

Ordinance No. 1281-15

AN EMERGENCY ORDINANCE

Council Member Kelley

To repeal various sections of Chapter 439 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances; and to supplement the codified ordinances by enacting new sections 439.07, 439.09, 439.10, 439.13, 439.14, and 439.15; and by amending sections 439.01, 439.03, 439.06, and 439.11 as amended by various ordinances; and to repeal section 439.99 of the codified ordinances, relating to commercial and heavy vehicles.

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

Section 439.09, as amended by Ordinance No. 1684-76, passed June 29, 1976,

Section 439.10, as amended by Ordinance No. 91-96, passed March 18, 1996,

Section 439.13, as amended by Ordinance No. 1684-76, passed June 29, 1976,

Section 439.14, as amended by Ordinance No. 1684-76, passed June 29, 1976, and

Section 439.15, as amended by Ordinance No. 91-96, passed March 18, 1996,

are repealed.

Section 2. That Section 439.99, as amended by Ordinance No. 366-A-90, passed October 22, 1990, related to Penalties, is repealed.

Section 3. That the Codified Ordinances of Cleveland, Ohio, 1976 are supplemented by enacting new Sections 439.07, 439.09, 439.10, 439.13, 439.14, 439.15 and 439.99, to read as follows:

Section 439.07 **Maximum Width, Height and Length**

(a) No vehicle shall be operated upon the public highways, streets, bridges and culverts within this city whose dimensions exceed those specified in this section.

(b) No such vehicle shall have a width:

(1) In excess of one hundred and four (104) inches for passenger bus type vehicles operated exclusively within the municipality.

(2) In excess of one hundred and two (102) inches, excluding such safety devices as are required by law, for passenger bus type vehicles operated over freeways, and other state roads with minimum pavement widths of twenty-two (22) feet, except those roads or portions of roads over which operation of one hundred and two (102) inch buses is prohibited by order of the Ohio Director of Transportation.

(3) In excess of one hundred and thirty-two (132) inches for traction engines.

(4) In excess of one hundred and two (102) inches for recreational vehicles, excluding safety devices and retracted awnings and other appurtenances of six (6) inches or less in width and except that the Director may prohibit the operation of one hundred and two (102) inch recreational vehicles on designated state highways or portions of highways.

(5) In excess of one hundred and two (102) inches, including load, for all other vehicles, except that the Director may prohibit the operation of one hundred and two (102) inch

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vehicles on the state highways or portions of state highways as the Director designates.

(c) No such vehicle shall have a length:

(1) In excess of sixty-six (66) feet for passenger bus type vehicles and articulated passenger bus type vehicles operated by a regional transit authority pursuant to RC 306.30 to 306.54.

(2) In excess of forty-five (45) feet for all other passenger bus type vehicles.

(3) In excess of fifty-three (53) feet for any semitrailer when operated in a commercial tractor-semitrailer combination, with or without load, except that the Director may prohibit the operation of any such commercial tractor-semitrailer combination on the state highways or portions of state highways as the Director designates.

(4) In excess of twenty-eight and one-half (28.5) feet for any semitrailer or trailer when operated in a commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination, except that the Director may prohibit the operation of any such commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination on the state highways or portions of state highways as the Director designates.

(5) A. In excess of ninety-seven (97) feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any interstate, United States route or state route, including reasonable access travel on all other roadways for a distance not to exceed one (1) road mile from any interstate, United States route or state route, not to exceed three (3) saddlemounted vehicles, but which may include one (1) fullmount;

B. In excess of seventy-five (75) feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any roadway not designated as an interstate, United States route or state route, not to exceed three (3) saddlemounted vehicles, but which may include one (1) fullmount.

(6) In excess of sixty-five (65) feet for any other combination of vehicles coupled together, with or without load, except as provided in division (c)(3) and (c)(4), and in division (e) below.

(7) In excess of forty-five (45) feet for recreational vehicles.

(8) In excess of fifty (50) feet for all other vehicles, except trailers and semitrailers, with or without load.

(d) No such vehicle shall have a height in excess of thirteen and one-half (13.5) feet, with or without load.

(e) An automobile transporter or boat transporter shall be allowed a length of sixty-five (65) feet, and a stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of seventy-five (75) feet, except that the load thereon may extend no more than four (4) feet beyond the rear of such vehicles and may extend no more than three (3) feet beyond the front of the vehicles, and except further that the Director may prohibit the operation of a stinger-steered automobile transporter, stinger-steered boat transporter, or a B-train assembly on any state highway or portion of any state highway that the Director designates.

(f) (1) The widths prescribed in division (b) of this section shall not include side mirrors, turn signal lamps, marker lamps, handholds for cab entry and egress, flexible fender extensions, mud flaps, splash and spray suppressant devices, and load-induced tire bulge.

(2) The widths prescribed in division (b)(5) of this section shall not include automatic covering devices, tarp and tarp hardware, and tiedown assemblies, provided these safety devices do not extend more than three (3) inches from either side of the vehicle.

(3) The lengths prescribed in divisions (c)(2) to (c)(7) shall not include safety devices, bumpers attached to the front or rear of the bus or combination, non-property carrying devices or components that do not extend more than twenty-four (24) inches beyond the rear of the vehicle

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and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-semitrailer-semi-trailer combination, energy conservation devices as provided in any regulations adopted by the Secretary of the United States Department of Transportation, or any noncargo-carrying refrigerator equipment attached to the front of trailers and semitrailers. In special cases, vehicles that dimensions exceed those prescribed by this section may operate in accordance with rules adopted by the Director.

(g) (1) This section does not apply to fire engines, fire trucks or other vehicles or apparatus belonging to the municipality or to the volunteer fire department thereof or used by that department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment.

(2) The owner or operator of any vehicle, machinery or equipment not specifically enumerated in this section but the dimensions of which exceed the dimensions provided by this section, when operating the same on the highways and streets of the municipality, shall comply with the rules of the Director governing such movement. Any person adversely affected shall have the same right of appeal as provided in RC Chapter 119.

(3) This section does not require the municipality or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of the vehicle, or to make any changes in or about existing structures now crossing streets, roads and other public thoroughfares.

(h) As used in this section, "recreational vehicle" has the same meaning as in RC 4501.01.
(RC 5577.05)

(i) No person shall violate any rule or regulation promulgated by the Director of Transportation in accordance with RC 5577.05.
(RC 5577.06)

(j) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense, the person is guilty of a misdemeanor of the fourth degree.
(RC 5577.99(C))

Section 439.09 **Wheel Protectors**

(a) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three (3) tons, upon the public highways, streets, bridges and culverts within the city, unless the vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of the vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water or other materials on the windshields of following vehicles. The protectors or flaps shall have a ground clearance of not more than one-third (1/3) of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed and constructed that the requirements are accomplished by means of fenders, body construction or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies or other parts of the vehicle shall be covered at the top by protective means extending at least to the centerline of the rearmost axle.
(RC 5577.11)

(b) Whoever violates this section shall be fined not more than twenty-five dollars (\$25.00).
(RC 5577.99(E))

Section 439.10 **Towing Requirements**

(a) (1) When one (1) vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all the weight towed thereby, and the drawbar or other connection shall not exceed fifteen (15) feet from one (1) vehicle to the other, except the connection between any two (2) vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

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(2) When one (1) vehicle is towing another and the connection consists only of a chain, rope or cable, there shall be displayed upon the connection a white flag or cloth not less than twelve (12) inches square.

(3) In addition to the drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. These chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.

(4) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility as defined in RC 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of twenty-five (25) miles per hour or less, and vehicles 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, shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one (1) such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one (1) time except as follows:

A. An agricultural tractor may tow or draw more than one (1) such vehicle;

B. A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half (1/2) ton and not more than two (2) tons may tow or draw not more than two (2) such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle.

(RC 4513.32)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(RC 4513.99)

Section 439.13

Vehicles with Spikes, Lugs and Chains

(a) No person shall drive over the improved highways of this city a traction engine or tractor with tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind extending beyond the cleats, and no person shall tow or in any way pull another vehicle over the improved highways of this city which towed or pulled vehicle has tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind. "Traction engine" or "tractor", as used in this section, applies to all self-propelling engines equipped with metal-tired wheels operated or propelled by any form of engine, motor or mechanical power.

(b) This city shall not adopt, enforce or maintain any ordinance, rule or regulation contrary to or inconsistent with division (a), nor shall this city require any license tax upon or registration fee for any traction engine, tractor or trailer, or any permit or license to operate. Operators of traction engines or tractors shall have the same rights upon the public streets and highways as the drivers of any other vehicles, unless some other safe and convenient way is provided, and no public road open to traffic shall be closed to traction engines or tractors.

(RC 5589.08)

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

(RC 5589.99(B))

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Section 439.14 **Use of Studded Tires and Chains**

(a) For the purposes of this section, “studded tire” means any tire designed for use on a vehicle and equipped with metal studs or studs of wear-resisting material that project beyond the tread of the traction surface of the tire.

(b) (1) Except as provided in division (b)(2) of this section, no person shall operate any motor vehicle other than a public safety vehicle or school bus that is equipped with studded tires on any street or highway in this city, except during the period extending from the first day of November of each year through the fifteenth day of April of the succeeding year.

(2) A person may operate a motor vehicle that is equipped with retractable studded tires with the studs retracted at any time of the year, but shall operate the motor vehicle with the studs extended only as provided in division (b)(1) of this section.

(c) Division (b) of this section does not apply to the use of tire chains when there is snow or ice on the streets or highways where the chains are being used, or the immediate vicinity thereof.
(RC 5589.081)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(RC 5589.99(B))

Section 439.15 **Permitting or Driving While Fatigued or Ill Prohibited**

(a) No person shall drive a commercial motor vehicle, as defined in RC 4506.01, or a commercial car or commercial tractor, as defined in RC 4501.01, while the person’s ability or alertness is so impaired by fatigue, illness or other causes that it is unsafe for the person to drive the vehicle. No driver shall use any drug which would adversely affect the driver’s ability or alertness.

(b) No owner, as defined in RC 4501.01, of a commercial motor vehicle, commercial car or commercial tractor, or a person employing or otherwise directing the driver of the vehicle, shall require or knowingly permit a driver in any such condition described in division (a) of this section to drive the vehicle upon any street or highway.

(c) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one (1) or more violations of this section or RC 4511.79, or RC 4511.63, 4511.76, 4511.761, 4511.762, 4511.764 or 4511.77, or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.
(RC 4511.79)

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

Sections 439.01 and 439.06, as amended by Ordinance No. 1684-76, passed June 29, 1976,

Section 439.03, as amended by Ordinance No. 2515-89, passed December 11, 1989, and

Section 439.11, as amended by Ordinance No. 2196-01, passed June 10, 2002

to read as follows:

Section 439.01 **Oversize or Overweight Vehicle Operation on State Routes;** **State Permit**

(a) No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in RC 5577.01 to 5577.09, inclusive, or otherwise not in conformity with RC 4513.01 to 4513.37, inclusive, upon any State route within the City, except pursuant to special written permit issued by the Ohio Director of Transportation, or upon any local truck route. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

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(b) No holder of a permit issued by the Ohio Director of Transportation shall be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the City. However, no person shall operate any such vehicle or combination of vehicles upon any roadway within the City which is not a State route, except as provided in Section 439.02.

(c) (1) Whoever violates the weight provisions of this section is guilty of a misdemeanor of the fourth degree for overloads not in excess of five thousand (5,000) pounds; and is guilty of a misdemeanor of the third degree for overloads in excess of five thousand (5,000) pounds but not in excess of ten thousand (10,000) pounds.

(2) Whoever violates the weight provisions of this for overloads in excess of ten thousand pounds (10,000) shall be fined three dollars (\$3.00) per one hundred (100) pounds of overload plus court costs, and may be imprisoned not more than sixty (60) days, or both.

(3) Whoever violates any other provision of this section is guilty of a misdemeanor of the fourth degree on the first offense. On each subsequent offense within one (1) year of the first offense, the person is guilty of a misdemeanor of the third degree.

Section 439.03 **Weight of Vehicle and Load; Truck Routes**

(a) No vehicle, object or structure shall be operated or moved upon any public street, highway, bridge or culvert within the City other than a State Route having an axle load, wheel load or a vehicle and load weight in excess of the maximums specified in RC 5577.01 to 5577.14, inclusive, or such lesser axle load, wheel load or vehicle and load weight as the Director of Public Service shall determine due to the conditions of the public street, highway, bridge or culvert.

(b) All motor trucks whose axle load, wheel load or vehicle and load weight is in excess of the maximum specified in division (a) of this section, shall operate in conformity with signs posted by the Chief of Police, or the officer designated in charge of traffic control prohibiting, limiting or diverting such motor trucks on such residential street, except while receiving goods or making deliveries along such streets.

(c) (1) Whoever violates the weight provisions of this section is guilty of a misdemeanor of the fourth degree for overloads not in excess of five thousand (5,000) pounds; and is guilty of a misdemeanor of the third degree for overloads in excess of five thousand (5,000) pounds but not in excess of ten thousand (10,000) pounds.

(2) Whoever violates the weight provisions of this section for overloads in excess of ten thousand pounds (10,000) shall be fined three dollars (\$3.00) per one hundred (100) pounds of overload plus court costs, and may be imprisoned not more than sixty (60) days, or both.

(3) Whoever violates any other provision of this section is guilty of a misdemeanor of the fourth degree on the first offense. On each subsequent offense within one (1) year of the first offense, the person is guilty of a misdemeanor of the third degree.

Section 439.06 **Slow-Moving Vehicles or Equipment Crossing Railroad Tracks**

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of six (6) or less miles per hour or a vertical body or load clearance of less than nine (9) inches above the level surface of a roadway, upon or across any tracks at a railroad grade crossing, without first complying with divisions (a)(1) and (a)(2) of this section.

(1) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same, and while stopped the person shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall proceed only upon exercising due care.

(2) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagperson or otherwise of the immediate approach of a railroad train or car.

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(b) If the normal sustained speed of such vehicle, equipment or structure is not more than three (3) miles per hour, the person owning, operating or moving the same shall also give notice of such intended crossing to a station agent or superintendent of the railroad, and a reasonable time shall be given to such railroad to provide proper protection for such crossing. Where such vehicles or equipment are being used in constructing or repairing a section of highway lying on both sides of a railroad grade crossing, and in such construction or repair it is necessary to repeatedly move such vehicles or equipment over such crossing, one (1) daily notice specifying when such work will start and stating the hours during which it will be prosecuted is sufficient.

(c) 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 pleaded 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.
(RC 4511.64)

Section 439.11 **Loads Dropping or Leaking; Removal Required; Tracking Mud**

(a) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.

(b) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any highway unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the highway.
(RC 4513.31)

(c) No person shall operate any vehicle so as to track or drop mud, stones, concrete, gravel or other similar material on any street, highway or other public place.

(d) It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, concrete, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be removed.

(e) Whoever violates this section is guilty of a misdemeanor of the third degree on the first offense, and a misdemeanor of the second degree on the second or any subsequent offense.

Section 4. That existing sections 439.01 and 439.06, as amended by Ordinance No. 1684-76, passed June 29, 1976, Section 439.03, as amended by Ordinance No. 2515-89, passed December 11, 1989, and Section 439.11, as amended by Ordinance No.2196-01, passed June 10, 2002 are repealed.

Section 5. 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.

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REPORT
after second Reading

Council Member Kelley

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To repeal various sections of Chapter 439 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances; and to supplement the codified ordinances by enacting new sections 439.07, 439.09, 439.10, 439.13, 439.14, and 439.15; and by amending sections 439.01, 439.03, 439.06, and 439.11 as amended by various ordinances; and to repeal section 439.99 of the codified ordinances, relating to commercial and heavy vehicles.

READ FIRST TIME on OCTOBER 19, 2015
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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PASSAGE RECOMMENDED BY
COMMITTEE ON
SAFETY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

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