

## **NOTICE**

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This version may, occasionally, differ from the official version and should only be relied upon for general information purposes. Any errors or omissions should be reported to the Clerk of Council. In no event shall the City of Kettering be held liable for damages of any nature, direct or indirect, arising from the use of this service or reliance on this unofficial document.

CHAPTER 404  
Enforcement; Impounding

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CROSS REFERENCES

- See section histories for similar State law
- Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.61 et seq.
- Burden of proof - see Ohio R.C. 2901.05
- Arrest without warrant for misdemeanor - see Ohio R.C. 2935.03
- Right of trial by jury - see Ohio R.C. 2945.17
- Time within which hearing or trial must be held - see Ohio R.C. 2945.71
- Extension of time for hearing or trial - see Ohio R.C. 2945.72
- Discharge for delay in trial - see Ohio R.C. 2945.73
- Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34
- State point system suspension - see Ohio R.C. 4507.40
- Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06
- Use of private property for vehicular travel - see Ohio R.C. 4511.08
- Authority of arresting officer when radar, electrical or mechanical timing device used - see Ohio R.C. 4511.091
- Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13
- Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15
- Traffic Control Map and Files - see TRAF. Ch. 406
- Parking violations waiver - see TRAF. 408.03
- Exceptions for emergency or public safety vehicles - see TRAF. 432.18, 434.06
- Removal of vehicles from streets during emergencies - see TRAF. 452.12
- Impounding of bicycles - see TRAF. 474.08

- Limitation on criminal prosecutions - see GEN. OFF. 606.06  
Failure to aid a law enforcement officer - see GEN. OFF. 606.13  
Obstructing official business - see GEN. OFF. 606.14  
Obstructing justice - see GEN. OFF. 606.15  
Resisting arrest - see GEN. OFF. 606.16  
Soliciting or receiving improper compensation - see GEN. OFF. 606.18  
Dereliction of duty - see GEN. OFF. 606.19  
Disposition of property held by Police Department - see GEN. OFF. 606.25  
Motor vehicle as a public nuisance - see BLDG. 1373.01, 1373.10

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404.01 OBEDIENCE TO POLICE OFFICERS; FLEEING; EMERGENCIES; SCHOOL GUARDS.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

No person shall operate a motor vehicle so as to willfully elude or flee a police officer after receiving a visible or audible signal from a police officer to bring his motor vehicle to a stop.

(ORC 4511.02; Ord. 42. Passed 10-1-53; Ord. 1726-67. Passed 12-26-67.)

(b) Police officers may direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(c) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned. (Ord. 2437-72. Passed 12-12-72.)

(d) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 408.01. (Ord. 2699-76. Passed 7-13-76.)

(e) Whoever violates subsection (b) or (c) hereof shall be punished as provided in Sections 408.01 and 408.02. (Ord. 2542-74. Passed 1-22-74.)

404.02 RESISTING AN ENFORCING OFFICIAL.

No person shall resist, hinder, obstruct or abuse any official while such official is attempting to arrest offenders under this Traffic Code. No person shall interfere with any person charged under such sections with the enforcement of the law relative to public streets. (ORC 4513.36; Ord. 2437-72. Passed 12-12-72.)

Penalty - see Sections 408.01 and 408.02

**404.03 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.**

The provisions of this Traffic Code do not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street or highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

The drivers of snow plows, traffic line strippers, road sweepers, mowing machines, tar distributing vehicles and other vehicles utilized in snow and ice removal or road surface maintenance, while engaged in work upon a street or highway, provided such vehicles are equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the vehicles are so engaged, shall be exempt from criminal prosecution for violations of Sections 432.01 to 432.04, inclusive, 432.06 to 432.08, inclusive, 432.29, 434.04 and 452.01. Such exemption shall not apply to such drivers when their vehicles are not so engaged. This section shall not exempt a driver of such equipment from civil liability arising from the violations of the sections referred to herein. (ORC 4511.04; Ord. 2437-72. Passed 12-12-72.)

Penalty - see Sections 408.01 and 408.02

**404.04 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.**

(a) Every person riding, driving or leading an animal upon a roadway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle, except those provisions of such sections which by their nature are inapplicable. (ORC 4511.05; Ord. 617-58. Passed 10-28-58.)

(b) No person driving a horse-drawn vehicle or riding a horse upon any public street or highway within the City shall drive or ride such horse at a gait other than a trot or walk. (Ord. 169. Passed 8-10-54.)

Penalty - see Sections 408.01 and 408.02

**404.05 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.**  
No person, unless otherwise directed by a police officer, shall:

- (a) As a pedestrian, occupy any space within the limits of the right of way of a freeway, except: in a rest area; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle, or to obtain assistance;
- (b) Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle; a bicycle with motor attached; a motor-driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties. (ORC 4511.051; Ord. 2437-72. Passed 12-12-72.)

Penalty - see Sections 408.01 and 408.02

**404.06 IMPOUNDING FROM PRIVATE PROPERTY.**

The Building Inspection Superintendent, upon notification by any department or division of the City, or any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Section 404.10, which has been left on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property.

The owner of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle.  
(Ord. 2383-72. Passed 3-28-72.)

**404.07 IMPOUNDING FROM PUBLIC PROPERTY.**

The Chief of Police may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Section 404.10, under the following circumstances:

- (a) When any vehicle has been left on a public street or other property open to the public for purpose of vehicular travel, or upon or within the right of way of any road or highway, for forty-eight hours or longer without notification to the Chief of Police of the reasons for leaving the motor vehicle in such place;
- (b) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations;
- (c) When any vehicle has been stolen or operated without the consent of the owner;
- (d) When any vehicle displays illegal license plates or fails to display the current lawfully required license plates;
- (e) When any vehicle has been used in or connected with the commission of a felony;
- (f) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property;
- (g) When any vehicle is left unattended due to the removal of an ill, injured or arrested operator;
- (h) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision;
- (i) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked;
- (j) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required.

(Ord. 2383-72. Passed 3-28-72.)

**404.08 NOTICE**

If the owner makes no claim to the motor vehicle within 10 days from the date of impounding, the Chief of Police shall cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the owner and any lienholder of the motor vehicle.

Notice shall be sent to the owner and lienholder at the last known address by Certified Mail, return receipt requested, that the motor vehicle will be disposed of if not claimed within 10 days of the date of mailing of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage and presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle.

If the owner or lienholder makes no claim to the motor vehicle within 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 404.09, the Chief of Police shall file with the Clerk of Courts of Montgomery County an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the Clerk of Courts shall, without charge, issue a 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 junk yard or other facility as provided in Section 404.09, as prescribed by the Ohio 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 his records, and shall furnish two copies to the owner of the junk yard or other facility. Upon presentation of a copy of the affidavit by the owner of the junk yard or other facility, the Clerk of Courts shall issue to such owner a certificate of title free and clear of all liens and encumbrances.

Whenever the owner of a junk yard or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, such owner shall not be required to obtain an Ohio certificate of title to the motor vehicle in his own name if, within 10 days of the receipt of the affidavit, the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.  
(ORC 4513.61 - Ord. 2962-81. Passed 7/28/81.)

**404.09 SALE OF UNCLAIMED MOTOR VEHICLE.**

Unclaimed motor vehicles ordered into storage pursuant to Sections 404.06 and 404.07, shall be disposed of at the order of the Chief of Police to a junk yard, scrap metal processing facility or to any other facility owned or under contract with a municipal corporation for the disposal of such motor vehicles, or shall be sold by the Chief of Police or a licensed auctioneer at public auction, after giving notice thereof by advertisement published once a week for two successive weeks in a newspaper of general circulation in the County. Any moneys accruing from the disposition of an unclaimed motor vehicle shall be credited to the General Fund of the City.  
(ORC 4513.62; Ord. 2962-81. Passed 7-28-81.)

**404.10 ABANDONED JUNK MOTOR VEHICLE DEFINED.**

(a) "Abandoned junk motor vehicle," as used in Sections 404.06, 404.07, 404.11, 404.12 and 404.13, means any motor vehicle meeting all of the following requirements:

- (1) Is left on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, or 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 hours or longer;

- (2) Is three years old, or older;
- (3) Is extensively damaged, such damage including, but not limited to, any of the following: a broken window or windshield, or missing wheels, tires, motor or transmission;
- (4) Is apparently inoperable;
- (5) Has a fair market value of one hundred dollars (\$100.00) or less.  
(Ord. 2383-72. Passed 3-28-72.)

(b) Notwithstanding Section 404.08, any motor vehicle meeting the requirements of subparagraphs (a)(3), (4) and (5) hereof which has remained unclaimed by the owner or lienholder for a period of ten days or longer following notification as provided in Section 404.08 may be disposed of as provided in Ohio R.C. 4513.63.  
(ORC 4513.63)

#### 404.11 DISPOSAL OF JUNK MOTOR VEHICLE.

The Building Inspection Superintendent or Police Chief shall order any abandoned junk motor vehicle to be photographed in the place where it is abandoned, shall record the make of the motor vehicle and the serial number, when available, and shall also detail the damage or missing equipment to substantiate the value of one hundred dollars (\$100.00) or less. The Superintendent shall immediately dispose of the abandoned junk motor vehicle to a junk yard or scrap metal processing facility or to any other facility owned by or under contract with the Municipality for the disposal of such motor vehicles. The records and photograph relating to the abandoned junk motor vehicle shall be retained by the Superintendent regarding the disposition of such vehicle for a period of at least two years. The Superintendent shall execute in quadruplicate an affidavit, as prescribed by the Ohio 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 the Superintendent shall sign and file the same with the Clerk of Courts of the county in which the motor vehicle was abandoned. The Clerk of Courts shall retain the original of the affidavit for his files, shall furnish one copy thereof to the Registrar, one copy to the junk yard or other facility handling the disposal of the vehicle and one copy to the Superintendent ordering the disposal, who shall file such copy with the records and photograph relating to the disposal. Any moneys arising from the disposal of an abandoned junk motor vehicle shall be deposited in the General Fund.  
(Ord. 2383-72. Passed 3-28-72.)

#### 404.12 ABANDONING JUNK MOTOR VEHICLES PROHIBITED.

(a) No person shall willfully leave an abandoned junk motor vehicle, as defined in Section 404.10, on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property or on a public street or other property open to the public for purpose of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight hours or longer without notification to the Chief of Police of the Municipality of the reasons for leaving the motor vehicle in such place.

For the purposes of this section, the fact that a motor vehicle has been so left without permission or notification is prima-facie evidence of abandonment.  
(ORC 4513.64; Ord. 2383-72. Passed 3-28-72.)

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense; for a second or subsequent offense, such person is guilty of a misdemeanor of the third degree. Punishment shall be as provided in Section 408.01.

In addition to the penalty herein provided, whoever violates this section is liable in a civil action for treble the costs incurred by the City in disposing of such abandoned junk motor vehicle less any moneys accruing to the City from such disposal.  
(Ord. 2542-74. Passed 1-22-74.)

#### 404.13 STORAGE OF JUNK VEHICLES.

(a) As used in this section "junk motor vehicle" means any motor vehicle meeting the requirements of Section 404.10 and that is left uncovered in the open on private property for more than seventy-two 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 Ohio R.C. 4737.05 to 4737.12; or regulated under the authority of the Municipality; 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.

(b) The Building Inspection Superintendent 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 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.

(c) No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten 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 days that a junk motor vehicle continues to be so left constitutes a separate offense. (ORC 4513.65)

(d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense such person is guilty of a misdemeanor of the third degree. Punishment shall be as provided in Section 408.01. (ORC 4513.99(E))

#### 404.14 USE OF PRIVATE PROPERTY FOR VEHICULAR TRAVEL.

(a) Nothing in this Traffic Code shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use or from requiring additional conditions to those specified in this Traffic Code, or otherwise regulating such use as may seem best to such owner. (ORC 4511.08; Ord. 42. Passed 10-1-53.)



(b) Whenever the owner of such real property erects or causes to be erected signs at each entrance to his property forbidding the use of such property by certain types of vehicles or otherwise regulating the use thereof by motor vehicles, such prohibitions or regulations shall be treated as part of this Traffic Code and violations shall be punishable in accordance with the provisions hereof. (Ord. 743-60. Passed 5-24-60.)

#### 404.15 USE OF PUBLIC PARKS FOR VEHICULAR TRAVEL.

No person shall operate a motor vehicle upon lands, paved walks or paths of any property owned by the City and used for purposes of a public park, except within those areas specifically designated for vehicular traffic. This section shall not apply to vehicles used in the maintenance of such property nor to vehicles operated on such property pursuant to a public event sponsored by the City nor to emergency public safety vehicles. (Ord. 1626-66. Passed 12-27-66.)

Penalty - see Sections 408.01 and 404.02

#### 404.16 REMOVAL OF VEHICLES FROM STREETS UNDER CONSTRUCTION.

The City Manager is hereby authorized to require the removal of vehicles from areas where construction or improvements are or will be in process within the succeeding twenty-four hour period. The City Manager shall inform the public of the aforementioned conditions through reasonable and usual methods of communication. If the owner or operator of the vehicle does not remove it within a reasonable time, the vehicle may be removed by the Police Department. (Ord. 2383-72. Passed 3-28-72.)

#### 404.17 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

The provisions of this Traffic Code shall apply to the driver of any vehicle owned by or used in the service of the United States government, the State, County or City and no driver shall violate any of the provisions of this Code, except as otherwise permitted in this Code.

(Ord. 617-58. Passed 10-28-58.)

Penalty - see Sections 408.01 and 408.02

#### 404.18 REMOVAL OF IMPOUNDED MOTOR VEHICLES

No person shall remove, cause to be moved, or operate a motor vehicle which has been impounded under this Chapter without payment of all expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle.

Whoever violates this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 408.01. (Ord. 2919-80. Passed 11-11-80.)

Rev. 104