

Ordinance No. 188-16

Council Member Kelley

AN EMERGENCY ORDINANCE

To repeal various sections of Chapter 401 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended and enacted by various ordinances; and to supplement the codified ordinances by enacting new sections 401.03, 401.031, 401.041, 401.05, 401.081, 401.161, 401.171, 401.201, 401.202, 401.23, 401.25, 401.26, 401.261, 401.262, 401.263, 401.291, 401.331, 401.401, 401.402, 401.43, 401.481, 401.491, 401.531, 401.561, 401.67, 401.68, and 401.69; and by amending sections 401.04, 401.06, 401.07, 401.10, 401.14, 401.21, 401.61, 401.66 and 401.73 as amended by various ordinances; and to repeal section 401.101 of the codified ordinances relating to traffic code definitions.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 401.03, as amended by Ordinance No.1684-76, passed June 29, 1976,

Section 401.05, as amended by Ordinance No. 1459-78, passed November 22, 1978,

Section 401.23, as amended by Ordinance No.1684-76, passed June 29, 1976,

Section 401.25, as amended by Ordinance No. 1459-78, passed November 22, 1978,

Section 401.26, as amended by Ordinance No. 835-03, passed June 10, 2003,

Section 401.43, as amended by Ordinance No. 835-03, passed June 10, 2003,

Section 401.67, as amended by Ordinance No. 91-96, passed March 18, 1996,

Section 401.68, as amended by Ordinance No.1684-76, passed June 29, 1976, and

Section 401.69, as amended by Ordinance No. 91-96, passed March 18, 1996,

are repealed.

Section 2. That Section 401.101, as amended by Ordinance No. 835-03, passed June 10, 2003, relating to Commercial Motor Vehicle, is repealed.

Section 3. That the Codified Ordinances of Cleveland, Ohio, 1976 are supplemented by enacting new sections 401.03, 401.031, 401.041, 401.05, 401.081, 401.161, 401.171, 401.201, 401.202, 401.23, 401.25, 401.26, 401.261, 401.262, 401.263, 401.291, 401.331, 401.401, 401.402, 401.43, 401.481, 401.491, 401.531, 401.561, 401.67, 401.68, and 401.69 to read as follows:

Section 401.03 **Alley**

“Alley” means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an “alley” by the legislative authority of the municipal corporation in which the street or highway is located.
(RC 4511.01(XX))

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Section 401.031 **Arterial Street**

“Arterial street” means any United States or state numbered route, controlled access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.
(RC 4511.01(CCC))

Section 401.041 **Beacon**

“Beacon” means a highway traffic signal with one (1) or more signal sections that operate in a flashing mode.
(RC 4511.01(KKK))

Section 401.05 **Bicycle**

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

Section 401.081 **Child Day-Care Center and Type A Family Day-Care Home**

“Child day-care center” and “type A family day-care home” have the same meanings as in RC 5104.01.
(RC 4511.01(FFF))

Section 401.161 **Explosives**

“Explosives” means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by a detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb. Manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantities, of such nature, or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb, or property by fire, by friction, by concussion, by percussion, or by a detonator, such as fixed ammunition for small arms, firecrackers, or safety fuse matches.
(RC 4511.01(T))

Section 401.171 **Flammable Liquid**

“Flammable liquid” means any liquid that has a flash point of seventy degrees Fahrenheit (70°F), or less, as determined by a tagliabue or equivalent closed cup test device.
(RC 4511.01(U))

Section 401.201 **Highway Maintenance Vehicle**

“Highway maintenance vehicle” means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities.
(RC 4511.01(QQQ))

Section 401.202 **Highway Traffic Signal**

“Highway traffic signal” means a power-operated traffic control device by which traffic is warned or directed to take some specific action. “Highway traffic signal” does not include a power-operated sign, steadily illuminated pavement marker, warning light, or steady burning electric lamp.
(RC 4511.01(MMM))

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Section 401.23 **Median**

“Median” means the area between two (2) roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection.
(RC 4511.01(NNN))

Section 401.25 **Motor Vehicle**

“Motor vehicle” means every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers 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 (25) miles per hour or less.
(RC 4511.01(B))

Section 405.26 **Motorcycle**

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

Section 401.261 **Motorized Bicycle**

“Motorized bicycle” means any vehicle that either has two (2) tandem wheels or one (1) wheel in the front and two (2) wheels in the rear, that is capable of being pedaled, and that is equipped with a helper motor of not more than fifty (50) cubic centimeters piston displacement that produces no more than one (1) brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty (20) miles per hour on a level surface.
(RC 4501.01(L))

Section 401.262 **Motorized Wheelchair**

“Motorized wheelchair” means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight (8) miles per hour.
(RC 4511.01(EEE))

Section 401.263 **Multi-Wheel Agricultural Tractor**

“Multi-wheel agricultural tractor” means a type of agricultural tractor that has two (2) or more wheels or tires on each side of one (1) axle at the rear of the tractor, is designed or used for drawing other vehicles or wheeled machinery, has no provision for carrying loads independently of the drawn vehicles or machinery, and is used principally for agricultural purposes.
(RC 4511.01(GGG))

Section 401.291 **Operate**

“Operate” means to cause or have caused movement of a vehicle, streetcar, or trackless trolley.
(RC 4511.01(HHH))

Section 401.331 **Parking Meter Zone**

“Parking meter zone” means any section of a street or highway where parking meters are installed adjacent to the curb.

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Section 401.401 **Predicate Motor Vehicle or Traffic Offense**

“Predicate motor vehicle or traffic offense” means any of the following:

- (a) A violation of RC 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
- (b) A violation of RC 4511.17(A)(2), 4511.51(A) to (D) or 4511.74(A);
- (c) A violation of any provision of RC 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of any section of this Traffic Code that is substantially equivalent to any section or provision set forth or described in division (a), (b) or (c) of this section;
- (e) Effective January 1, 2017, a violation of RC 4511.214;
- (f) Effective January 1, 2017, a violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in division RC 4511.01 (III) (1), (2), (3) or (5).
(RC 4511.01(III))

Section 401.402 **Private Road Open to Public Travel**

“Private road open to public travel” means a private toll road or road, including any adjacent sidewalks that generally run parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that is privately owned but where the public is allowed to travel without access restrictions. “Private road open to public travel” includes a gated toll road but does not include a road within a private gated property where access is restricted at all times, a parking area, a driving aisle within a parking area, or a private grade crossing.
(RC 4511.01(OOO))

Section 401.43 **Public Safety Vehicle**

“Public safety vehicle” means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township, or county, and private ambulances and nontransport vehicles bearing license plates issued under RC 4503.49.
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the state.
- (c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The State Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this division (c).
- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer firefighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety.

Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital, regardless of whether the vehicle has

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already passed a hospital.

(e) Vehicles used by the motor carrier enforcement unit for the enforcement of orders and rules of the Public Utilities Commission as specified in RC 5503.34.
(RC 4511.01(E))

Section 401.481 **Ridesharing Arrangement**

“Ridesharing arrangement” means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.
(RC 4511.01(DDD))

Section 401.491 **Road Service Vehicle**

“Road service vehicle” means wreckers, utility repair vehicles, and state, county and municipal service vehicles equipped with visual signals by means of flashing, rotating or oscillating lights.
(RC 4511.01(JJJ))

Section 401.531 **Shared-Use Path**

“Shared-use path” means a bikeway outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users.
(RC 4511.01(PPP))

Section 401.561 **State Highway**

“State highway” means a highway under the jurisdiction of the Ohio Department of Transportation, outside the limits of municipal corporations, provided that the authority conferred upon the Ohio Director of Transportation in RC 5511.01 to erect state highway route markers and signs directing traffic shall not be modified by RC 4511.01 to 4511.79 and 4511.99.
(RC 4511.01(II))

Section 401.67 **Traffic Control Device**

“Traffic control device” means a flagger, sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.
(RC 4511.01(QQ))

Section 401.68 **Traffic Control Signal**

“Traffic control signal” means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed.
(RC 4511.01(RR))

Section 401.69 **Trailer**

“Trailer” means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle, including any vehicle when formed by or operated as a combination of a “semitrailer” and a vehicle of the dolly type, such as that commonly known as a “trailer dolly,” a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than twenty-five (25) miles per hour, and a 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 more than ten (10) miles or at a speed of more than twenty-five (25) miles per hour.
(RC 4511.01(M))

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Section 4. That the Codified Ordinances of Cleveland, Ohio, 1976 are supplemented by amending the following sections:

- Section 401.04, as amended by Ordinance No.1684-76, passed June 29, 1976,
- Section 401.06, as amended by Ordinance No. 91-96, passed March 18, 1996,
- Section 401.07, as amended by Ordinance No. 91-96, passed March 18, 1996,
- Section 401.10, as amended by Ordinance No.1684-76, passed June 29, 1976,
- Section 401.14, as amended by Ordinance No. 91-96, passed March 18, 1996,
- Section 401.21, as amended by Ordinance No.1684-76, passed June 29, 1976,
- Section 401.61, as amended by Ordinance No.1684-76, passed June 29, 1976,
- Section 401.66, as amended by Ordinance No. 835-03, passed June 10, 2003, and
- Section 401.73, as amended by Ordinance No. 672-12, passed June 4, 2012

to read as follows:

Section 401.04 **Automatically Operated Gate**

“Automatically operated gate” means any mechanical device placed or erected within a Municipal parking facility, as defined in section 401.27, for the regulation of parking, so designed that a gate across the exit or entrance of such parking facility automatically raises to allow a single vehicle to be moved through the exit or entrance upon the deposit in such gate of coins or parking tokens, or upon the insertion in such gate of a parking key or parking card, as indicated on the automatically operated gate.

Section 401.06 **Bus**

“Bus” means every motor vehicle designed for carrying more than nine (9) passengers and used for the transportation of persons other than in a ridesharing arrangement, as defined in section 401.481, and every motor vehicle, automobile for hire, or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation.
(RC 4511.01(L))

Section 401.07 **Business District**

“Business district” means the territory fronting upon a street or highway, including the street or highway, between successive intersections within municipal corporations where fifty percent (50%) or more of the frontage between such successive intersections is occupied by buildings in use for business, or within or outside municipal corporations where fifty percent (50%) or more of the frontage for a distance of three hundred (300) feet or more is occupied by buildings in use for business, and the character of such territory is indicated by official traffic control devices.
(RC 4511.01(NN))

Section 401.10 **Commercial Car or Truck**

“Commercial car” or “truck” means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.
(RC 4501.01(J))

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Section 401.14 Crosswalk

“Crosswalk” means:

(a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;

(b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(c) Notwithstanding divisions (a) and (b) of this section, there shall not be a crosswalk where local authorities have placed signs indicating no crossing.
(RC 4511.01(LL))

Section 401.21 Intersection

“Intersection” means

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.

(b) If a highway includes two (2) roadways that are thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two (2) roadways thirty (30) feet or more apart, then every crossing of any two (2) roadways of such highways constitutes a separate intersection.

(c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in division (b) of this section.

(1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two (2) intersections and the roadway and median constitute one (1) intersection.

(2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.

(3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk.

(RC 4511.01(KK))

Section 401.61 Street or Highway

“Street” or “highway” are synonymous and mean the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel.

(RC 4511.01(BB))

Section 401.66 Traffic

“Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars, trackless trolleys, and other devices, either singly or together, while using for purposes of travel any highway or private road open to public travel.

(RC 4511.01(TT))

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Section 401.73 **Vehicle**

“Vehicle” means every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that “vehicle” does not include any motorized wheelchair, any electric personal assistive mobility device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.

(RC 4511.01(A))

Section 5. That the following existing sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 401.04, as amended by Ordinance No.1684-76, passed June 29, 1976,

Section 401.06, as amended by Ordinance No. 91-96, passed March 18, 1996,

Section 401.07, as amended by Ordinance No. 91-96, passed March 18, 1996,

Section 401.10, as amended by Ordinance No.1684-76, passed June 29, 1976,

Section 401.14, as amended by Ordinance No. 91-96, passed March 18, 1996,

Section 401.21, as amended by Ordinance No.1684-76, passed June 29, 1976,

Section 401.61, as amended by Ordinance No.1684-76, passed June 29, 1976,

Section 401.66, as amended by Ordinance No. 835-03, passed June 10, 2003, and

Section 401.73, as amended by Ordinance No. 672-12, passed June 4, 2012

are hereby repealed.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

KJK:rms
2-22-16

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REPORT
after second Reading

Council Member Kelley

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To repeal various sections of Chapter 401 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended and enacted by various ordinances; and to supplement the codified ordinances by enacting new sections 401.03, 401.031, 401.041, 401.05, 401.081, 401.161, 401.171, 401.201, 401.202, 401.23, 401.25, 401.26, 401.261, 401.262, 401.263, 401.291, 401.331, 401.401, 401.402, 401.43, 401.481, 401.491, 401.531, 401.561, 401.67, 401.68, and 401.69; and by amending sections 401.04, 401.06, 401.07, 401.10, 401.14, 401.21, 401.61, 401.66 and 401.73 as amended by various ordinances; and to repeal section 401.101 of the codified ordinances relating to traffic code definitions

READ FIRST TIME on FEBRUARY 22, 2016
and referred to DIRECTORS of Public Safety, Finance, Law;
COMMITTEES on Safety, Finance

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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SAFETY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
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