

CITY OF FRANKLIN, OHIO  
ORDINANCE 2023-26

**AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN TRAFFIC CODE TO BE CONCURRENT WITH STATE LAW**

WHEREAS, Part Three of the Codified Ordinances of the City of Franklin sets forth the City's local Traffic Code; and

WHEREAS, the City of Franklin Council desires to amend certain sections of the Traffic Code, as set forth herein, in order to make the local Traffic Code consistent with parallel traffic laws set forth in the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FRANKLIN, WARREN COUNTY, OHIO THAT:

Section 1. The Codified Ordinances of the City of Franklin, Ohio, Part Three – Traffic Code, is hereby amended as set forth in Exhibit A.

Section 2. The addition, amendment, or removal of Municipal Franklin City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Franklin, Ohio to make the same a part of the Municipal Code shall be deemed to be incorporated in the Municipal Code, so that reference to the Municipal Code includes the additions, amendments, and removals.

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Code of Ordinances of the City of Franklin, Ohio) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the City's Municipal Code.

Section 4. Supplementation of Code.

- a. In preparing a supplement to City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City's Municipal Code by the omission thereof from reprinted pages.
- b. When preparing a supplement to the City's Municipal Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Codified Ordinances printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Codified Ordinances and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections or the ordinance incorporated into the Code); and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodies in the City's Municipal Code.

- c. In preparing a supplement to the City's Municipal Code, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. Provisions of Exhibit A that duplicate or track State statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. The following sections and subsections of the Codified Ordinances, Part Three – Traffic Code, are new or have been amended with new matter in the Municipal Code, are hereby approved, adopted and enacted, the body of each to read as set forth in Exhibit A.

Section 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine or imprisonment, or both. The fine shall not exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six months.

Section 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Franklin, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

Section 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 10. The effective date of this ordinance shall be December 20, 2023.

INTRODUCED: November 6, 2023

ADOPTED: November 20, 2023

ATTEST: Khrusti Dunn  
Khrusti Dunn, Clerk of Council

APPROVED: Brent Centers  
Brent Centers, 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 2023-26 passed by that body on November 20, 2023

Khrusti Dunn  
Khrusti Dunn, Clerk of Council

Approved as to form: Ben Yoder  
Ben Yoder, Law Director

### **301.07 Officer May Remove Ignition Key**

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street, or highway, ~~or any public or private property used by the public for the purposes of vehicular travel or parking.~~ The officer removing the said key shall place notification upon the vehicle detailing his or her name and badge number, the place where ~~the~~ said key may be reclaimed, and the procedure for reclaiming ~~the~~ said key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership.

(Ord. 2013-20. Passed 12-2-13.)

Statutory reference:

Removing ignition key left in ignition switch, see ORC 4549.05

### **303.09 Vehicle Checkpoint Operations; Secondary Traffic Offenses**

(a) Limitations:

(1) No law enforcement officer who stops the operator of a motor vehicle in the course of an authorized sobriety or other motor vehicle checkpoint operation or a motor vehicle safety inspection shall issue a ticket, citation, or summons for a secondary traffic offense unless in the course of the checkpoint operation or safety inspection the officer ~~first~~ first determines ~~than~~ that an offense other than a secondary traffic offense has occurred and either places the operator or a vehicle occupant under arrest or issues a ticket, citation, or summons to the operator or a vehicle occupant for an offense other than a secondary offense.

(b) Definitions: As used in this section, "secondary traffic offense" means a violation of Section 333.24, 335.03, 335.031, 337.02, 337.26, or 337.27 of this Traffic Code or ORC 4507.05(A) or (F)(2), 4507.071(B)(1)(a) or (b) or (E), ~~4511.204(A),~~ 4511.81(C) or (D), 4513.03(A)(3), or 4513.263(B).

(ORC 4511.043)

(Ord. 2013-20. Passed 12-2-13.)

### **303.11 Impounding Or Ordering Into Storage Of Vehicles; Reclamation**

(a) Removal and Impounding: Police officers are authorized to provide for the removal and impounding or storage any motor vehicle including an abandoned junk motor vehicle as defined in ORC 4513.63, that:

(1) Has come into the possession of the police officer as a result of the performance of the police officer's duties; or

(2) Has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight (48) hours or longer without notification to the chief of police of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately unless either of the following applies:

(A) The vehicle was involved in an accident and is subject to ORC 4513.66;

(B) The vehicle is a commercial motor vehicle. If the vehicle is a commercial motor vehicle, the chief of police shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the chief of police. If the chief of police determines

that the vehicle cannot be removed within the specified period of time, the chief of police shall order the removal of the vehicle.

Subject to ORC 4513.61(C), the chief of police shall designate the place of storage of any motor vehicle so ordered removed.

(b) If the chief of police issues an order under ORC 4513.61(A) and arranges for the removal of a motor vehicle by a towing service, the towing service shall deliver the motor vehicle to the location designated by the chief of police not more than two hours after the time it is removed.

(c) Reclamation:

(1) The chief of police shall cause a search to be made of the records of an applicable entity listed in ORC 4513.601(F)(1) to ascertain the identity of the owner and any lienholder of a motor vehicle ordered into storage by the chief of police within ~~five~~ three business days of the removal of the vehicle. Upon obtaining such identity, the chief of police shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt. The notice shall inform the owner or lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of the sending of the notice.

(2) The owner or lienholder of the motor vehicle may reclaim the motor vehicle 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, ~~or memorandum certificate of title to the motor vehicle,~~ a certificate of registration for the motor vehicle, or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the 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 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(B)(3), if applicable. However, the owner shall not do either of the following:

(Ord. 2012-17. Passed 10-1-12.)

### **303.13 Suspension Of Driver's License**

(a) License Suspension for Violation of Traffic Code: Except as otherwise provided in division (b) of this section or in any provision of the ORC, whenever an offender is convicted of or pleads guilty to a violation of this Traffic Code that is substantially similar to a provision of the ORC and the court is permitted or required to suspend a person's driver's license, commercial driver's license, permit, ~~or nonresident operating privileges~~ for a violation of that ORC provision, the court, in addition to any other penalties authorized by law, may suspend the offender's driver's license, commercial driver's license, permit, ~~or nonresident operating privileges~~ for the period of time the court determines appropriate, but the period of suspension imposed for the violation of this Traffic Code shall not exceed the period of suspension that is permitted or required to be imposed for the violation of the provision of the ORC to which the Traffic Code section is substantially similar. (ORC 4510.05)

(b) Suspension for Vehicular Homicide or OVI: The court imposing a sentence upon an offender for any violation of this Traffic Code that is substantially equivalent to a violation of ORC 2903.06, or for any violation of the OVI provisions of this Traffic Code, also shall impose a 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(B) that is equivalent in length to

the suspension required for a violation of ORC 2903.06, or 4511.19(A) or (B) under similar circumstances.

(ORC 4510.07)

(Ord. 2012-17. Passed 10-1-12.)

### **311.06 Prohibitions Against Driving Through Safety Zone**

(a) Prohibitions: No vehicle shall at any time be driven through or within a safety zone.

(b) Penalties: Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one (1) 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 (1) year of the offense, the offender previously has been convicted of two (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under ORC 4511.991.

(c) Definitions: For the purposes of this section, "Safety Zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or marked or indicated by adequate signs as to be plainly visible at all times.

~~(ORC 4510.60)~~ (ORC 4511.60)

### **311.09 Prohibitions Against Occupancy Of Trailer, Or Manufactured Or Mobile Home While In Motion**

(a) Prohibitions: No person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

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

~~(ORC 45411.701)~~ (ORC 4511.701)

(Ord. 2012-17. Passed 10-1-12.)

### **331.31 Divided Roadways**

(a) Rules: Whenever any street or highway has been divided into two (2) roadways by an intervening space, by a physical barrier, or by a clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within any dividing space, barrier, or section except through an opening, crossover, or intersection established by the City or the State. This section does not prohibit the occupancy of the dividing space, barrier, or section for the purpose of an emergency stop or in compliance with an order of a police officer.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under ORC 4511.991.

~~(ORC 4511.135)~~ (ORC 4511.35)

### **331.32 Texting While Driving**

(a) Use of Electronic Wireless Communications Device While Driving: No person shall ~~drive-operate~~ a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using ~~a handheld~~, holding, or physically supporting with any part of the person's body ~~an electronic wireless communications device to write, send, or read a text-based communication.~~

(b) Exceptions: Division (a) of this section does not apply to ~~the~~ any of the following:

(1) A person using ~~a handheld~~ an electronic wireless communications device in that manner for emergency purposes, including an emergency to make contact, for emergency purposes, with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle ~~who uses a handheld~~ while using an electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using ~~a handheld~~ an electronic wireless communications device in that manner ~~whose~~ when the person's motor vehicle is in a stationary position and who is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;

(4) A person ~~reading, selecting, or entering a name or telephone number in a handheld~~ using and holding an electronic communications device directly near the person's ear for the purpose of making, ~~or~~ receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;

(5) A person receiving wireless messages ~~on a~~ an electronic wireless communications device regarding the operation or navigation of a motor vehicle, or safety-related information including emergency, traffic or weather alerts, or data used primarily by the motor vehicle, provided that the person does not hold or support the device with any part of the person's body;

(6) A person ~~receiving wireless messages via radio waves~~ using the speaker phone function of the electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;

(7) A person using ~~a~~ an electronic wireless communications device for navigation purposes; provided that the person does not do either of the following during the use:

(A) Manually enter letters, numbers, or symbols into the device;

(B) Hold or support the device with any part of the person's body;

~~(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers or symbols, or reading text messages, except to activate, deactivate, or initiate the device or using a feature or function of the electronic wireless communications device; with a single touch or single swipe, provided that the person does not do either of the following during the use:~~

~~(A) Manually enter letters, numbers, or symbols into the device;~~

~~(B) Hold or support the device with any part of the person's body;~~

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data; ~~or~~

(10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;

~~(11) A person using a handheld an electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle, or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;~~

~~(12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:~~

~~(A) Manually enter letters, numbers, or symbols into the device;~~

~~(B) Hold or support the device with any part of the person's body.~~

~~(13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.~~

~~(e) — Secondary Offense: Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement office shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.~~

~~(c)(1) On January 31 of each year, the department of public safety shall issue a report to the general assembly that specifies the number of citations issued for violations of this section during the previous calendar year.~~

~~(2) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of division (A) of this section, the officer shall do both of the following:~~

~~(A) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;~~

~~(B) Ensure that such report indicates the offender's race.~~

~~(d) Penalties: Whoever violates division (a) of this section is guilty of a minor misdemeanor.~~

(1) Whoever violates division (a) of this section is guilty of operating a minor motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor.

(A) Except as provided in ORC 4511.204(D)(1)(b), (c), (d), and (2), the court shall impose upon the offender a fine of not more than one hundred fifty dollars.

(B) If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars.

(C) If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.

(D) Notwithstanding ORC 4511.204(D)(1)(a) to (c), if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with section 4511.98 of the Revised Code, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under ORC 4511.204(D)(1)(a), (b), or (c), as applicable.

(2) In lieu of payment of the fine of one hundred fifty dollars under ORC 4511.204 (D)(1)(a) and the assessment of points under ORC 4511.204(D)(4), the offender instead may elect to attend the distracted driving safety course, as described in ORC 4511.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court.

(3) The court may impose any other penalty authorized under ORC 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in ORC 4511.204(D)(1). The court also shall not impose a jail term or community residential sanction.

(4) Except as provided in division (D)(2) of this section, points shall be assessed for a violation of division (A) of this section in accordance with ORC 4510.036.

(5) The offense established under this section is a strict liability offense and ORC 2901.20 does not apply. The designation of this offense as a strict liability offense 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.

~~(2)(e)~~ ORC 4511.204 shall not be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in ORC 4511.204 for violations of that section.

~~(e)(f) Municipal Prosecution Not Precluded.~~ A prosecution for ~~a~~an offense in violation of ORC 4511.204 does not preclude a prosecution for ~~a~~an offense in violation of a substantially equivalent municipal ordinance based on the same conduct. However, ~~if an offender is convicted of or pleads guilty to a violation of ORC 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct,~~ the two offenses are allied offenses of similar import under ORC 2941.25.

(g)(1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.

(2) A law enforcement officer who stops the operator of a motor vehicle, trackless trolley, or streetcar for a violation of division (A) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:

(A) Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;

(B) Confiscate the device while awaiting the issuance of a warrant to access the device;

(C) Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

~~(F)(h)~~ Definitions: As used in this section:

(1) "Electronic Wireless Communications Device" includes any of the following:

~~(1A)~~ A wireless telephone;

~~(2B)~~ A text-messaging device;

~~(3C)~~ A personal digital assistant;

~~(4D)~~ A computer, including a laptop computer and a computer tablet; or

(E) Any device capable of displaying a video, movie, broadcast television image, or visual image;

~~(5F)(1)~~ Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.

An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

(2) "Voice-Operated or Hands-Free Device feature or function" means a device feature or function that allows the user to vocally compose or send, or to listen to a text-based communication a person to use an electronic wireless communications device without the use of either hand except to activate, or deactivate, or initiate the a feature or function with a single touch or single swipe.

(3) "Write, Send or Read a Text-Based Communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages or electronic mail. "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of section 4905.03 of the Revised Code.

(4) "Utility service vehicle" means a vehicle owned or operated by a utility.

(ORC 4511.204)

(Ord. 2012-17. Passed 10-1-12; Ord. 2015-18. Passed 12-7-15.)

### **333.03 Assured Clear Distance; School Zones; Speed Limits**

(a) Assured Clear Distance: No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.

(b) School Zones: It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to this section by the Ohio Director of Transportation or the City, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

(1) Twenty miles per hour (20 mph) in school zones during school recess and while children are going to or leaving school during the opening or closing hours and when twenty miles per hour (20 mph) school speed limit signs are erected; except that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by division (c)(3) of this section, and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by division (c)

(7) of this section. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in Ohio Manual for a Uniform System of Traffic Control Devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights or giving other special notice of the hours in which the school zone speed limit is in effect.

(2) As used in this section, "school" means any school chartered under ORC 3301.16 and any nonchartered school that during the preceding year filed with the State Department of Education, in compliance with OAC 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools, and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.

(3) As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a State highway. Upon request from the City for streets and highways under its jurisdiction and that portion of a State highway under the jurisdiction of the Ohio Director of Transportation, the Director may extend the traditional school zone boundaries. The distances in divisions (b)(3)A., (b)(3)B. and (b)(3)C. of this section shall not exceed three hundred feet (300') per approach, per direction, and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:

(A) The distance encompassed by projecting the school building lines normal to the fronting street or highway and extending a distance of three hundred feet (300') on each approach direction;

(B) The distance encompassed by projecting the school property lines intersecting the fronting street or highway and extending a distance of three hundred feet (300') on each approach direction;

(C) The distance encompassed by the special marking of the pavement for a principal school-pupil crosswalk, plus a distance of three hundred feet (300') on each approach direction of the street or highway.

(D) Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in divisions (b)(1) and (b)(3) of this section.

(A) As used in this division, "crosswalk" has the meaning given that term in ORC 4511.01.

(B) The Director may, upon request by resolution of the City Council and upon submission by the City of such engineering, traffic, and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the City that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours whenever the

distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than one thousand three hundred twenty feet (1,320'). Such a school zone shall include the distance encompassed by the crosswalk and extending three hundred feet (300') on each approach direction of the State route.

(c) Speed Limits: It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to this section by the Ohio Director of Transportation or the City, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) Twenty-five miles per hour (25 mph) in all other portions of the City, except on State routes outside business districts, through highways outside business districts, and alleys;
- (2) Thirty-five miles per hour (35 mph) on all State routes or through highways within the City outside business districts, except as provided in divisions (c)(3) and (c)(4) of this section;
- (3) Fifty miles per hour (50 mph) on controlled-access highways and expressways within the City,, except as provided in ORC 4511(B)(12), (13), (14), (15), and (16);
- (4) Fifty miles per hour (50 mph) on State routes within the City outside urban districts, unless a lower prima-facie speed is established as further provided in this section;
- (5) Fifteen miles per hour (15 mph) on all alleys within the City;
- (6) Thirty-five miles per hour (35 mph) on highways outside the City that are within an island jurisdiction;
- (7) Fifty-five miles per hour (55 mph) on freeways with paved shoulders inside the City, other than freeways as provided in divisions (c)(10) and (c)(12) of this section;
- (8) Sixty miles per hour (60 mph) on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in (c)(9) and (c)(10) of this section;
- (9) Sixty-five miles per hour (65 mph) on all rural expressways without traffic control signals;
- (10) Seventy miles per hour (70 mph) on all rural freeways;
- (11) Fifty-five miles per hour (55 mph) on all portions of freeways in congested areas, as determined the Director, and that are part of the interstate system and are located within the City or within an interstate freeway outerbelt;
- (12) Sixty-five miles per hour (65 mph) on all portions of freeways or expressways without traffic control signals in urbanized areas.

(d) Prima-Facie Speed Limits: Whenever, in accordance with ORC 4511.21(H) through (N), the maximum prima-facie speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima facie unlawful for any person to exceed the speed limits posted upon such signs.

(e) Violations: It is prima-facie unlawful for any person to exceed any of the speed limitations in division (b)(1), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), and (c)(6) of this section, or any speed limitations declared or established pursuant to division (d) of this section by the Director or the City, and it is unlawful for any person to exceed any of the speed limitations in division (f) of this section. No person shall be convicted of more than one (1) violation of this section for the same conduct, although violations of more than one (1) provision of this section may be charged in the alternative in a single affidavit.

(f) Speeding: No person shall operate a motor vehicle upon a street or highway as follows:

(1) At a speed exceeding fifty-five miles per hour (55 mph), except upon a two-lane State route outside the City and upon a highway, expressway, or freeway as provided in divisions (c)(8), (c)(9), (c)(10), and (c)(12) of this section.

(2) At a speed exceeding sixty miles per hour (60 mph) upon a highway as provided in division (c)(8) of this section;

(3) At a speed exceeding sixty-five miles per hour (65 mph) upon an expressway as provided in division (c)(9) of this section or upon a freeway as provided in division (c)(12) of this section, except upon a freeway as provided in division (c)(10) of this section.

(4) At a speed exceeding seventy miles per hour (70 mph) upon a freeway as provided in division (c)(10) of this section.

(5) At a speed exceeding the posted speed limit upon a highway, expressway, or freeway for which the Director has determined and declared a speed limit pursuant to ORC 4511.21(I)(2) or (L)(2).

(g) Charges:

(1) In every charge of violation of this section the affidavit and warrant shall specify the time, place, and speed at which the defendant is alleged to have driven, and in charges made in reliance upon division (e) of this section, also the speed which division (b)(1), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), or (c)(6) of this section, or a limit declared or established pursuant to division (d) of this section, declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(2) When a speed in excess of both a prima-facie limitation and a limitation in division (f) of this section is alleged, the defendant shall be charged in a single affidavit alleging a single act, with a violation indicated of both division (b)(1), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), or (c)(6) of this section, or of a limit declared or established by the Director or City pursuant to division (d) of this section, and of the limitation in division (f) of this section. If the court finds a violation of division (b)(1), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), or (c)(6) of this section, or a limit declared or established pursuant to division (d) of this section has occurred, it shall enter a judgment of conviction under such division and dismiss the charge under division (f) of this section. If it finds no violation of division (b)(1), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), or (c)(6) of this section, or a limit declared or established pursuant to division (d) of this section, it shall then consider whether the evidence supports a conviction under division (f).

(h) Points: Points shall be assessed for violation of a limitation under division (f) of this section in accordance with ORC 4510.036.

(i) Lower Speed Limit:

(1) Except as provided in ORC 4511.21(I)(2), (J), (K), and (N), whenever the City determines upon the basis of criteria established by an engineering study, as defined by the Director, that the speed permitted by ORC 4511.21(B)(1)(a) to (D), on any part of a highway under its jurisdiction, is greater than is reasonable and safe under the conditions found to exist at such location, the City may by resolution request the Director to determine and declare a reasonable and safe prima facie speed limit. Upon receipt of such request the Director may determine and declare a reasonable and safe prima facie speed limit at such location, and if the Director does so, then such declared speed limit shall become effective only when appropriate signs giving notice thereof are erected at such location by the City. The Director may

withdraw the declaration of a prima facie speed limit whenever in the Director's opinion the altered prima facie speed limit becomes unreasonable. Upon such withdrawal, the declared prima facie speed limit shall become ineffective and the signs relating thereto shall be immediately removed by the City.

(2) The City may determine on the basis of criteria established by an engineering study, as defined by the Director, that the speed limit of sixty-five (65 mph) or seventy miles per hour (70 mph) on a portion of a freeway under its jurisdiction is greater than is reasonable or safe under the conditions found to exist at that portion of the freeway. If the City makes such a determination, the City by resolution may request the Director to determine and declare a reasonable and safe speed limit of not less than fifty-five miles per hour (55 mph) for that portion of the freeway. If the Director takes such action, the declared speed limit becomes effective only when appropriate signs giving notice of it are erected at such location by the City.

(j) Higher Speed Limit: The City in its respective jurisdiction may authorize by ordinance higher prima facie speeds than those stated in ORC 4511.21 upon through highways, or upon highways or portions thereof where there are no intersections, or between widely spaced intersections, provided signs are erected giving notice of the authorized speed, but the City shall not modify or alter the basic rule set forth in ORC 4511.21(A) or in any event authorize by ordinance a speed in excess of the maximum speed permitted by ORC 4511.21(D) for the specified type of highway.

Alteration of prima facie limits on state routes by the City shall not be effective until the alteration has been approved by the Director. The Director may withdraw approval of any altered prima facie speed limits whenever in the Director's opinion any altered prima facie speed becomes unreasonable, and upon such withdrawal, the altered prima facie speed shall become ineffective and the signs relating thereto shall be immediately removed by the City.

(k) Determination Of Safe Speed Limit:

(1) The Director of Transportation, based upon an engineering study, as defined by the Director, of a highway, expressway, or freeway described in ORC 4511.21(B)(12), (13), (14), (15), or (16), in consultation with the director of Public Safety and, if applicable, the City having jurisdiction over the studied highway, expressway, or freeway, may determine and declare that the speed limit established on such highway, expressway, or freeway under ORC 4511.21(B)(12), (13), (14), (15), or (16) either is reasonable and safe or is more or less than that which is reasonable and safe.

(2) If the established speed limit for a highway, expressway, or freeway studied pursuant to ORC 4511.21(L)(1) is determined to be more or less than that which is reasonable and safe, the Director of Transportation, in consultation with the Director of Public Safety and, if applicable, the City having jurisdiction over the studied highway, expressway, or freeway, shall determine and declare a reasonable and safe speed limit for that highway, expressway, or freeway.

(l) Dual Jurisdiction Over Highway: (1)

(A) If the boundary of two local authorities rests on the centerline of a highway and both authorities have jurisdiction over the highway, the speed limit for the part of the highway within their joint jurisdiction shall be either one of the following as agreed to by both authorities:

(i) Either prima facie speed limit permitted by ORC 4511.21(B);

(ii) An altered speed limit determined and posted in accordance with ORC 4511.21.

(B) If the local authorities are unable to reach an agreement, the speed limit shall remain as established and posted under ORC 4511.21.

(2) Neither the City may declare an altered prima facie speed limit pursuant to ORC 4511.21 on the part of the highway under their joint jurisdiction unless both of the local authorities determine, upon the basis of criteria established by an engineering study, as defined by the Director, that the speed permitted by ORC 4511.21 is greater than is reasonable or safe under the conditions found to exist at the location and both authorities agree upon a uniform reasonable and safe prima facie speed limit of less than fifty-five (55 mph) but not less than twenty-five miles per hour (25 mph) for that location. If both authorities so agree, each shall follow the procedure specified in ORC 4511.21 for altering the prima facie speed limit on the highway, and the speed limit for the part of the highway within their joint jurisdiction shall be uniformly altered. No altered speed limit may be withdrawn unless both local authorities determine that the altered prima facie speed limit previously adopted becomes unreasonable and each adopts a resolution withdrawing the altered prima facie speed limit pursuant to the procedure specified in ORC 4511.21.

(m) Boarding School: The legislative authority of a municipal corporation in which a boarding school is located, by resolution or ordinance, may establish a boarding school zone. The legislative authority may alter the speed limit on any street or highway within the boarding school zone and shall specify the hours during which the altered speed limit is in effect. For purposes of determining the boundaries of the boarding school zone, the altered speed limit within the boarding school zone, and the hours the altered speed limit is in effect, the legislative authority shall consult with the administration of the boarding school and with the county engineer or other appropriate engineer, as applicable. A boarding school zone speed limit becomes effective only when appropriate signs giving notice thereof are erected at the appropriate locations.

(n) Definitions: As used in this section:

"Commercial Bus" means a motor vehicle designed for carrying more than nine

(9) passengers and used for the transportation of persons for compensation.

"Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.

"Noncommercial Bus" includes but is not limited to a school bus or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.

"Interstate System" has the same meaning as in 23 U.S.C. 101.

"Outerbelt" means a portion of the freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.

"Rural" means an area outside urbanized areas, and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.

"Urbanized area" has the same meaning as in 23 U.S.C. 101.

(o) Penalties:

(1) A violation of any provision of this section is one (1) of the following:

~~(3)~~(A) Except as otherwise provided in divisions (i)(1)B., (i)(1)C, (i)(2) and (i)(3) of this section, a minor misdemeanor;

~~(4)~~(B) If, within one (1) year of the offense, the offender previously has been convicted of or pled guilty to two (2) violations of any provision of this section or of any provision of State law or a municipal

ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;

~~(5)(C)~~ If, within one (1) year of the offense, the offender previously has been convicted of or pled guilty to three (3) or more violations of any provision of this section or of any provision of State law or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

(2) If the offender has not previously been convicted of or pled guilty to a violation of any provision of this section or of any provision of State law or a municipal ordinance that is substantially similar to this section, and has operated a motor vehicle faster than thirty-five miles an hour (35 mph) in a business district of the City; faster than fifty miles an hour (50 mph) in other portions of the City; or faster than thirty-five miles an hour (35 mph) in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. Division (o)(2) of this section does not apply if penalties may be imposed under division (o)(B) or (C) of this section.

(ORC 4511.21)

(Ord. 2013-20. Passed 12-2-13.)

### **333.09 Chemical Tests; Implied Consent; Refusal; Seizure And Suspension Of License**

(a) Chemical Tests; Implied Consent; Refusal to Submit to Tests:

(1) As used in this section:

(3) "Physical control" has the same meaning as in Section 333.10 of this Traffic Code.

(4) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle upon a street, highway, or any public or private property used by the public for vehicular travel or parking within this City or who is in physical control of a vehicle shall be deemed to have given consent to the chemical test(s) of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of Section 333.08(a) or (b) or Section 333.10 of this Traffic Code, ORC 4511.191(A) or (B), or a substantially equivalent municipal ordinance or a municipal OVI ordinance.

(3) The chemical test(s) under division (a)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle in violation of a division, section, or ordinance identified in division (a)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (a)(2) of this section and the test(s) may be administered, subject to ORC 313.12 to 313.16.

(5)

(3) If a law enforcement officer arrests a person for a violation of Section 333.08(a) or (b) or Section 333.10 of this Traffic Code, ORC 4511.191(A) or (B), a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under Section 333.08(e) or ORC 4511.19(G)(1)(c), (d), or (e), the law enforcement officer shall request the person to submit, and the person shall submit, to chemical test(s) of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to chemical test(s) is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test(s) and is not required to give the person the form described in division (g) of this section, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (a)(3) and (a)(4) of this section apply to the administration of chemical test(s) pursuant to this division.

(4) If a person refuses to submit to a chemical test upon a request made pursuant to division (a)(5)A. of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(b) License Suspension for Refusal: Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of Section 333.08(a) or (b) or Section 333.10 of this Traffic Code, ORC 4511.191(A) or (B), ORC 4511.194, a substantially equivalent or municipal ordinance, or a municipal OVI ordinance, that was completed and sent to the Registrar and a court pursuant to divisions (f) to (i) of this section in regard to a person who refused to take the designated chemical test, the Registrar shall enter into the Registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this section and the period of the suspension, as determined under ORC 4511.191(B). The suspension shall be subject to appeal as provided in ORC 4511.197.

(c) License Suspension for Positive Test Results: Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of Section 333.08(a) or (b) or Section 333.10 of this Traffic Code, ORC 4511.191(A) or (B), ORC 4511.194, a municipal OVI ordinance, that was completed and sent to the Registrar and a court pursuant to division (f) of this section in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in Section 333.08(a)(1)B., (a)(1)C., (a)(1)D. or (a)(1)E., or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in Section 333.08(a)(1)J., the Registrar shall enter into the Registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this section and the period of the suspension, as determined under ORC 4511.191(C). The suspension shall be subject to appeal as provided in ORC 4511.197. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of Section 333.10 of this Traffic Code, ORC 4511.194, or a substantially equivalent municipal ordinance who submits to a designated chemical test.

(d) Effective Date of License Suspension:

(1) A suspension of a person's driver's license or commercial driver's license or permit or nonresident operating privilege under this section for the time described in ORC 4511.191(B) or (C) is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test(s) under division (a) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle in violation of division (a) or

(b) of Section 333.08 of this Traffic Code or ORC 4511.19(A) or (B) or a municipal OVI ordinance, or for being in physical control of a vehicle in violation of Section 333.10 of this Traffic Code or ORC 4511.194 or a substantially equivalent municipal ordinance, regardless of whether the person's driver's license or commercial driver's license or permit or nonresident operating privilege is or is not suspended under ORC 4511.191(B) or (C) or ORC Chapter 4510, the person's initial appearance on the charge resulting from the arrest shall be held within five (5) days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to ORC 4511.197 regarding the issues specified in that division.(ORC 4511.191)

(e) Application of ORC 4511.191: The provisions of ORC 4511.191(E),(F) and (G) shall apply to any suspension under this section.

(f) Notice as to Effect of Taking or Refusing Chemical Test: Except as provided in division (a)(5) of this section and ORC 4511.191, the arresting law enforcement officer shall give advice in accordance with this section to any person under arrest for a violation of Section 333.08(a) or (b) or Section 333.10 of this Traffic Code, ORC 4511.191(A) or (B), a substantially equivalent municipal ordinance, or a municipal OVI ordinance. The officer shall give that advice in written form that contains the information described in division (g) of this section and shall read the advice to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. One (1) or more persons shall witness the arresting officer's reading of the form, and the witnesses shall certify to this fact by signing the form. The person must submit to the chemical test(s), subsequent to the request of the arresting officer, within two (2) hours of the time of the alleged violation and, if the person does not submit to the test(s) within that two-hour time limit, the failure to submit automatically constitutes a refusal to submit to the test(s).

(g) Written Form of Notice: Except as provided in division (a)(5) of this section, if a person is under arrest as described in division (f) of this section, before the person may be requested to submit to chemical test(s) to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine, the arresting officer shall read the following form to the person:

"You now are under arrest for (specifically state the offense under state law or a substantially equivalent municipal ordinance for which the person was arrested--operating a vehicle under the influence of alcohol, a drug, or a combination of them; operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance; operating a vehicle after underage alcohol consumption; or having physical control of a vehicle while under the influence).

If you refuse to take any chemical test required by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated. If you have a prior conviction of OVI, ~~OVIAC~~, or operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance under state or municipal law within the preceding twenty years, you now are under arrest for state OVI, and, if you refuse to take a chemical test, you will face increased penalties if you subsequently are convicted of the state OVI.

(h) **Seizure of License When Chemical Test not Requested:** If the arresting law enforcement officer does not ask the person under arrest as described in division (a)(5) or division (f) of this section to submit to chemical test(s) under this section, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward it to the court in which the arrested person is to appear on the charge. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the Division of Police within twenty-four (24) hours after the arrest and, upon surrender, the Division of Police shall immediately forward the license or permit to the court in which the person is to appear on the charge. Upon receipt of the license or permit, the court shall retain it pending the arrested person's initial appearance and any action taken under ORC 4611.196.

(i) **Suspension and Seizure of License When Chemical Test Refused or Positive; Sworn Report by the Arresting Officer:**

(1) If a law enforcement officer asks a person under arrest as described in division (a)(5) of this section to submit to chemical test(s) under that section and the test results indicate a prohibited concentration of alcohol, a controlled substance or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense; or if a law enforcement officer asks a person under arrest as described in division (f) of this section to submit to chemical test(s) under this section, the officer advises the person in accordance with this section of the consequences of the person's refusal or submission, and either the person refuses to submit to the test(s) or unless the arrest was for a violation of Section 333.10 of this Traffic Code or ORC 4511.194 or a substantially equivalent municipal ordinance, the person submits to the test(s) and the test results indicate a prohibited concentration of alcohol, a controlled substance or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at time of the alleged offense, the arresting officer shall comply with each and all of the provisions set forth in ORC 4511.192(D)

(2) The arresting officer shall give the officer's sworn report that is completed under this division to the arrested person at the time of the arrest, or the Registrar of motor vehicles shall send the report to the person by regular first class mail as soon as possible after receipt of the report, but not later than fourteen (14) days after receipt of it. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but not later than forty-eight (48) hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.

(3) The sworn report of an arresting officer completed under this division is prima-facie proof of the information and statements that it contains. It shall be admitted and considered as prima-facie proof of the information and statements that it contains in any appeal under ORC 4511.197 relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered in the report.

(ORC 4511.192)

### **333.11 Seizure Of Vehicle Upon Arrest For OVI**

(a) As used in this section:

(1) “Arrested person” means a person who is arrested for a violation of division (A) of section 4511.19 of the Revised Code or a municipal OVI ordinance and whose arrest results in a vehicle being seized under division (B) of this section.

(2) “Vehicle owner” means either of the following:

(A) The person in whose name is registered, at the time of the seizure, a vehicle that is seized under division (B) of this section;

(B) A person to whom the certificate of title to a vehicle that is seized under division (b) of this section has been assigned and who has not obtained a certificate of title to the vehicle in that person's name, but who is deemed by the court as being the owner of the vehicle at the time the vehicle was seized under division (B) of this section.

(3) "Interested party" includes the owner of a vehicle seized under this section, all lienholders, the arrested person, the owner of the place of storage at which a vehicle seized under this section is stored, and the person or entity that caused the vehicle to be removed.

(b)(1) Seizure Required: The arresting officer or another officer of the ~~Franklin Police Division~~ law enforcement agency that employs the arresting officer, in addition to any action that the arresting officer is required or authorized to take under ~~Sections 333.08 or 333.09 of this Traffic Code~~ ORC 4511.19 or 4511.191 or by any other provision of law, shall seize the vehicle that the ~~arrested~~ a person was operating at the time of the alleged offense and its license plates if the vehicle is registered in the arrested person's name and if either of the following applies:

~~(1)~~(A) The person is arrested for a violation of Section 333.08(a) of this Traffic Code and, within ten (10) years of the alleged violation, the person previously has been convicted of or pled guilty to one (1) or more violation of Section 333.08(a) ~~or (b)~~ or equivalent State or municipal offenses; or

~~(2)~~(B) 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)(c)~~ Rented or Leased Vehicle: ~~The Franklin Police Division~~ A law enforcement agency that employs a law enforcement officer, who when the arresting officer makes an arrest of a type that is 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 circumstances 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~~ law enforcement officer who made the arrest 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~~ officer's law enforcement agency 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 circumstances may order that 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.

~~(e)~~(d) Notice to the Vehicle Owner by the Court:

(1) The arresting officer or ~~another~~ a law enforcement officer of the agency that employs the arresting officer ~~Franklin Police Division~~ shall give written notice of the seizure to the court that will conduct the initial appearance of the arrested person on the charges arising out of 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)(2)~~ of this section to be in a notice to be given to the arrested person

and also shall ~~specifie~~ specify the date, time and place of the arrested person's initial appearance. The notice also shall ~~also~~ inform the vehicle owner that if title to a motor vehicle that is subject to an order of for criminal forfeiture under this section is assigned or transferred and ORC 4503.234(B)(2) or (B)(3) applies, the court may fine the arrested 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~~ law enforcement agency 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)~~(e) ~~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) days of the initial appearance. If the court allows the vehicle owner to file such a motion after the initial appearance, the extension of time granted by the court does not extend the time within which the initial appearance is to be conducted. If the court issues an order for the release of the vehicle and its license plates, a copy of the order shall be made available to the vehicle owner. If the vehicle owner presents a copy of the order to the ~~Franklin Police Division~~ law enforcement agency that employs the law enforcement officer who arrested the arrested person, the law enforcement agency, the Division promptly shall release the vehicle and its license plates to the vehicle owner upon payment by the vehicle owner of any expenses or charges incurred in the removal and storage of the vehicle.

~~(e)~~(f) ~~Duties Regarding Towing and/or Immobilization:~~ A vehicle seized under division ~~(a)~~(b)(1) of this section either shall be towed to a place specified by the ~~Franklin Police Division~~ the law enforcement agency that employs the arresting officer to be safely kept by the agency at that place for the time and in the manner specified in this section, or shall be otherwise immobilized for the time and in the manner specified in this section. The license plates shall remain on the seized vehicle unless otherwise ordered by the court. No vehicle that is seized and either towed or immobilized pursuant to this division shall be considered contraband for purposes of ORC Chapter 2981. The vehicle shall not be immobilized at any place other than a commercially-operated private storage lot, a place owned by ~~the Franklin Police Division~~ a law enforcement agency or the City of Franklin another government agency, or a place to which one of the following applies:

(1) The place is leased by or otherwise under the control of a law enforcement agency or other government agency;

(2) The place is owned by the vehicle operator, the vehicle operator's spouse, or a parent or child of the vehicle operator;

(3) The place is owned by a private person or entity, and, prior to the immobilization, the private entity or person that owns the place, or the authorized agent of that private entity or person, has given express written consent for the immobilization to be carried out at that place; ~~or,~~

(4) The place is a street or highway on which the vehicle is parked in accordance with the law.

~~(f)(g) Duties Regarding Storage:~~ A vehicle seized under division ~~(a)~~(b) of this section shall be safely kept at the place to which it is towed or otherwise moved by the ~~Franklin Police Division~~ the law enforcement agency that employs the arresting officer until the initial appearance of the arrested person relative to the charge in question. The license plates shall remain on the seized vehicle unless otherwise ordered by the court.

~~(g)(h) Initial Appearance; Dismissal of Charge:~~

(1) At the initial appearance or not less than seven (7) days prior to the date of final disposition, the court shall notify the arrested person that, if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and ORC 4503.234 (B)(2) or (3) applies, the court may fine the arrested person the value of the vehicle. If, at the initial appearance, the arrested person pleads guilty to the violation of Section 333.08(a) of this Traffic Code or pleads no contest to and is convicted of the violation, the court shall impose sentence upon the person as provided by law or ordinance; the court shall order the immobilization of the vehicle the arrested person was operating at the time of the offense if 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 to the ~~City or State~~ state of the vehicle if registered in the arrested person's name under 4503.234 and ORC 4511.19 or 4511.193, whichever is applicable; and the vehicle and its license plates shall not be returned or released to the arrested person.

(2) If, at any time, 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 seized at the time of the arrest and its license plates immediately be released to the person.

~~(h)(i) Final Disposition:~~ If a vehicle and its license plates are seized under division ~~(a)~~(b) of this section and are not returned or released to the arrested person pursuant to division ~~(g)~~ (c) 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~~ division (A) ORC 4511.19 or of the municipal OVI ordinance, 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 4503.234 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~~ ORC 4511.19(A) or of the municipal OVI ordinance, 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~~ Code ORC 4511.19(A) or of the municipal OVI ordinance 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 state or 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)(j)~~ ~~Immobilization:~~ If a vehicle is seized under division ~~(a)(b)~~ of this section, the time between the seizure of the vehicle and either its release to the arrested person under division ~~(g)(c)~~ 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)(k)~~ ~~Towing and Storage Charges; Liens:~~

(1) Except as provided in division ~~(h)(d)~~(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 dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(4) Whenever a court issues an order under division ~~(j)(f)~~(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar of motor vehicles if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section or under ORC 4503.233.

(5) Prior to initiating a proceeding under division ~~(j)(f)~~(1) of this section, and upon payment of the fee under ORC 4505.14(B), any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the arrested person, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail or, at the option of the initiating party, by personal service or ordinary mail.

~~(k) — Definitions: As used in this section:~~

~~“Arrested Person” means a person who is arrested for a violation of Section 333.08(a) of this Traffic Code and whose arrest results in a vehicle being seized under division (a) of this section.~~

~~“Interested Party” include the owner of a vehicle seized under this section, all lienholders, the arrested person, the owner of the place of storage at which a vehicle seized under this section is stored, and the person or entity that caused the vehicle to be removed.~~

~~“Vehicle Owner” means either of the following:~~

~~(1) — The person in whose name is registered, at the time of the seizure, a vehicle that is seized under division (a) of this section; or~~

~~(2) — A person to whom the certificate of title to a vehicle that is seized under division (a) of this section has been assigned and who has not obtained a certificate of title to the vehicle in that person's name, but who is deemed by the court as being the owner of the vehicle at the time the vehicle was seized under division (a) of this section.~~

(ORC 4511.195)

### **333.13 Definitions Applicable To Sections 333.08 - 333.12**

As used in sections 333.08 to 333.12 of this Traffic Code:

"Drug of Abuse" has the same meaning as in ORC 4506.01. "Equivalent Offense" means any of the following:

- (a) A violation of division ORC 4511.19(A) ~~or (B)~~;
- (b) A violation of a municipal OVI ordinance;
- (c) A violation of ORC 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
- (d) A violation of ORC 2903.06(A)(1) or 2903.08, or a municipal ordinance that is substantially equivalent to either of those divisions;
- (e) A violation of ORC 2903.06(A)(2), (3), or (4), ORC 2903.08(A)(2), or former ORC 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- (f) A violation of ORC 1547.11(A) ~~or (B)~~;
- (g) A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;
- (h) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to ORC 4511.19(A)  ~~or (B)~~ or ORC 1547.11(A) ~~or (B)~~;

(i) A violation of a former law of this State that was substantially equivalent to ORC 4511.19(A) ~~or (B)~~ or ORC 1547.11(A) ~~or (B)~~.

"Equivalent Offense that is Vehicle-Related" means an equivalent offense that is any of the following:

(a) A violation described in division (a), (b), (c), (d), or (e) of this section;

(b) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to ORC 4511.19(A) ~~or (B)~~;

(c) A violation of a former law of this State that was substantially equivalent to ORC 4511.19(A) ~~or (B)~~.

"Municipal OVI Ordinance and Municipal OVI Offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(Ord. 2012-17. Passed 10-1-12.)

Statutory reference:

Child restraint system - child highway safety fund, see ORC 4511.181

### **335.08 Driving Under Failure To Appear Or Pay Suspension, Unruly Child Suspension, Violation Of Liquor Or Tobacco Laws Suspension, Or Child Support Suspension**

~~(ORC 4510.411)~~(4510.11)

(Ord. 2012-17. Passed 10-1-12; Ord. 2014-13. Passed 12-1-14.)

### **337.10 Lights On Slow-Moving Vehicles; SMV Emblem; Animal-Drawn Vehicles; Farm Machinery And Agricultural Tractors**

(a) Lamps and Reflectors on Slow-Moving Vehicles: All vehicles, other than bicycles, including animal-drawn vehicles, implements of husbandry, road machinery, road rollers, and agricultural tractors not specifically required to be equipped with lamps or other lighting devices by Sections 337.02 through 337.09 or 339.02 of this Traffic Code or ORC 4513.03 through 4513.10 shall, at the times specified in Section 337.02 of this Traffic Code, be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than one thousand feet (1,000') to the front of the vehicle, and also shall be equipped with two (2) lamps displaying red light visible from a distance of not less than one thousand feet (1,000') to the rear of the vehicle or, as an alternative, one (1) lamp displaying a red light visible from a distance of not less than one thousand feet (1,000') to the rear and two (2) red reflectors visible from all distances of six hundred feet (600') to one hundred feet (100') to the rear when illuminated by the lawful lower beams of headlamps. Lamps and reflectors required by this section shall meet standards adopted by the Ohio Director of Public Safety.

(b) Slow-Moving Vehicle (SMV) Emblem:

(1) All boat trailers, farm machinery, and other machinery, including all road construction machinery, upon a street or highway within this City, except when being used in actual construction and maintenance work in an area guarded by a flagperson or where flares are used or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, the City, or the Warren County Engineer, when such construction area is marked in accordance with

requirements of the Director and the Manual and Specifications for a Uniform System of Traffic-Control Devices as set forth in ORC 4511.09, which is designed for operation at a speed of twenty-five miles per hour (25 mph) or less, shall be operated at a speed not exceeding twenty-five miles per hour (25 mph), and shall display a triangular slow-moving vehicle emblem (SMV emblem) which meets the standards and specifications for design and position of mounting the SMV emblem adopted by the Ohio Director of Public Safety. The emblem shall be mounted so as to be visible from a distance of not less than five hundred feet (500') to the rear.

(2) A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour (25 mph) may be operated on a street or highway within this City at a speed greater than twenty-five miles per hour (25 mph), provided it is operated in accordance with this section.

(3) As used in this division, "machinery" does not include any vehicle designed to be drawn by an animal.

(4) The use of the SMV emblem shall be restricted to animal-drawn vehicles and to the slow-moving vehicles specified in this division operating or traveling within the limits of a street or highway within this City. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on a street or highway is prohibited.

(5) Prohibitions:

(A) No person shall sell, lease, rent, or operate any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in this division (b), except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a SMV emblem mounting-device, as specified this division (b).

(B) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five (25) miles per hour unless the unit displays a SMV emblem as specified in this division (b) and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS).

(c) Use of Flashing Lights by Slow-Moving Vehicles:

(1) Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in division (b) of this section, in addition to the use of the SMV emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour (25 mph), in addition to the display of a speed identification symbol, may be equipped with a red flashing light that shall be visible from a distance of not less than one thousand feet (1,000') to the rear at all times specified in Section 337.02 of this Traffic Code. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

(2) In addition to the lights described in this division, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating, or rotating amber light, as permitted by Section 337.16 of this Traffic Code, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

(d) Animal-Drawn Vehicles:

(1) Every animal-drawn vehicle upon a street or highway within this City shall at all times be equipped in one (1) of the following ways:

(A) With a SMV emblem complying with division (b) of this section;

- (B) With alternate reflective material complying with rules adopted under division (d)(2) below; or
- (C) With both a slow-moving vehicle emblem and alternate reflective material as specified in division (d)(2) below.

(2) Alternate reflective material shall conform with the rules adopted by the Ohio Director of Public Safety-establishing standards and specifications for the position of mounting of the alternate reflective material. At a minimum, the alternate reflective material shall be black, gray, or silver in color. The alternate reflective material shall be mounted on the animal- drawn vehicle so as to be visible, at all times specified in Section 337.02 of this Traffic Code, from a distance of not less than five hundred feet (500') to the rear when illuminated by the lawful lower beams of headlamps.

(e) Farm Machinery and Agricultural Tractors:

(1) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour (25 mph) shall display a SMV emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS) when the unit is operated upon a street or highway within the City, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed, in miles per hour, at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this division.

(2) If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour (25 mph) is being operated on a street or highway within the City at a speed greater than twenty-five miles per hour (25 mph) and is towing, pulling, or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a SMV emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(3) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour (25 mph) is being operated on a street or highway within the City at a speed greater than twenty-five miles per hour (25 mph), the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed, in miles per hour, at which the manufacturer designed the agricultural tractor to operate.

(f) Multi-Wheel Farm Machinery and Agricultural Tractors:

(1) Model Year 2001 or Earlier:

(A) Every multi-wheel agricultural tractor whose model year was 2001 or earlier, when being operated or traveling on a street or highway within the City at the times specified in Section 337.02 of this Traffic Code, at a minimum shall be equipped with and display reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by flashing lamps displaying amber light, visible to the front and the rear; by amber reflectors, all visible to the front; and by red reflectors, all visible to the rear.

(B) The lamps displaying amber light need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor.

(C) The lamps and reflectors required by division (f)(1)A. of this section and their placement shall meet standards and specifications contained in rules adopted by the Ohio Director of Public Safety.

(D) The lights and reflectors required by this division are in addition to the SMV emblem and lights required or permitted by division (b) and (e) of this section to be displayed on farm machinery being operated or traveling on a street or highway within this City.

(2) Model Year 2002 or Later: Every unit of farm machinery whose model year was 2002 or later, when being operated or traveling on a street or highway within the City at the times specified in Section 337.02 of this Traffic Code, shall be equipped with and display markings and illuminated lamps that meet or exceed the lighting, illumination, and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/ASAE S279.11 ~~APR04 OCT 98, L-lighting and M marking of A-agricultural E equipment on H-highways~~, or any subsequent revisions of that standard.

(3) No person shall operate any unit of farm machinery on a street or highway within the City or cause any unit of farm machinery to travel on a street or highway in violation of divisions (f)(1) or (f)(2) of this section.

(g) Penalties: Whoever violates this division is guilty of a minor misdemeanor.

(h) Definitions: As used in this section, "Boat Trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten (10) miles and at a speed of twenty-five miles per hour (25 mph) or less.

(i) "Slow-moving vehicle" and "SMV" mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. "Slow-moving vehicle" and "SMV" do not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.

(Ord. 2012-17. Passed 10-1-12.)

Statutory reference:

Animal-drawn or slow-moving vehicles, lamps, reflectors and emblems, see ORC 4513.112 through 4513.115 (2022 H 30, eff. 8-31-22) Statute updated from 4513.11 to 4513.112 through 4513,115

Requirements for lights and reflectors for multi-wheel agricultural tractors and farm machinery units, see ORC 4513.444 112

### **337.16 Number Of Lights Permitted; Limitations On Red And Flashing Lights**

(a) Number of Lights Permitted; Intensity:

(1) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than three hundred candle power (300 CP), not more than a total of five (5) of any such lights on the front of a vehicle shall be lighted at any one (1) time when the vehicle is upon a street or highway within this City.

~~(b)(2)~~—Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights, or auxiliary driving lights, that projects a beam of light of an intensity greater than three hundred candle power (300 CP) shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet (75') from the vehicle.

~~(b)~~—~~Limitations of Red and Flashing Lights:~~

~~(c)(1)~~ Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.

~~(2)~~ ThisThe prohibition in division (C)(1) of this section does not apply to any of the following:

(A) emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children (as provided in Section 337.15 of this Traffic Code or ORC 4513.182), highway or street maintenance vehicles, funeral hearses, funeral escort vehicles, and similar equipment operated by the Ohio Department of Transportation or City Public Works Department, which shall be provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber light, but shall not display a flashing, oscillating, or rotating light of any other color, nor to vehicles;

(B) Vehicles or machinery permitted by Section 337.10 of this Traffic Code to have a flashing red light.

~~(C)(2)~~ When used on a street or highway within the City, farm machinery and vehicles escorting farm machinery may be , provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light and the prohibition contained in division (b)(1) of this section does not apply to such machinery or vehicles. Farm machinery may also display the lights described in Section 337.10 of this Traffic Code.

(D) A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light.

~~(3)(d)(1)~~ Except a person operating a public safety vehicle or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway, any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; ~~and except~~

(2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the City or State, who is operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway, any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white or blue oscillating or rotating light.

~~(4)~~ For the purposes of this division, “public safety vehicle” shall be as defined in ORC 4511.01(E).

~~(e)(e)~~ Exceptions: This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

~~(f)(d)~~ Penalties: Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.17)

### **337.22 Windshields And Wipers; Visibility; Electronic Devices**

(a) Windshield Required: No person shall drive any motor vehicle on a street or highway within this City, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(b) Visibility of VIN; Signs; Electronic Devices:

(1) No person shall drive any motor vehicle, other than a bus, with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side, or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster, or decal not to exceed four inches in height by six inches in width (4" x 6"). No sign, poster, or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number (VIN) for the motor vehicle when, in accordance with Federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Division (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:

(A) It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).

(B) It does not restrict the vehicle operator's sight lines to the road and street signs and signals; and it does not conceal the VIN.

(3) Division (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:

(A) It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).

(B) It is mounted not more than ~~six~~ eight inches (68") below the upper edge of the windshield ~~and is outside the area swept by the vehicle's windshield wipers.~~

(c) Windshield Wipers Required: The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(d) Penalties: Whoever violates this section is guilty of a minor misdemeanor.

Statutory reference:

Windshield and windshield wipers, see ORC 4513.24

### **339.10 Prerequisites To Operation Of Commercial Motor Vehicle**

(a) Prerequisites: Except as provided in divisions (b) and (c) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a street or highway in this City unless the person holds, and has in the person's possession any of the following:

(A) A valid commercial driver's license (CDL) with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles or by another jurisdiction recognized by the State of Ohio;

(B) A valid examiner's commercial driving permit issued under ORC 4506.13;

(C) A valid restricted commercial driver's license and waiver for farm- related service industries issued under ORC 4506.24; or

(D) A valid commercial driver's license temporary instruction permit issued by the Registrar; provided that the person and is accompanied by an authorized State driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license (CDL) and who meets the requirements of division (b) of this section.

(2) No person who has been a resident of the State of Ohio for thirty (30) days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(b) Conditions:

(1) Notwithstanding any other provision of law, a person may drive a commercial motor vehicle on a street or highway in this City if all of the following conditions are met:

(A) The person has a valid commercial driver's license (CDL) or commercial driver's license temporary permit issued by any state or jurisdiction in accordance with the minimum standards adopted by the Federal Motor Carrier Safety Administration under the Commercial Motor Vehicle Safety Act of 1986, 100 Stat.

3207-171, 49 USCA App. 2701 for the issuance of CDLs;

(B) The person's CDL or temporary instruction permit is not suspended, revoked or canceled, and the person has the appropriate endorsements for the vehicle that is being driven;

(C) The person is not disqualified from driving a commercial motor vehicle;

(D) The person is not subject to an out-of-service order; and

(E) The person is medically certified as physically qualified to operate a commercial motor vehicle in accordance with ORC Chapter 4506.

(i) A person who submitted a medical examiner's certificate to the Registrar of Motor Vehicles, in accordance with ORC 4506.10, and whose medical certification information is maintained in the State CDL Information System is not required to have the medical examiner's certificate in the person's possession when on-duty.

(ii) A person whose medical certification information is not maintained in the State CDL Information System shall have in the person's possession when on-duty, the original or a copy of the current medical examiner's certificate that was submitted to the Registrar of Motor Vehicles; however, the person may operate a commercial motor vehicle with such proof of medical certification for not more than fifteen (15) days after the date the current medical examiner's certificate was issued to the person.

(iii) A person who has a medical variance shall have in the person's possession the original or a copy of the medical variance documentation at all times while on-duty.

(2) No person shall drive a commercial motor vehicle on a highway or street within this City if the person does not meet the conditions specified in division (b(1)) of this section.

(3) Except as set forth in 49 CFR 390.3(f), 391.2, 391.62, 391.67 and 391.68, no person holding a commercial driver's license temporary instruction permit or a commercial driver's license issued under ORC Chapter 4506 may drive a commercial motor vehicle in interstate commerce until the person is at least twenty-one (21) years of age.

(c) Temporary Instruction Permit: The holder of a commercial driver's license temporary instruction permit, unless otherwise disqualified, may drive a commercial motor vehicle only when the holder has the permit in the holder's actual possession and accompanied by a person who:

- (1) Holds a valid commercial driver's license and all necessary endorsements for the type of vehicle being driven;
- (2) Occupies a seat beside the permit holder for the purpose of giving instruction in driving the motor vehicle; and
- (3) Has the permit holder under observation and direct supervision.

(d) (1) The director of public safety shall adopt rules, in accordance with Chapter 119. of the Revised Code, authorizing the waiver of the knowledge test that is generally required in order to obtain a commercial driver's license temporary instruction permit. In order to obtain the waiver, an applicant for a commercial driver's license temporary instruction permit shall certify and provide evidence that, during the one-year period immediately preceding the application for the permit, all of the following apply:

(A) As authorized under 49 C.F.R. 383.77, the applicant is or was regularly employed and designated as one of the following:

- (i) A motor transport operator—88M, army;
- (ii) A PATRIOT launching station operator—14T, army;
- (iii) A fueler—92F, army;
- (iv) A vehicle operator—2T1, air force;
- (v) A fueler—2F0, air force;
- (vi) A pavement and construction equipment operator—3E2, air force;
- (vii) A motor vehicle operator—3531, marine corps;
- (viii) An equipment operator—E.O., navy.

(B) The applicant has been operating a vehicle representative of the type of commercial motor vehicle that the applicant expects to operate upon separation from the military or operated such a vehicle immediately preceding such separation.

(C) The applicant has not held more than one license simultaneously, excluding any military license.

(D) The applicant has not had any license suspended, revoked, or canceled.

(E) The applicant has not had any convictions, for any type of motor vehicle, for the offenses for which disqualification is prescribed in section 4506.16 of the Revised Code.

(F) The applicant has not had more than one conviction, for any type of motor vehicle, for a serious traffic violation.

(G) The applicant has not had any violation of a military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault.

(2) The waiver established under division (C) of this section does not apply to a United States reserve technician.

~~(de)~~ Exceptions: Nothing in division (a) of this section applies to any qualified person when engaged in the operation of any of the following:

- (1) A farm truck;
- (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district;
- (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
- (4) A recreational vehicle;
- (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under ORC Chapter 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
- (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio National Guard. This exception does not apply to United States reserve technicians;
- (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 CFR 383.5, as amended, and is not regulated by the Ohio Public Utilities Commission pursuant to ORC Chapters 4905, 4921, or 4923;
- (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;
- (9) A police SWAT team vehicle; or
- (10) A police vehicle used to transport prisoners. ~~(ef)~~ Safe Operation of Government Vehicles: Nothing contained in division (c)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this City concerning the safe operation of commercial motor vehicles.

~~(ef)~~ Safe Operation of Government Vehicles: Nothing contained in division (c)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this City concerning the safe operation of commercial motor vehicles.

~~(fg)~~ Penalties:

(Ord. 2013-20. Passed 12-2-13; Ord. 2015-08. Passed 6-1-15.)

Statutory reference:

Commercial driver's license or temporary instruction permit requirements, see ORC 4506.03

Conditions for driving commercial motor vehicle, see ORC 4506.05 Issuance of temporary instruction permit, see ORC 4506.06

### **339.22 License To Drive School Bus**

(a) ~~Special License Required:~~ No person, partnership, association, or corporation shall transport pupils to or from school on a school bus, or enter into a contract with a board of education of any school district for the transportation of pupils on a school bus, without being licensed by the Ohio Department of Public Safety.

Notwithstanding the requirements for a license issued under this division, the director shall issue a license in accordance with Chapter 4796. of the Revised Code to a person if either of the following applies:

(1) The person holds a license or certificate in another state.

(2) The person has satisfactory work experience, a government certification, or a private certification as described in that chapter transporting pupils on a school bus in a state that does not issue that license or certificate.

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

(ORC 4511.763)

### **339.31 Operation Of Vehicle In Excess Of Load Limits Prohibited; Penalties; Liability For Damages**

(a) Prohibitions: No, person shall operate or move traction engine, steam roller, or other vehicle, load, object, or structure, whether propelled by muscular or motor power, over or upon the improved public streets, highways, bridges, or culverts in this City, in excess of the weights prescribed in ORC 5577.01 to 5577.14, unless the person has been issued a permit under ORC 4513.34. The prohibition in this section applies regardless of whether the weight is moved upon wheels, rollers, or otherwise. Any weight determination shall include the weight of the vehicle, object, structure, contrivance, and load.

(ORC 5577.02)

(b) Penalties:

(1) Whoever violates the weight provisions of Sections 339.24 to 339.30 of this Traffic Code in regard to streets and highways under Section 339.05 shall be fined eighty dollars (\$80.00) for the first two thousand pounds (2,000 lbs.), or fraction thereof, of overload; for overloads in excess of two thousand pounds (2,000 lbs.) but not in excess of five thousand pounds (5,000 lbs.), such person shall be fined one hundred dollars (\$100.00), and in addition thereto one dollar (\$1.00) per one hundred pounds (100 lbs.) of overload; for overloads in excess of five thousand pounds (5,000 lbs.) but not in excess of ten thousand pounds (10,000 lbs.), such person shall be fined one hundred thirty dollars (\$130.00), and in addition thereto two dollars (\$2.00) per one hundred pounds (100 lbs.) of overload, or imprisoned not more than thirty (30) days, or both. For all overloads in excess of ten thousand pounds (10,000 lbs.), such person shall be fined one hundred sixty dollars (\$160.00), and in addition thereto three dollars (\$3.00) per one hundred pounds (100 lbs.) of overload, or imprisoned not more than thirty (30) days, or both.

Whoever violates the weight provision of vehicle and load relating to gross load limits shall be fined not less than one hundred dollars (\$100.00). No penalty prescribed in this division shall be imposed on any vehicle combination if the overload on any axle does not exceed one thousand pounds (1,000 lbs.), and if the immediately preceding or following axle, excepting the front axle of the vehicle combination, is

underloaded by the same or a greater amount. For purposes of this division, two (2) axles on one (1) vehicle less than eight feet (8') apart, shall be considered as one (1) axle.

(2) Whoever violates Section 339.29 of this Traffic Code is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense, such person is guilty of a misdemeanor of the fourth degree.

(ORC 5577.99(A) and (C))

(c) Liability for Damages: Any person violating any law relating to or regulating the use of the improved public roads shall be liable for all damage resulting to any such street, highway, bridge, or culvert by reason of such violation. In case of any injury to such a City street, highway, bridge, or culvert, such damages shall be collected by civil action, brought in the name of the City. All damages collected under this section shall be paid into the Street Fund and credited to any fund for the repair of streets, highways, roads, bridges, or culverts.

(ORC 5577.12)

(d) Vehicles Fueled by Natural Gas or powered primarily by means of an electric battery:

(1) Notwithstanding this section and Section 339.25 of this Traffic Code, a vehicle fueled solely by compressed natural gas or liquid natural gas or powered primarily by means of an electric battery may exceed by not more than two thousand pounds (2,000 lbs.) the gross vehicle weight provisions of Sections 339.24 to 339.30 of this Traffic Code or the axle load limits of those sections.

(2) If a vehicle described in division (d)(1) of this section exceeds the weight provisions of Sections 339.24 to 339.30 of this Traffic Code by more than the allowance provided for in division (d)(1) of this section, both of the following apply:

(A) The applicable penalty prescribed in ORC 5577.99;

(B) The civil liability imposed by ORC 5577.12.

(3) Division (d)(1) of this section does not apply to the operation of a vehicle on either of the following:

(A) A highway that is part of the interstate system;

(B) A highway, road or bridge that is subject to reduced maximum weights under Sections 339.23 or 339.30 of this Traffic Code.

(ORC 5577.044)

(Ord. 2013-13. Passed 6-17-13; Ord. 2015-08. Passed 6-1-15.)

### **339.32 Special Permits For Vehicles Of Excessive Weight, Size, Or Load**

~~(a)(1) State Highways: With The director of transportation with respect to all highways that are a part of the State's state's highway system; and local authorities with respect to highways under their jurisdiction, upon application in writing, shall issue a special regional heavy hauling permit authorizing the applicant to operate or move a vehicle or combination of vehicles as follows:~~

~~(1) The Ohio Director of Transportation, upon application in writing, shall issue a special regional heavy hauling permit in accordance with ORC 4513.34(A)(1).~~

~~(2) In circumstances where a person is not eligible to receive a permit under ORC 4513.24(A)(1), the Ohio Director of Transportation may, upon application and for good cause shown, issue a special written~~

~~permit, in accordance with ORC 4513.34(A)(2), upon any highway that is a part of the State highway system under the Director's jurisdiction.~~

~~(3) — Notwithstanding Section 301.02 of this Traffic Code, the holder of a permit issued by the Director under ORC 4513.34 may move the vehicle or combination of vehicles described in the permit on any highway that is a part of the State highway system when the movement is partly within and partly without the corporate limits of the City.~~

~~(b) — City Streets — Special Regional Heavy Hauling Permits: With respect to all highways under the City's jurisdiction:~~

~~(1) — The City's Public Works Director, upon application in writing, shall issue a special regional heavy hauling permit authorizing the applicant to operate or move a vehicle or combination of vehicles as follows:~~

~~(A) At a size or weight of vehicle or load exceeding the maximums specified in Sections 339.24 to 339.30 of this Traffic Code or ORC 5577.01 to 5577.09, or otherwise not in conformity with Chapters 337 or 339 of this Traffic Code or ORC 4513.01 to 4513.37;~~

~~(B) Upon any highway under the jurisdiction of the City authority granting the permit, except those highways with a condition insufficient to bear the weight of the vehicle or combination of vehicles as stated in the application;~~

~~(2) — Issuance of a special regional heavy hauling permit is subject to the payment of a fee established by the City's Public Works Director director or local authority in accordance with this section.~~

~~(3) — The application for a permit issued under division (b) of this section shall be in the form that the Public Works Director prescribes.~~

~~(4) — The City's Public Works Director shall issue a special regional heavy hauling permit under division (b) of this section upon application and payment of the applicable fee.~~

~~(c) — City Streets — Special Permits:~~

~~(1)(2) In circumstances where a person is not eligible to receive a permit under division (b) (a)(1) of this section, the director of transportation with respect to all highways that are a part of the state highway system and local authorities with respect to highways under their jurisdiction, the City's Public Works Director may, upon application in writing and for good cause shown, may issue a special permit; in writing; authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or lead load exceeding the maximums specified in Sections 339.24 to 339.30 of this Traffic Code or ORC 5577.01 to 5577.09, or otherwise not in conformity with Chapters 337 or 339 of this Traffic Code or ORC 4513.01 to 4513.37, upon any street or highway under City the jurisdiction of the authority granting the permit.~~

~~(3) For purposes of this section, the director may designate certain state highways or portions of state highways as special economic development highways. If an application for submitted to the director under this section involves travel of a nonconforming vehicle or combination of vehicles upon a special economic development highway, the director, in determining whether good cause has been shown that issuance of a permit is justified, shall consider the effect the travel of the vehicle or combination of vehicles will have on the economic development in the area in which the designated highway or portion of highway is located.~~

~~(b)(1) Notwithstanding ORC 715.22 and 723.01, the holder of a permit issued under by the director under this section may move the vehicle or combination of vehicles described in the permit on any highway that~~

is a part of the state highway system when the movement is partly within and partly without the corporate limits of a municipal corporation. No local authority shall require any other permit or license or charge any license fee or other charge against the holder of a permit for the movement of a vehicle or combination of vehicles on any highway that is a part of the state highway system. The director shall not require the holder of a permit issued by a local authority to obtain a special permit for the movement of vehicles or combination of vehicles on highways within the jurisdiction of the local authority. Permits

(2) Except as provided in division (b)(3) of this section, permits may be issued for any period of time not to exceed one year, as the director in the director's discretion or a local authority in its discretion determines advisable, or for the duration of any public construction project.

(3) The director and every county shall issue an annual permit under division (a)(2) of this section for:

(A) A vehicle or combination of vehicles that haul farm machinery, provided that the farm machinery otherwise qualifies for the farm equipment permit or a similar permit offered by the county for farm machinery or equipment;

(B) A vehicle or combination of vehicles that haul agricultural produce or agricultural production materials that otherwise could be hauled by farm machinery or equipment under the farm equipment permit or a similar permit offered by the county for farm machinery or equipment.

(4) In addition to the annual permit issued under (b)(3) of this section, the director and every county may continue to issue a permit under division (a)(2) of this section for the vehicles specified in division (b)(3) of this section, for any period of time up to one year.

~~(c)(1)(2)~~ — The application for a permit issued under ~~division (e)~~ this section shall be in the form that the ~~Public Works Director~~ director or local authority prescribes. The director or local authority may prescribe a permit fee to be imposed and collected when any permit described in this section is issued. The permit fee may be in an amount sufficient to reimburse the director or local authority for the administrative costs incurred in issuing the permit, and also to cover the cost of the normal and expected damage caused to the roadway or a street or highway structure as the result of the operation of the nonconforming vehicle or combination of vehicles. The director, in accordance with Chapter 119. of the Revised Code, shall establish a schedule of fees for permits issued by the director under this section; however, the fee to operate a triple trailer unit, at locations authorized under federal law, shall be one hundred dollars.

(2) For the purposes of this section and of rules adopted by the director under this section, milk transported in bulk by vehicle is deemed a nondivisible load.

~~(3) The Public Works Director may grant or withhold a permit applied for under division (e) of this section. For purposes of this section and of rules adopted by the director under this section, three or fewer aluminum coils, transported by a vehicle, are deemed a nondivisible load. The director shall adopt rules establishing requirements for an aluminum coil permit that are substantially similar to the requirements for a steel coil permit under Chapter 5501:2-1 of the Administrative Code.~~

(d) ~~Permit Conditions; Security:~~ The director or a local authority shall issue a special regional heavy hauling permit under division (a)(1) of this section upon application and payment of the applicable fee. Except when required to issue a special permit under division (b)(3) of this section, the director or local authority may issue or withhold a special permit specified in division (a)(2) of this section. If a permit is to be issued, the director or local authority may limit or prescribe conditions of operation for the vehicle and may require the posting of a bond or other security conditioned upon the sufficiency of the permit fee to compensate for damage caused to the roadway or a street or highway structure. In addition, a local authority, as a condition of issuance of an overweight permit, may require the applicant to develop and

enter into a mutual agreement with the local authority to compensate for or to repair excess damage caused to the roadway by travel under the permit.

For a permit that will allow travel of a nonconforming vehicle or combination of vehicles on a special economic development highway, the director, as a condition of issuance, may require the applicant to agree to make periodic payments to the department to compensate for damage caused to the roadway by travel under the permit.

~~(1) — If a permit is to be issued under this section, the Public Works Director may limit or prescribe conditions of operation for the vehicle or combination of vehicles including, but not limited to, the route, the hours, speed or other such restrictions as the Public Works Director deems advisable.~~

~~(2) — In addition, the Public Works Director may require the posting of a bond or other security conditioned upon the sufficiency of the permit fee to compensate for damage caused to the street or roadway.~~

~~(3) — As a condition of issuance of a permit for an overweight vehicle or combination of vehicles, the Public Works Director may require the applicant to enter into an agreement with the City to compensate for or to repair excess damage caused to the street or roadway by travel under the permit.~~

~~(4) — No permit shall be issued by the City's Public Works Director under this section to any person, partnership, association or corporation who has been debarred by the State Director of Transportation from applying for a permit under ORC 4513.34 for the period of the debarment.~~

~~(e) Fees for Permits from the City: Every permit issued under this section shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. No person shall violate any of the terms of a permit.~~

~~(2) — In addition, the Safety Director may establish an hourly fee for any traffic control, made necessary because of the movement of the nonconforming vehicle or combination of vehicles, that is provided by the City's Division of Police or other City Department. The hourly fee may be charged in quarterly increments, and shall be charged per officer or employee. The fee so set by the Safety Director shall be set forth in Appendix A of Chapter 17, Rate and Fee Schedule.~~

~~(f) Carrying Permit: Every permit issued by the State Director of Transportation under ORC 4513.34 and/or every permit issued by the City's Public Works Director under this section shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. The director may debar an applicant from applying for a permit under this section upon a finding based on a reasonable belief that the applicant has done any of the following:~~

~~(1) Abused the process by repeatedly submitting false information or false travel plans or by using another company or individual's name, insurance, or escrow account without proper authorization;~~

~~(2) Failed to comply with or substantially perform under a previously issued permit according to its terms, conditions, and specifications within specified time limits;~~

~~(3) Failed to cooperate in the application process for the permit or in any other procedures that are related to the issuance of the permit by refusing to provide information or documents required in a permit or by failing to respond to and correct matters related to the permit;~~

~~(4) Accumulated repeated justified complaints regarding performance under a permit that was previously issued to the applicant or previously failed to obtain a permit when such a permit was required;~~

- (5) Attempted to influence a public employee to breach ethical conduct standards;
- (6) Been convicted of a disqualifying offense as determined under section 9.79 of the Revised Code;
- (7) Accumulated repeated convictions under a state or federal safety law governing commercial motor vehicles or a rule or regulation adopted under such a law;
- (8) Accumulated repeated convictions under a law, rule, or regulation governing the movement of traffic over the public streets and highways;
- (9) Failed to pay any fees associated with any permitted operation or move;
- (10) Deliberately or willfully submitted false or misleading information in connection with the application for, or performance under, a permit issued under this section.

If the applicant is a partnership, association, or corporation, the ~~Public Works Director~~ director also may debar from consideration for permits any partner of the partnership, or the officers, directors, or employees of the association or corporation being debarred.

The director may adopt rules in accordance with ORC Chapter 119. governing the debarment of an applicant.

~~(5)——(g) Effect of Permit:~~ When the ~~Public Works Director~~ director reasonably believes that grounds for debarment exist, the ~~Public Works Director~~ director shall send the person that is subject to debarment a notice of the proposed debarment. A notice of proposed debarment shall indicate the grounds for the debarment of the person and the procedure for requesting a hearing. The notice and hearing shall be in accordance with ORC Chapter 119. If the person does not respond with a request for a hearing in the manner specified in that chapter, the ~~Public Works Director~~ director shall issue the debarment decision without a hearing and shall notify the person of the decision by certified mail, return receipt requested. The debarment period may be of any length determined by the ~~Public Works Director~~ director, and the ~~Public Works Director~~ director may modify or rescind the debarment at any time. During the period of debarment, the ~~Public Works Director~~ director shall not issue, or consider issuing, a permit under this section to any partnership, association, or corporation that is affiliated with a debarred person. After the debarment period expires, the person, and any partnership, association, or corporation affiliated with the person, may reapply for a permit.

~~(h)(1) No person shall violate the The Public Works Director may prescribe terms of a permit fee to be imposed and collected when a permit is issued under this section that relate to gross load limits. The permit fee may be in an amount sufficient to reimburse the City for the administrative costs incurred in issuing the permit, and also to cover the cost of the normal and expected damage caused to the street or roadway as the result of the operation of the nonconforming vehicle or combination of vehicles. The Public Works Director shall establish a schedule of fees for special permits issued by him under this section, which schedule shall be set forth in Appendix A of Chapter 17, Rate and Fee Schedule.~~

~~(1)—— The City shall not require any other permit or license or charge any license fee or other charge against the holder of a permit for the movement of a vehicle or combination of vehicles on any highway that is a part of the State highway system.~~

~~(2)—— The Ohio Director of Transportation shall not require the holder of a permit issued by the City under this section to obtain a special permit for the movement of vehicles or combination of vehicles on streets within the jurisdiction of the City.~~

~~(h)—— Validity of Permit:~~

(i) Whoever violates division (h) of this section shall be punished as provided in ORC 4513.99.

~~(1) — (j) A permit issued by the Ohio Director of Transportation under ORC 4513.34 or by the City's Public Works Director department of transportation or a local authority under this section for the operation of a vehicle or combination of vehicles is valid for the purposes of the vehicle operation in accordance with the conditions and limitations specified on the permit. Such a permit is voidable by law enforcement only for operation of a vehicle or combination of vehicles in violation of the weight, dimension, or route provisions of the permit; however-However, a permit is not voidable for operation in violation of a route provision of a permit if the operation is upon the order of a law enforcement officer.~~

~~(2) — Permits may be issued for any period of time not to exceed one (1) year, as the Ohio Director of Transportation or the City's Public Works Director, in the Director's discretion, determines advisable, or for the duration of any public construction project.~~

~~(i) — Restrictions:~~

~~(1) — No person shall violate the terms of a permit issued under this section that relate to gross load limits.~~

~~(2) — No person shall violate the terms of a permit issued under this section that relate to axle load by more than two thousand pounds (2,000 lbs.) per axle or group of axles.~~

~~(3) — No person shall violate the terms of a permit issued under this section that relate to an approved route, except upon the order of a law enforcement officer or authorized agent of the issuing authority.~~

~~(j) — Penalties: Whoever violates division (i) of this section is guilty of a minor misdemeanor and shall be punished as provided in ORC 4513.99.~~

~~(k) — Definitions: For the purpose of this section:~~

~~(1) — Milk transported in bulk by vehicle is deemed a nondivisible load.~~

~~(2) — Three (3) or fewer aluminum coils, transported by vehicle, are deemed a nondivisible load.~~

(ORC 4513.34)

### **341.05 Expired Or Unlawful License Plates**

(a) Regulations: Except as provided by ORC 4503.103, 4503.107, 4503.173, 4503.41, 4503.43, and 4503.46, no person who is the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways shall fail to file annually the application for registration or to pay the tax therefor.

(b) Tax Amount: Except as provided by ORC 4503.12 and 4503.16, the taxes payable on all applications made under ORC 4503.10 and 4503.102 shall be the sum of the tax due under ORC 4503.11(B)(1)(a) or (b) plus the tax due under ORC 4503.11(B)(2)(a) or (b):

(1) (A) If the application is made before the second month of the current registration period to which the motor vehicle is assigned as provided in ORC 4503.101, the tax due is the full amount of the tax provided in ORC 4503.04;

(B) If the application is made during or after the second month of the current registration period to which the motor vehicle is assigned as provided in ORC 4503.101, and prior to the beginning of the next such registration period, the amount of the tax provided in ORC 4503.04 shall be reduced by one-twelfth of the amount of such tax, rounded upward to the nearest cent, multiplied by the number of full months that have elapsed in the current registration period. The resulting amount shall be rounded upward to the next highest dollar and shall be the amount of tax due.

(2) (A) If the application is made before the sixth month of the current registration period to which the motor vehicle is assigned as provided in ORC 4503.101, the amount of tax due is the full amount of local motor vehicle license taxes levied under ORC Chapter 4504;

(B) If the application is made before the sixth month of the current registration period to which the motor vehicle is assigned as provided in ORC 4503.101, the amount of tax due is the full amount of local motor vehicle license taxes levied under ORC Chapter 4504;

(3) The taxes payable on all applications made under ORC 4503.103(A)(3) shall be the sum of the tax due under ORC 4503.11(B)(1)(a) or (b) plus the tax due under ORC 4503.11(B)(2)(a) or (b) for the first year plus the full amount of the tax provided in ORC 4503.04 and the full amount of local motor vehicle license taxes levied under ORC Chapter 450 for each succeeding year.

(c) Penalties: Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4503.11)

### **341.061 Misuse Of Walking-Impaired Person License Plate Or Placard**

(a) ~~False Application:~~ As used in this section and in section 4511.69 of the Revised Code:

(1) "Person with a disability that limits or impairs the ability to walk" means any person who, as determined by a health care provider, meets any of the following criteria:

(A) Cannot walk two hundred feet without stopping to rest;

(B) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(C) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty millimeters of mercury on room air at rest;

(D) Uses portable oxygen;

(E) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association;

(F) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition;

(G) Is blind, legally blind, or severely visually impaired.

(2) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special accessible equipment for use by persons with disabilities. This definition does not apply to division (I) of this section.

(3) "Health care provider" means a physician, physician assistant, advanced practice registered nurse, optometrist, or chiropractor as defined in this section except that an optometrist shall only make determinations as to division (A)(1)(g) of this section.

(4) "Physician" means a person licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code.

(5) “Chiropractor” means a person licensed to practice chiropractic under Chapter 4734. of the Revised Code.

(6) “Advanced practice registered nurse” means a certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code.

(7) “Physician assistant” means a person who is licensed as a physician assistant under Chapter 4730. of the Revised Code.

(8) “Optometrist” means a person licensed to engage in the practice of optometry under Chapter 4725. of the Revised Code.

(b)(1) An organization, or a person with a disability that limits or impairs the ability to walk, may apply for the registration of any motor vehicle the organization or person owns or leases. When a motor vehicle has been altered for the purpose of providing it with special accessible equipment for a person with a disability that limits or impairs the ability to walk, but is owned or leased by someone other than such a person, the owner or lessee may apply to the registrar or a deputy registrar for registration under this section. The application for registration of a motor vehicle owned or leased by a person with a disability that limits or impairs the ability to walk shall be accompanied by a signed statement from the applicant's health care provider certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for more than six consecutive months. The application for registration of a motor vehicle that has been altered for the purpose of providing it with special accessible equipment for a person with a disability that limits or impairs the ability to walk but is owned by someone other than such a person shall be accompanied by such documentary evidence of vehicle alterations as the registrar may require by rule.

(2) When an organization, a person with a disability that limits or impairs the ability to walk, or a person who does not have a disability that limits or impairs the ability to walk but owns a motor vehicle that has been altered for the purpose of providing it with special accessible equipment for a person with a disability that limits or impairs the ability to walk first submits an application for registration of a motor vehicle under this section and every fifth year thereafter, the organization or person shall submit a signed statement from the applicant's health care provider, a completed application, and any required documentary evidence of vehicle alterations as provided in division (B)(1) of this section, and also a power of attorney from the owner of the motor vehicle if the applicant leases the vehicle. Upon submission of these items, the registrar or deputy registrar shall issue to the applicant appropriate vehicle registration and a set of license plates and validation stickers, or validation stickers alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall be imprinted with the international symbol of access. The license plates and validation stickers shall be issued upon payment of the regular license fee as prescribed under section 4503.04 of the Revised Code and any motor vehicle tax levied under Chapter 4504. of the Revised Code, and the payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

(c)(1) A person with a disability that limits or impairs the ability to walk may apply to the registrar of motor vehicles for a removable windshield placard by completing and signing an application provided by the registrar. The person shall include with the application a prescription from the person's health care provider prescribing such a placard for the person based upon a determination that the person meets at least one of the criteria contained in division (A)(1) of this section. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the person's ability to walk.

In addition to one placard or one or more sets of license plates, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard, but only if the person applies separately for the additional placard, states the reasons why the additional placard is needed, and the registrar, in the registrar's discretion determines that good and justifiable cause exists to approve the request for the additional placard.

(2) An organization may apply to the registrar of motor vehicles for a removable windshield placard by completing and signing an application provided by the registrar. The organization shall comply with any procedures the registrar establishes by rule. The organization shall include with the application documentary evidence that the registrar requires by rule showing that the organization regularly transports persons with disabilities that limit or impair the ability to walk.

(3) Upon receipt of a completed and signed application for a removable windshield placard, the accompanying documents required under division (C)(1) or (2) of this section, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a removable windshield placard, which shall bear the date of expiration on both sides of the placard and shall be valid until expired, revoked, or surrendered. Every removable windshield placard expires as described in division (C)(4) of this section, but in no case shall a removable windshield placard be valid for a period of less than sixty days. Removable windshield placards shall be renewable upon application as provided in division (C)(1) or (2) of this section and upon payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code for the renewal of a removable windshield placard. The registrar shall provide the application form and shall determine the information to be included thereon. The registrar also shall determine the form and size of the removable windshield placard, the material of which it is to be made, and any other information to be included thereon, and shall adopt rules relating to the issuance, expiration, revocation, surrender, and proper display of such placards. Any placard issued after October 14, 1999, shall be manufactured in a manner that allows the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(4) At the time a removable windshield placard is issued to a person with a disability that limits or impairs the ability to walk, the registrar or deputy registrar shall enter into the records of the bureau of motor vehicles the last date on which the person will have that disability, as indicated on the accompanying prescription. Not less than thirty days prior to that date and all removable windshield placard renewal dates, the bureau shall send a renewal notice to that person at the person's last known address as shown in the records of the bureau, informing the person that the person's removable windshield placard will expire on the indicated date not to exceed five years from the date of issuance, and that the person is required to renew the placard by submitting to the registrar or a deputy registrar another prescription, as described in division (C)(1) or (2) of this section, and by complying with the renewal provisions prescribed in division (C)(3) of this section. If such a prescription is not received by the registrar or a deputy registrar by that date, the placard issued to that person expires and no longer is valid, and this fact shall be recorded in the records of the bureau.

(5) At least once every year, on a date determined by the registrar, the bureau shall examine the records of the office of vital statistics, located within the department of health, that pertain to deceased persons, and also the bureau's records of all persons who have been issued removable windshield placards and temporary removable windshield placards. If the records of the office of vital statistics indicate that a person to whom a removable windshield placard or temporary removable windshield placard has been issued is deceased, the bureau shall cancel that placard, and note the cancellation in its records.

The office of vital statistics shall make available to the bureau all information necessary to enable the bureau to comply with division (C)(5) of this section.

(6) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special accessible license plates if the special accessible license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(d)(1)(A) A person with a disability that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. The application for a temporary removable windshield placard shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for six consecutive months or less. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk, which cannot exceed six months from the date of the prescription. Upon receipt of an application for a temporary removable windshield placard, presentation of the prescription from the applicant's health care provider, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a temporary removable windshield placard.

(B) Any active-duty member of the armed forces of the United States, including the reserve components of the armed forces and the national guard, who has an illness or injury that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. With the application, the person shall present evidence of the person's active-duty status and the illness or injury. Evidence of the illness or injury may include a current department of defense convalescent leave statement, any department of defense document indicating that the person currently has an ill or injured casualty status or has limited duties, or a prescription from any health care provider prescribing the placard for the applicant. Upon receipt of the application and the necessary evidence, the registrar or deputy registrar shall issue the applicant the temporary removable windshield placard without the payment of any service fee.

(2) The temporary removable windshield placard shall be of the same size and form as the removable windshield placard, shall be printed in white on a red-colored background, and shall bear the word "temporary" in letters of such size as the registrar shall prescribe. A temporary removable windshield placard also shall bear the date of expiration on the front and back of the placard, and shall be valid until expired, surrendered, or revoked, but in no case shall such a placard be valid for a period of less than sixty days. The registrar shall provide the application form and shall determine the information to be included on it, provided that the registrar shall not require a health care provider's prescription or certification for a person applying under division (D)(1)(b) of this section. The registrar also shall determine the material of which the temporary removable windshield placard is to be made and any other information to be included on the placard and shall adopt rules relating to the issuance, expiration, surrender, revocation, and proper display of those placards. Any temporary removable windshield placard issued after October 14, 1999, shall be manufactured in a manner that allows for the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(e) If an applicant for a removable windshield placard is a veteran of the armed forces of the United States whose disability, as defined in division (A)(1) of this section, is service-connected, the registrar or deputy registrar, upon receipt of the application, presentation of a signed statement from the applicant's health care provider certifying the applicant's disability, and presentation of such documentary evidence from the department of veterans affairs that the disability of the applicant meets at least one of the criteria

identified in division (A)(1) of this section and is service-connected as the registrar may require by rule, but without the payment of any service fee, shall issue the applicant a removable windshield placard that is valid until expired, surrendered, or revoked.

(f) Upon a conviction of a violation of division (H) or (I) of this section, the court shall report the conviction, and send the placard, if available, to the registrar, who thereupon shall revoke the privilege of using the placard and send notice in writing to the placardholder at that holder's last known address as shown in the records of the bureau, and the placardholder shall return the placard if not previously surrendered to the court, to the registrar within ten days following mailing of the notice.

Whenever a person to whom a removable windshield placard has been issued moves to another state, the person shall surrender the placard to the registrar; and whenever an organization to which a placard has been issued changes its place of operation to another state, the organization shall surrender the placard to the registrar.

(g) Subject to division (F) of section 4511.69 of the Revised Code, the operator of a motor vehicle displaying a removable windshield placard, temporary removable windshield placard, or the special accessible license plates authorized by this section is entitled to park the motor vehicle in any special accessible parking location reserved for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces.

(h) No person or organization that is not eligible for the issuance of license plates or any placard under ORC 4503.44 shall willfully and falsely represent that the person or organization is so eligible.

~~(b)~~ Special License Plates: No person or organization shall display license plates ~~issues~~ issued under ORC 4503.44 unless the license plates have been issued for the vehicle on which they are displayed and are valid.

~~(e)(i)~~ Windshield Placard: No person or organization to which a removable windshield placard or temporary removable windshield placard is issued shall do either of the following:

(1) Display or permit the display of the placard on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for persons with disabilities that limit or impair the ability to walk; ~~or~~

(2) Refuse to return or surrender the placard, when required; ~~or~~

~~(d)(j)~~ If a removable windshield placard, temporary removable windshield placard, or parking card is lost, destroyed, or mutilated, the placardholder or cardholder may obtain a duplicate by doing both of the following:

(1) Furnishing suitable proof of the loss, destruction, or mutilation to the registrar;

(2) Paying a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

Any placardholder or cardholder who loses a placard or card and, after obtaining a duplicate, finds the original, immediately shall surrender the original placard or card to the registrar.

(k)(1) The registrar shall pay all fees received under this section for the issuance of removable windshield placards or temporary removable windshield placards or duplicate removable windshield placards or cards into the state treasury to the credit of the public safety—highway purposes fund created in section 4501.06 of the Revised Code.

(2) In addition to the fees collected under this section, the registrar or deputy registrar shall ask each person applying for a removable windshield placard or temporary removable windshield placard or duplicate removable windshield placard or license plate issued under this section, whether the person wishes to make a two-dollar voluntary contribution to support rehabilitation employment services. The registrar shall transmit the contributions received under this division to the treasurer of state for deposit into the rehabilitation employment fund, which is hereby created in the state treasury. A deputy registrar shall transmit the contributions received under this division to the registrar in the time and manner prescribed by the registrar. The contributions in the fund shall be used by the opportunities for Ohioans with disabilities agency to purchase services related to vocational evaluation, work adjustment, personal adjustment, job placement, job coaching, and community-based assessment from accredited community rehabilitation program facilities.

**Enforcement:**

~~(1)~~(1) For the purposes of enforcing this section, every peace officer is deemed to be an agent of the ~~Registrar~~ registrar. Any peace officer or any authorized employee of the ~~Bureau of Motor Vehicles~~ bureau of motor vehicles who, in the performance of duties authorized by law, becomes aware of a person whose placard or parking card has been revoked pursuant to ORC 4503.44, may confiscate that placard or parking card and return it to the ~~Registrar~~ registrar. The ~~Registrar~~ registrar shall prescribe any forms used by law enforcement agencies ~~is~~ in administering this section.

(2) No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency employing a peace officer, and no employee of the ~~Bureau of Motor Vehicles~~ bureau is liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section. As used in this division, "peace officer" has the same meaning as in division of ORC 2935.01(B).

~~(e) — Penalties: Whoever violates this section is guilty of a misdemeanor of the fourth degree.~~

~~(f) — Report of Conviction: Upon a conviction of a violation of division (a), (b) or (c) of this section, the court shall report the conviction and send the placard, if available, to the Registrar of Motor Vehicles, who thereupon shall revoke the privilege of using the placard and send notice in writing to the placard holder at that holder's last known address as shown in the records of the Bureau of Motor Vehicles, and the placard holder shall return the placard if not previously surrendered to the court, to the Registrar within ten (10) days following mailing of the notice.~~

~~(g) — Definitions: Except as otherwise provided, as used in this section:~~

~~"Organization" means any private organization or corporation, or any governmental board, agency, department, division or office that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special equipment for use by persons with disabilities. This definition does not apply to division (c) of this section.~~

~~"Person with a Disability that Limits or Impairs the Ability to Walk" means any person who, as determined by a health care provider, meets any of the following criteria:~~

~~(1) — Cannot walk two hundred feet (200') without a rest;~~

~~(2) — Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;~~

(3) — ~~Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one (1) second, when measured by spirometry, is less than one liter (1L) or the arterial oxygen tension is less than sixty millimeters (60 ml) of mercury on room air at rest;~~

(4) — ~~Uses portable oxygen;~~

(5) — ~~Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or IV according to the standards set by the American Heart Association;~~

(6) — ~~Is severely limited in the ability to walk due to an arthritic, neurological or orthopedic condition;~~  
~~or~~

(7) — ~~Is blind, legally blind or severely visually impaired.~~

(m) All applications for registration of motor vehicles, removable windshield placards, and temporary removable windshield placards issued under this section, all renewal notices for such items, and all other publications issued by the bureau that relate to this section shall set forth the criminal penalties that may be imposed upon a person who violates any provision relating to special accessible license plates issued under this section, the parking of vehicles displaying such license plates, and the issuance, procurement, use, and display of removable windshield placards and temporary removable windshield placards issued under this section.

(n) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(ORC 4503.44)

### **351.12 Parking For ~~Disabled~~ Persons With Disabilities**

(a) ~~Handicapped~~ Accessible Parking Spaces: Special Accessible parking locations and privileges for persons with disabilities that limit or impair the ability to walk, ~~also known as handicapped parking spaces or disability parking spaces,~~ shall be provided and designated by the City and by the State and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and ORC 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet (5'). If a new sign or a replacement sign designating ~~a special~~ an accessible parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the ~~special~~ designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(b) Prohibitions:

(1) (A) No person shall stop, stand, or park any motor vehicle at ~~special~~ accessible parking locations provided under division (a) of this section or at ~~special~~ accessible clearly marked parking locations provided in or on privately-owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:

(i) The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or ~~special~~ accessible license plates; or

(ii) The motor vehicle is being operated by or for the transport of a ~~handicapped~~ person with a disability and is displaying a parking card or ~~special handicapped~~ accessible license plates.

(B) Any motor vehicle that is parked in a ~~special~~ an accessible marked parking location in violation of division (b)(1)A.(i) or (ii) of this section may be towed or otherwise removed from the parking location by the City's Division of Police. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the City or the place of storage for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the City or the place of storage for towing and storing motor vehicles.

(C) If a person is charged with a violation of division (b)(1)A.(i) or (ii) of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two (72) hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one (1) of the criteria contained in ORC 4503.44(A)(1).

(2) No person shall stop, stand or park any motor vehicle in a area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a ~~special~~ an accessible parking location provided under division (a) of this section or at a ~~special~~ an accessible clearly marked parking location provided in or on a privately-owned parking lot, parking garage or other parking area and designated in accordance with division (a) of this section.

(c) ~~Handicapped~~ Accessible Parking in Excess of Posted Time Limits: When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a ~~handicapped~~ person with a disability and is displaying a parking card or ~~special handicapped~~ accessible license plates, the motor vehicle is permitted to park for a period of two (2) hours in excess of the legal parking period permitted, except where otherwise prohibited by this Traffic Code or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(d) Designated Parking Spaces: No owner of an office, facility, or parking garage where ~~special~~ accessible parking locations are required to be designated in accordance with division (a) of this section shall fail to properly mark the ~~special~~ accessible parking locations in accordance with that division or fail to maintain the markings of the ~~special~~ accessible locations, including the erection and maintenance of the fixed or movable signs.

(e) Placards or License Plates Issued under Prior Law: Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or ~~special~~ accessible license plates if the parking card or ~~special~~ accessible license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(f) Penalties:

(1) Whoever violates division (b)(1)A.(i) or (ii) of this section is guilty of a misdemeanor and shall be punished as follows:

(A) Except as otherwise provided in division (f)(1)A. an offender who violates division (b)(1)A.(i) or (ii) of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates division (b)(1)A.(i) or (ii) of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

(i) At the time of the violation of division (b)(1)A.(i) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or ~~special~~ accessible license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in division (b)(1)A.(i) of this section.

(ii) At the time of the violation of division (b)(1)A.(ii) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or ~~special handicapped~~ accessible license plates that then were valid but the offender or the person neglected to display the card or license plates as described in division (b)(1)A.(ii) of this section.

(B) In no case shall an offender who violates division (b)(1)A.(i) or (ii) of this section be sentenced to any term of imprisonment.

(C) An arrest or conviction for a violation of division (b)(1)A.(i) or (ii) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(2) Whoever violates division (b)(2) of this section shall be punished as follows:

(A) An offender who violates division (b)(2) of this section shall be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

(B) In no case shall an offender who violates division (b)(2) of this section be sentenced to any term of imprisonment.

(C) An arrest or conviction for a violation of division (b)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(3) Whoever violates division (d) of this section shall be punished as follows:

(A) Except as otherwise provided in division (f)(3)B. of this section, the offender shall be issued a warning.

(B) If the offender previously has been convicted of or pled guilty to a violation of division (d) of this section or ORC 4511.69(H) or of a municipal ordinance that is substantially similar to that division, the offender shall not be issued a warning but shall be fined not more than twenty-five dollars (\$25.00) for each parking location that is not properly marked or whose markings are not properly maintained.

(4) The clerk of the court shall pay every fine collected under divisions (f)(1) and (2) of this section to the City of Franklin. Except as otherwise provided herein, the City shall use the fine moneys it receives under divisions (f)(1) and (2) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (a) of this section. The City may use up to fifty percent (50%) of each fine it receives under divisions (f)(1) and (2) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the City that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs....

(g) Definitions: As used in this section:

~~“Handicapped Person with a disability”~~ means any person who has lost the use of one (1) or both legs or one (1) or both arms, who is blind, deaf, or so severely handicapped as to be unable to move without the

aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other ~~handicapping~~ disabling condition.

“Person with a Disability that Limits or Impairs the Ability to Walk” has the same meaning as in ORC 4503.44.

“~~Special~~ Accessible License Plates” and “Removable Windshield Placard” mean any license plates or removable windshield placard or temporary removable windshield placard issued under ORC 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.

(ORC 4511.69)

(Ord. 2013-20. Passed 12-2-13; Ord. 2015-08. Passed 6-1-15.)

### **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~~ a law enforcement agency, 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 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.

(B) In no case shall an offender who violates division (b)(1)A.(i) or (ii) of this section be sentenced to any term of imprisonment.

(C) An arrest or conviction for a violation of division (b)(1)A.(i) or (ii) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(2) Whoever violates division (b)(2) of this section shall be punished as follows:

(A) An offender who violates division (b)(2) of this section shall be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

(B) In no case shall an offender who violates division (b)(2) of this section be sentenced to any term of imprisonment.

(C) An arrest or conviction for a violation of division (b)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any

inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(3) Whoever violates division (d) of this section shall be punished as follows:

(A) Except as otherwise provided in division (f)(3)B. of this section, the offender shall be issued a warning.

(B) If the offender previously has been convicted of or pled guilty to a violation of division (d) of this section or ORC 4511.69(H) or of a municipal ordinance that is substantially similar to that division, the offender shall not be issued a warning but shall be fined not more than twenty-five dollars (\$25.00) for each parking location that is not properly marked or whose markings are not properly maintained.

(4) The clerk of the court shall pay every fine collected under divisions (f)(1) and (2) of this section to the City of Franklin. Except as otherwise provided herein, the City shall use the fine moneys it receives under divisions (f)(1) and (2) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (a) of this section. The City may use up to fifty percent (50%) of each fine it receives under divisions (f)(1) and (2) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the City that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

(c) Record of Vehicles:

(1) The City's Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to division (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Chief of Police shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(2) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a motor vehicle under division (a)(1) shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(d) Reclamation of Vehicle from Storage:

(1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to division (a)(1) of this section may reclaim it upon both of the following:

(A) Payment of all applicable fees established by the Ohio Public Utilities Commission in rules adopted under ORC 4921.25 or, if the City has established fees for vehicle removal and storage, payment of all applicable fees established by the City.

(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. The owner of a motor vehicle shall 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 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.

(Ord. 2017-23. Passed 8-21-17.)

Statutory reference: Vehicle left on private residential or private agricultural property without the permission of person having right to possession of property, see 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:

(1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches (18" x 24") in size, that is visible from all entrances to the property, and that includes all of the following information:

- (A) A statement that the property is a tow-away zone;
  - (B) A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located or the name of the business that is located on the property designated as a private tow-away zone;
  - (C) If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
  - (D) The telephone number and the address of the place from which a towed vehicle it may be recovered at any time during the day or night; and
  - (E) A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle, as provided in ORC 4505.101(B).
  - (F) In order to comply with the requirements of division (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.
- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
- (A) It is located within twenty-five (25) linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five (25) linear miles;
  - (B) It is well-lighted; and
  - (C) It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.
- (b) Removal of Vehicle from Tow-Away Zone:
- (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Ohio Public Utilities Commission in rules adopted under ORC 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed, as provided in ORC 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to division (c) of this section, may recover a vehicle in accordance with division (g) of this section.
  - (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, 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 sheriff of the county or the police department law enforcement agency in which 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~~ Each county sheriff and each chief of police a law enforcement agency shall maintain a record of any vehicle removed from private property within the ~~City~~ sheriffs or chiefs jurisdiction that is established as a private tow-away zone of which the ~~Chief~~ sheriff or chief has received notice under this section. The record shall include all information submitted by the towing service. The ~~Chief~~ sheriff or chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle and requests information pertaining to the vehicle.

(f) Notice to Owner and Lienholder by Towing Service or Storage Facility:

(1) When a vehicle is removed from private property in accordance with this section, within three (3) business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made either of the following to ascertain the identity of the owner and any lienholder of the vehicle:

(A) The records of the ~~Registrar of Motor Vehicles;~~ bureau of motor vehicles;

(B) The records of any vendor or vendors, approved by the ~~Registrar of Motor Vehicles~~ registrar of motor vehicles, that are capable of providing real-time access to owner and lienholder information. The towing service or storage facility may search the national motor vehicle title information system in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.

(2) Subject to division (f)(5) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

(A) Within five (5) business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a ~~return signed~~ receipt;

(B) If the vehicle remains unclaimed thirty (30) days after the first notice is sent, in the manner required under division (f)(1)A. of this section;

(3) Sixty (60) days after any notice sent pursuant to division (f)(2) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under ORC 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in ORC 4505.101(B).

(4) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under ORC 4505.101(B).

(5) With respect to a vehicle concerning which a towing service or a storage facility is not eligible to obtain title under ORC 4505.101, the towing service or storage facility need only comply with the initial notice required under division (f)(2)A. of this section.

(g) Reclamation of Vehicle from Storage:

(1) The owner or lienholder of a vehicle that removed under division (b) of this section may reclaim it upon both of the following:

(A) Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;

(B) Payment of the following fees:

(i) All applicable fees established by the Ohio Public Utilities Commission in rules adopted under ORC 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice send under division (f)(2)A. of this section;

(ii) 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 contests 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 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) Upon presentation of proof of ownership, which may be evidenced 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) of this section, "personal items" do not include any items that are attached to the vehicle.

(h) Duty of Towing Service: No person shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under this 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 violates division (h) 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)

(Ord. 2017-23. Passed 8-21-17.)

Editor's note:

See Section 351.13 of this Traffic Code regarding parking on private property violations

### **353.03 Impounding Motor Vehicle Left On Public Property; Reclamation; Disposal**

(a) Impoundment: The City's Chief of ~~Police~~ a law enforcement agency, or a state highway patrol trooper upon notification to the Chief of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in Section 353.08 of this Traffic Code, that:

(1) Has come into the possession of the Chief or state highway patrol trooper as a result of the performance of the Chief's or trooper's duties; or

(2) Has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight (48) hours or longer without notification to the Chief of ~~Police~~ of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately unless either of the following applies:

(A) The vehicle was involved in an accident and is subject to Section 335.23 of this Traffic Code; or

(B) The vehicle is a commercial motor vehicle. If the vehicle is a commercial motor vehicle, the Chief of ~~Police~~ or state highway patrol trooper shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the Chief of ~~Police~~ or state highway patrol trooper. If the Chief of Police or state highway patrol trooper determines that the vehicle cannot be removed within the specified period of time, the Chief of ~~Police~~ or state highway patrol trooper shall order the removal of the vehicle.

(3) Subject to division (c) of this section, the Chief shall designate the place of storage of any motor vehicle so ordered removed.

(b) Delivery to Place of Storage: If the Chief of ~~Police~~ or state highway patrol trooper issues an order under division (a) of this section and arranges for the removal of a motor vehicle by a towing service, 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.

(c) Notice to Vehicle Owner:

(1) The Chief of ~~Police~~ shall cause a search to be made of the records of the Ohio Bureau of Motor Vehicles to ascertain the identity of the owner and any lienholder of a motor vehicle ordered into storage by the Chief or by a state highway patrol trooper within five (5) business days of the removal of the vehicle. Upon obtaining such identity, the Chief of ~~Police~~ shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt, notice that informs the owner or lienholder that the motor vehicle

will be declared a nuisance and disposed of if not claimed within ten (10) days of the date of sending of the notice.

(2) The owner or lienholder of the motor vehicle may reclaim the motor vehicle 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 or memorandum certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the 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 services or storage facility fails to provide the notice required under ORC 4513.69(B)(3), if applicable. However, the owner shall not do either of the following:

(A) Retrieve any personal item that has been determined by the Chief of Police or a state highway patrol trooper, as applicable, to be necessary to a criminal investigation.

(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 place of storage, 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), as follows: The Chief of Police, without charge to any party, shall file with the clerk of courts of the county in which the place of storage is located, an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the Chief of Police. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in ORC 4513.62, the Chief of Police shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The Chief of Police shall retain the original of the affidavit for the Chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the clerk of courts, within thirty days of the presentation, shall issue a salvage certificate of title, free and clear of all liens and encumbrances.

(2) Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer'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.

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

(ORC 4513.61)

(Ord. 2017-23. Passed 8-21-17.)

### **353.05 Disposition Of Unclaimed Motor Vehicles In Storage**

An unclaimed motor vehicle ordered into storage pursuant to Sections 353.01 or 353.03 of this Traffic Code or ORC 4513.60(A)(1) or ORC 4513.61 is subject to one of the following:

(a) The City's Chief of ~~Police~~ may dispose of it with to a motor vehicle salvage dealer or scrap metal processing facility, as defined in ORC 4737.05, or with any other facility owned by or under contract with the City for the disposal of such motor vehicles.

(b) The Chief of ~~Police~~ or a licensed auctioneer may sell the motor vehicle at public auction, after giving notice thereof by posting notice of the sale in the City of Franklin Municipal Building and on the City of Franklin's official website.

(c) A towing service or storage facility may obtain title to the motor vehicle in accordance with ORC 4505.104.

Any moneys accruing pursuant to division (a) or (b) of this section that are in excess of the expenses resulting from the removal and storage of the vehicle shall be credited to the City's general fund.

(ORC 4513.62)

(Ord. 2012-17. Passed 10-1-12; Ord. 2015-08. Passed 6-1-15.)

### **353.06 Junk Motor Vehicles; Order To Cover Or Remove**

(a) Junk Motor Vehicle Defined: For purposes of this section, "junk motor vehicle" means any motor vehicle meeting the requirements of divisions (a)(2), (a)(3), (a) (4), and (a)(5) of Section 353.08 of this Traffic Code that is left uncovered in the open on private property for more than seventy-two (72) hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of ORC 4737.05 to 4737.12 or regulated under authority of the City; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle.

(b) Unlicensed Collector's Vehicles: The City shall not prevent a person from storing or keeping, or restrict a person in the method of storing or keeping, any collector's vehicle on private property with the permission of the person having the right to the possession of the property; except that the City may require a person having such permission to conceal, by means of buildings, fences, vegetation, terrain, or other suitable obstruction, any unlicensed collector's vehicle stored in the open.

(c) Order to Conceal or Remove: The City's Chief of ~~Police~~ a law enforcement agency, the City Council, or the City's Zoning Official may send notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten (10) days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure, or shall be removed from the property.

(d) Prohibitions: No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten (10) days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima-facie evidence of willful failure to comply with the notice, and each subsequent period of thirty (30) days that a junk motor vehicle continues to be so left constitutes a separate offense.

(e) Penalties:

(1) Whoever violates division (d) of this section is guilty of a minor misdemeanor.

(ORC 4513.65)

(Ord. 2012-17. Passed 10-1-12; Ord. 2015-08. Passed 6-1-15.)

### **353.08 Disposition Of Abandoned Junk Motor Vehicle**

(a) Definition: "Abandoned junk motor vehicle" means any motor vehicle meeting all of the following requirements:

(1) Left on private property for forty-eight (48) hours or longer without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight (48) hours or longer;

(2) Three (3) years old, or older;

(3) Extensively damaged, such damage including, but not limited to, missing wheels, tires, motor, or transmission;

(4) Apparently inoperable; and

(5) Having a fair market value of one thousand five hundred dollars (\$1,500) or less.

(b) Disposal:

(1) The City's Chief of ~~Police~~ a law enforcement agency, or state highway patrol trooper upon notification to the Chief of such action, shall order any abandoned junk motor vehicle to be photographed by a law enforcement officer. The officer shall record the make of motor vehicle, the serial number when available, and shall also detail the damage or missing equipment to substantiate the value of one thousand five hundred dollars (\$1,500) or less.

(2) The Chief of ~~Police~~ a law enforcement agency shall thereupon immediately dispose of the abandoned junk motor vehicle to a motor vehicle salvage dealer, as defined in ORC 4738.01, or a scrap metal processing facility, as defined in ORC 4737.05, which is under contract to the City or to any other facility owned by or under contract with the City for the destruction of such motor vehicles. The records and photograph relating to the abandoned junk motor vehicle shall be retained by the Division of Police for a period of at least two (2) years.

(3) The Division of Police shall execute in quadruplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of and that all requirements of this section have been complied with and, within thirty

(30) days of disposing of the vehicle, shall sign and file the affidavit with the clerk of courts of the county in which the motor vehicle was abandoned.

(4) The clerk of courts shall retain the original of the affidavit for the Clerk's files and shall furnish one (1) copy thereof to the Registrar, one (1) copy to the motor vehicle salvage dealer or other facility

handling the disposal of the vehicle, and one (1) copy to the Division of Police, who shall file such copy with the records and photograph relating to the disposal.

(5) Any moneys arising from the disposal of an abandoned junk motor vehicle shall be deposited in the City's general fund.

(c) Abandoned Junk Vehicle on Public Property: Notwithstanding Section 353.03 of this Traffic Code, any motor vehicle meeting the requirements of divisions (a)(3), (a)(4) and (a)(5) of this section which has remained unclaimed by the owner or lienholder for a period of ten (10) days or longer following notification as provided in Section 353.03 of this Traffic Code may be disposed of as provided in this section.

(Ord. 2012-17. Passed 10-1-12; Ord. 2015-08. Passed 6-1-15.)

Statutory reference:

Photograph and record of information as to abandoned junk vehicles, see ORC 4513.6