

## 12.275 REMOVAL OF ABANDONED JUNK MOTOR VEHICLES AND OVERTIME PARKED VEHICLES

### References:

Ohio Revised Code 4513.63 – Photograph and Record of Information as to Abandoned Junk Vehicles  
 Ohio Revised Code 4513.64 – Willfully Leaving Abandoned Junk Motor Vehicle  
 Ohio Revised Code 4513.65 – Willfully Leaving Junk Motor Vehicle  
 Cincinnati Municipal Code 508-12 – Parking Unreasonable Time  
 Cincinnati Municipal Code 511-31 – Storage of Unlicensed or Inoperable Vehicles in Residence or Commercial Districts  
 Cincinnati Municipal Code 512-26 – Penalty for Violation of Section 511-31; Impoundment  
 Cincinnati Municipal Code 758-7 – Removal and Disposal of Junk Motor Vehicles  
 Procedure 12.215, Cincinnati Parking Infraction (CPI)  
 Procedure 12.265, Wrecker and Towing  
 Procedure 12.270, Impounding, Moving and Release of Vehicles  
 6<sup>th</sup> U.S. Circuit Court of Appeals, No. 17-2126, April 22, 2019

### Definitions:

Ohio Revised Code defines an **abandoned junk motor vehicle** as a motor vehicle which meets all the following requirements:

1. Remains on private property for more than 48 hours without the permission of the property owner; remains on a public street over 48 hours
2. Three years old or older
3. Extensively damaged or missing functional parts
4. Apparently inoperable
5. Has a fair market value of \$1,500.00 or less

Cincinnati Municipal Code defines a **nuisance junk motor vehicle** as a motor vehicle which meets all of the following requirements:

1. Has been left on private property for more than 72 hours or left on a public street, public way, 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 more than 48 hours
2. Three years old or older
3. Extensively damaged, including but not limited to any combination of the following types of damage: deflated, wrecked, or missing tires or rims; missing or wrecked body parts; broken or missing headlights, taillights, or brake lights; broken, cracked or missing windows or windshields; missing all or part of the motor or transmission; missing or invalid license plate(s); or a vehicle that is otherwise apparently inoperable and
4. Has a fair market value of \$1,500.00 or less

**Overtime-parked vehicle** – any vehicle parked upon a highway longer than 24 hours and not moved, unless otherwise restricted. Overtime parked vehicles that are also junk vehicles will be processed as junk vehicles. Any vehicle which displays a valid handicapped placard, license plate or license plate validation sticker may park upon a highway for up to but not more than 36 hours, unless otherwise restricted.

**Inoperable vehicle** - any vehicle missing wheels, tires, windshield, motor, or transmission or which has been so damaged as to appear not safely operable. Any vehicle that remains parked in one location for more than 30 days is presumed to be inoperable. Inoperable vehicles parked on expressways can be towed immediately.

**Purpose:**

To assure proper classification of abandoned/nuisance junk and overtime parked vehicles under provisions of state and local laws and to provide a procedure for the removal and/or disposal of such vehicles.

**Policy:**

Officers will promptly and thoroughly investigate abandoned nuisance, abandoned junk, overtime, and inoperable vehicles.

The Police Department will work together with the community, the Health Department, the Department of City Planning and Buildings, and the Department of Public Services to maintain safe traffic patterns by removing unsafe and unsightly vehicles from the streets, public ways and private properties.

**Procedure:**

- A. Officers receiving complaints concerning junk or overtime parked vehicles will:
  1. Query the vehicle by license plate and vehicle identification number.
  2. Make a reasonable attempt to have the owner move the vehicle.
  3. Mark the **pavement** at the front and back of the tire.
  4. Enter the following information into the District Overtime Parking Book:
    - a. Date of entry and name and badge number of the officer making the entry.
    - b. Location of vehicle
    - c. Make, model, and color of the vehicle
    - d. License plate and VIN of the vehicle
    - e. Badge number of the officer that checked NCIC and RCIC
    - f. Date, time, and badge number of the officer that marked the **pavement**
  5. **After** it is determined a violation has occurred, complete two Forms 368, Abandoned Vehicle Stickers, to mark abandoned vehicles, abandoned junk vehicles, overtime parked vehicles, and vehicles parked on expressways.

- a. Place one completed sticker on the driver side door window. Place the other sticker on the rear window. When windows are missing, place the stickers as close to these windows as possible
    - b. Officers may choose to covertly mark the position of a vehicle rather than applying the Form 368 if they believe a violator is attempting to avoid
  6. Follow Procedure 12.265, Wrecker and Towing, if vehicles do not move within the allotted time.
- B. The District Overtime Parking Enforcement Officer has the responsibility for inspecting the District Overtime Parking Book and completing the investigation and required reports.
1. Tow overtime parked vehicles meeting all requirements to Police Impound.
    - a. Tow overtime parked vehicles between 0630 and 2130 hours only.
    - b. Complete the Tows/OT Recovery Module (Tow Mod) in Records Management System (RMS).
      - 1) Under the Impound tab, select "Overtime Parking" as the Reason For Tow.
      - 2) Select the officer in the "Junk/Abandoned Vehicles Tires Marked By" drop down box.
      - 3) Enter the date and time the **pavement** at the front and back of the vehicle's tires were marked in the "Marked Date" box.
    - c. In the Comments or Recovery Details box, enter that the vehicle was marked with two Forms 368.
    - d. Make the appropriate disposition entry in the District Overtime Parking Book.
  2. Tow abandoned junk vehicles meeting all requirements to the Impound Lot within seven days of the initial investigation.
    - a. Use a rotational wrecker when towing these vehicles.
    - b. Select "Junk/Abandoned" as the Reason for Tow.
    - c. In the Comments or Recovery Details box, enter that the vehicle was marked with two Forms 368.
    - d. Note the appropriate disposition and badge number of the investigating officer in the District Overtime Parking Book.
- C. Vehicles Parked on Expressways
1. Immediately tow vehicles creating a traffic hazard.

2. Allow up to three hours for owners/operators to move vehicles that are legitimately disabled on the side of expressways not in a hazardous location.
  3. Vehicles legitimately disabled and claimed within 48 hours of impoundment are not subject to impoundment fees. Impound Unit personnel will make this determination.
- D. Towing of Junk Vehicles pursuant to Health Department Orders
1. All requests for enforcement of CMC Chapter 758, Junk Motor Vehicles will be forwarded to the Health Department.
  2. The Health Department will disseminate junk vehicle complaints in the following manner:
    - a. Junk vehicles on private property will be investigated by the Health Department utilizing the following guidelines:
      - 1) Respond and inspect (making nuisance determination)
      - 2) Issue civil notice
      - 3) Allow 168 hours for appeal request
      - 4) If vehicle is not moved, notify Police Impound to schedule tow
        - a) Police Impound does not need to obtain a court order or consent of the owner to tow from private property upon referral from the Health Department under CMC 758-7.
      - 5) Police Impound will notify the Health Department upon completion of the tow
      - 6) Health Department will issue a fine
    - b. Public Property/City Streets
      - 1) All complaints will be forwarded to the Police Department.
      - 2) Appropriate enforcement action will be initiated utilizing the guidelines set forth in this procedure.
- E. Towing of Unlicensed/Inoperable Vehicles in Residence or Commercial Districts
1. Enforce violations of CMC 511-31 on a complaint only basis. Officers must obtain a search warrant before entering onto private property for enforcement action without the consent of the property owner.
  2. Police Impound maintains a log of CMC 511-31 violations including the status.
  3. Initial Investigation Process
    - a. Enter complaints of unlicensed or inoperable vehicles on private property in the District Overtime Parking Book.
    - b. District officers investigate all reported violations of CMC 511-31.

- c. Visually inspect the premises before entering onto the property.
  - 1) Close the complaint unfounded if the vehicle is not visible from the sidewalk, street, a public place, or a neighboring property and no further action is needed.
  - 2) Vehicles visible from the sidewalk, street, a public place or a neighboring property require further investigation.
- d. An officer, locating a vehicle that is subject to towing, will attempt to locate the property owner or vehicle owner.
  - 1) Officers can enter on private property and question persons found there when attempting to locate a vehicle owner.
  - 2) Officers may question persons found on the property and attempt to determine the ownership of the vehicle or property.
  - 3) Officers locating owners of the property or vehicle will explain the nature of the complaint and request permission to inspect the vehicle. Officers will leave the location immediately when consent for a search is denied.
  - 4) Officers obtaining consent will verify current registration and inoperable status. In determining inoperable status use the Definitions section of this procedure as a guide.
- e. Advise owners of vehicles determined to be unlicensed and/or inoperable they are in violation of CMC Section 511-31. The owners have 72 hours to move the vehicle or be cited.
  - 1) Officers will first issue a warning citation to the owner of the vehicles or property.
  - 2) Vehicles removed within 72 hours require no further action.
  - 3) When vehicles are not removed, contact Police Impound to find out if the violator has a prior conviction for CMC 511-31.
    - a) Issue a Notice to Appear (NTA).
    - b) When violators have a prior conviction, the second offense is a misdemeanor of the 4th degree. Complete a criminal complaint and issue a NTA with a mandatory court date.
    - c) After a conviction in court is obtained, the investigating officer will request a court order authorizing towing, impounding and immediate disposal of the vehicle.
    - d) Vehicles will only be towed and impounded with a court order.
- f. Officers will notify Police Impound with results of investigations for violations of CMC 511-31.

- 1) Send a copy of the citations to Police Impound.
4. When violator denies consent to investigate the officers will:
- a. Notify Police Impound
    - 1) Police Impound will investigate all cases where the initial investigation by district officers is incomplete because consent to enter the property was denied
    - 2) Police Impound personnel will obtain a search warrant when necessary for completion of an investigation
    - 3) Police Impound will inspect the vehicle to determine if a violation of CMC 511-31 exists and issue citations where necessary. A Police Impound and district officer will appear in court on contested cases
  - b. After a conviction in court is obtained, Police Impound personnel will request a court order authorizing towing, impounding, and the immediate disposal of the vehicle
  - c. Vehicles will only be towed and impounded with a court order