motive power having a seat or saddle for the use of the operator, designed to travel on not more than three (3) wheels in contact with the ground, and having an occupant compartment top or an occupant compartment top that is installed.
(ORC 4501.01)

(d) Motorcycle: means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground including, but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle," or "motorcycle" without regard to weight or brake horsepower.
(ORC 4511.01)

(e) Motorized Bicycle or Moped: means any vehicle having either two (2) tandem wheels or one (1) wheel in the front and two (2) wheels in the rear that may be pedaled and that is equipped with a helper motor of not more than fifty cubic centimeters (50 cm³) piston displacement that produces no more than one brake horsepower (1 bhp) and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour (20 mph) on a level surface.
(ORC 4501.01; 4511.01)