

Chapter 92 TRAFFIC AND VEHICLES*

***Cross reference(s)**--Noise in transportation of rails, pillars or columns, § 26-40; noise from loading or unloading vehicles or opening or destroying bales, boxes, etc., § 26-41; noise from discharge of engine or motor exhaust, § 26-42; sound trucks, § 26-66 et seq.; law enforcement, ch. 46; offenses and miscellaneous provisions, ch. 54; streets, sidewalks and other public property, ch. 74; traffic control during construction, repair, improvement or alteration of streets and sidewalks, § 74-32; vehicles for hire, ch. 102.

ARTICLE I. IN GENERAL

Secs. 92-1--92-30. Reserved.

ARTICLE II. UNIFORM TRAFFIC CODE*

***State law reference(s)**--Uniform Traffic Code, MCL 257.951.

Sec. 92-31. Adopted.

The Uniform Traffic Code for Cities, Townships and Villages promulgated by the director of state police and published in the 1979 edition of the Michigan Administrative Code, and amendments as published in the quarterly supplement number 5 to the 1979 edition of the Michigan Administrative Code, is hereby adopted by reference as modified in this chapter.

(Code 1975, § 20-1)

State law reference(s)--Authority to adopt Uniform Traffic Code by reference, MCL 257.951.

Sec. 92-32. References in code.

The references in the Uniform Traffic Code for Cities, Townships and Villages to "governmental unit" shall mean the City of Muskegon.

(Code 1975, § 20-2)

Sec. 92-33. Changes in code.

The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like-numbered sections of the Uniform Traffic Code for Cities, Townships and Villages.

Section 1.1 is hereby amended by adding the following sections:

1.007b. "Conviction" means a final conviction, the payment of a fine, a plea of

guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication, probate court disposition, or juvenile disposition for a violation that if committed by an adult would be a crime, regardless of whether the penalty is rebated or suspended.

State law reference(s)--Similar provisions, MCL 257.8a.

1.010d. "Former section 625b" means section 625b of Public Act No. 285 of 1976, Public Act No. 515 of 1980, Public Act No. 309 of 1982, or Public Act No. 109 of 1987.

State law reference(s)--Similar provisions, MCL 257.18(3).

1.010f. "Former section 5.15(1), (2) or (5)" means section 5.15(1), (2) or (5) of the city's uniform traffic code, as amended through December 31, 1991.

1.010g. "Former section 5.15a(1), (3), or (4)" means section 5.15a(2), (3), or (4) of the city's uniform traffic code, as amended through December 31, 1991.

1.014a. "Law of another state" means a law or ordinance enacted by another state or by a local unit of government in another state.

State law reference(s)--Similar provisions, MCL 257.24c.

1.020a. "Parkway" means that part of a street lying between the property lines and that portion of the street ordinarily used for vehicular travel.

1.025b. "Prosecuting attorneys" except as the context otherwise requires, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.

State law reference(s)--Similar provisions, MCL 257.45a.

Section 2.5 is added to read as follows:

Section 2.5. Impounding or immobilizing vehicles.

- (1) The city may impound vehicles on public or private property and remove them or cause them to be removed to a storage facility, or immobilize vehicles, or do both under the circumstances set forth and described in this section and its subsections (2.5a et seq.), including, without limitation, when such impounding or immobilization is ordered or authorized by a court.
- (2) The city may immobilize vehicles by the use of devices such as the boot, the club, or other device which prevents the movement of a vehicle, which devices shall be in the control and possession of the police department of the city.

The city commission determines that the conditions and circumstances described in this section constitute situations requiring impoundment or immobilization of vehicles to safeguard the public safety, health and welfare, aid in traffic safety enforcement, minimize congestion and accomplish reasonable law enforcement objectives.

Section 2.5a, entitled "Abandoned vehicle, defined; taking abandoned vehicles into custody; authority; procedure; public sale." Delete section entirely.

Sections 2.5a, 2.5b, 2.5c, 2.5d, 2.5e, 2.5f, 2.5g. Add Sections 2.5a, 2.5b, 2.5c, 2.5d, 2.5e, 2.5f, 2.5g as follows:

Section 2.5a. Abandoned vehicle procedures.

- (1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.
- (2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:
 - (a) Determine if the vehicle has been reported stolen.
 - (b) Affix a written notice to the vehicle. The written notice shall contain the following information:
 - (i) The date and time the notice was affixed.
 - (ii) The name and address of the police agency taking the action.
 - (iii) The name and badge number of the police officer affixing the notice.
 - (iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped, if the vehicle is not removed.
 - (v) The year, make, and vehicle identification number of the vehicle, if available.
- (3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.
- (4) A police agency which has a vehicle taken into custody shall do all of the following:
 - (a) Recheck to determine if the vehicle has been reported stolen.
 - (b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.
 - (c) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle, if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.

- (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.
- (5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees, by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice, within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- (6) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.
- (8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.
- (9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

State law reference(s)--Similar provisions, MCL 257.252a.

Section 2.5b. Abandoned scrap vehicle procedures.

- (1) As used in this section:

- (a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
 - (i) Is on a public or private property.
 - (ii) Is seven or more years old.
 - (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 5.71 would exceed the fair market value of that vehicle.
 - (iv) Is currently registered in the state or displays current year registration plates from another state.
 - (v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.
- (b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
 - (i) Is on public or private property.
 - (ii) Is seven or more years old.
 - (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that is operational and safe as required by section 5.71 would exceed the fair market value of that vehicle.
 - (iv) Is not currently registered in the state and does not display current year registration plates from another state.
 - (v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.
- (2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:
 - (a) Determine if the vehicle has been reported stolen.
 - (b) Take two photographs of the vehicle.
 - (c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number, if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
 - (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

- (3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.
- (4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).
- (5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two years. The two photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.
- (6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:
 - (a) Determine if the vehicle has been stolen.
 - (b) Take two photographs of the vehicle.
 - (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number, if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
 - (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
 - (e) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.

- (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.
- (7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.53e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- (8) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (10) Not less than 20 days after the disposition of the hearing described in subsection (7) or, if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

State law reference(s)--Similar provisions, MCL 257.252b.

Section 2.5c. Vehicle removed from private property.

- (1) When a vehicle is removed from private property at the discretion of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

- (2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:
 - (a) Determine if the vehicle has been reported stolen.
 - (b) Enter the vehicle into the law enforcement information network.
- (3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.
- (4) If the vehicle described in subsection (1) is not claimed by the owner within seven days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

State law reference(s)--Similar provisions, MCL 257.252c.

Section 2.5d. Vehicle removed by police.

- (1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping, at the expense of the registered owner of the vehicle, in any of the following circumstances:
 - (a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.
 - (b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.
 - (c) If a vehicle is parked in a posted tow-away zone.
 - (d) If there is a reasonable cause to believe that the vehicle or any part of the vehicle is stolen.
 - (e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.
 - (f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or manmade disaster, or other emergency.
 - (g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.
 - (h) If the vehicle is stopped, standing, or parked in a space designated as parking for persons with disabilities and is not permitted by law to be stopped, standing, or parked in a space designated as parking for persons with disabilities.
 - (i) Immobilization of a vehicle for 48 hours or more, except where a court has ordered immobilization for more than 48 hours.
 - (j) The vehicle is subject to a court ordered impoundment or immobilization.

- (2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:
- (a) Check to determine if the vehicle has been reported stolen.
 - (b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subsection does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.
 - (c) If the vehicle has not been redeemed within ten days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The location where the vehicle is being held.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.
- (3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees, by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice, within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court, in an amount equal to the accrued towing and storage fees. The owner of a vehicle

who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

- (4) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.
- (6) Not less than 20 days after the disposition of the hearing described in subsection (3) or, if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale, unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.
- (7) If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

State law reference(s)--Similar provisions, MCL 257.252d.

Section 2.5e. Abandoned or removed vehicle, jurisdiction of court.

- (1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 2.5a, 2.5b(6) to (10), 2.5c, or 2.5d:
 - (a) The district court.
 - (b) A municipal court.
 - (c) The common pleas court of the City of Detroit.
- (2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4), or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Public Act No. 236 of 1961 (MCL 600.8312).
- (3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 2.5a, 2.5b, 2.5c, or 2.5d shall be used to pay the towing and storage fees.

State law reference(s)--Similar provisions, MCL 257.252e.

Section 2.5f. Abandoned or removed vehicle, duties of court.

- (1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c, or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:
 - (a) Schedule a hearing within 30 days for the purpose of determining whether

the police agency acted properly.

- (b) Notify the owner and the police agency of the time and place of the hearing.
- (2) At the hearing specified in subsection (1), the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 2.5d.
- (3) After the hearing the court shall make a decision which shall include one or more of the following:
- (a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing for a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.
 - (b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.
 - (c) A finding that the towing and daily storage fees were reasonable.
 - (d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

State law reference(s)--Similar provisions, MCL 257.252f.

Section 2.5g. Abandoned or removed vehicle, public sale.

- (1) A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:
- (a) It shall be under the control of the police agency or agent of the police agency.
 - (b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.
 - (c) Except as provided by section 2.5a(9) and 2.5d(7), it shall be held not less than five days after public notice of the sale has been published.
 - (d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.
- (2) The money received from the public sale of the vehicle shall be applied in the

following order of priority:

- (a) Towing and storage charges.
 - (b) Expenses incurred by the police agency.
 - (c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.
 - (d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.
- (3) If there are no bidders on the vehicle, the police agency may do one of the following:
- (a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.
 - (b) Obtain title to the vehicles for the police agency or the unit of government the police agency represents, by doing the following:
 - (i) Paying the towing and storage charges.
 - (ii) Applying for title to the vehicle.
 - (c) Hold another public sale pursuant to subsections (1).
- (4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.
- (5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

State law reference(s)--Similar provisions, MCL 257.252g.

Section 2.5h is added to read as follows:

Section 2.5h. Impounding of vehicles; failure to answer parking notices or citations.

- (1) The police department or a police agency enforcing the city ordinances may immediately impound a vehicle whose owner has failed to answer four or more parking violation notices or citations resulting from violations of provisions of this traffic code or any other ordinance of the city under which parking violations or citations have been issued, including but not limited to illegal parking at boat ramps, in parks, in spaces for handicapped parking, or at other locations in the city. The impoundment may take place whenever the police agency or department identifies the vehicle, whether during a parking violation after the fourth failure to answer or at any other time.
- (2) The police agency or the police department may impound a vehicle if the vehicle is found by the police and there is any single parking violation unanswered for a period of 90 days. Impoundment may take place as set forth in the previous section.
- (3) The police agency or department which impounds a vehicle under this section

shall follow the procedures set forth in section 2.5 except that impoundment may take place immediately without notice. In addition:

- (a) Accrued charges to be paid by the owner shall include any previously incurred impounding fees, fines, costs, forfeitures or penalties arising out of the ownership or operation of such vehicle, or any other vehicle owned or operated by such person. Accrued charges shall also include previously unpaid and current reasonable charges for impound and storage of the vehicle. The owner shall also pay an impound fee as determined by city commission resolution.
 - (b) If the owner or operator disputes liability as to any impoundment fees or any previously incurred impoundment fees, fines, costs, forfeitures or penalties, such owner or operator may have the vehicle released from impoundment by posting a cash deposit equal to the impound fee, the tickets, fines and the cost of towing and storage not to exceed \$500.00, to the clerk of the district court or the city's police department, pending final adjudication of the disputed liability. Upon the posting of the required cash deposit, the police department shall execute a release of the vehicle from impoundment and, upon delivery of such release to the operator of the impound lot, the owner or operator of the vehicle shall thereupon be restored to possession thereof. If the district court determines that the owner or operator of the vehicle did not fail to answer four or more parking violation notices or citations regarding illegal parking, or that the 90-day period from any one unanswered parking violation, citation or notice had not passed, the city shall refund the entire deposit and shall assume and pay all towing and storage fees. If the owner or operator is determined to have failed to answer said notices or citations legally hereunder which resulted in the vehicle impound, the city shall apply the cash deposit to the fees, fines and costs assessed by the district court, and refund the balance, if any, to the person who made the cash deposit.
- (4) "Unanswered" means failure to pay, have dismissed or appear in person at the city hall to respond to the citation.

Section 2.5i is added to read as follows:

Section 2.5i. Immobilization of vehicles.

- (1) A vehicle found on public property or on a public street and, in circumstances limited and defined under this section, a vehicle on private property, may be immobilized by the city using a device referred to in section 2.5(2) under the following circumstances, deemed by the city to be necessary for the public health, safety and welfare, including traffic safety enforcement, minimizing of traffic congestion and accomplishing reasonable law enforcement objectives:
 - (a) The conditions set forth in sections 2.5a, 2.5b, 2.5d and 2.5h.
 - (b) The vehicle has any outstanding parking tickets unpaid after 90 days.
 - (c) The vehicle is subject to an impounding order of a court. Such immobilization may also be used on private property.
 - (d) The vehicle is subject to an impounding procedure of this or any other jurisdiction and has been wrongfully removed from a storage facility or

impounding company.

- (2) Procedure for immobilization; impoundment. The city, by its police department, shall do the following with a vehicle subject to immobilization:
 - (a) Affix a sticker to the windshield or driver's side window containing information pertaining to the reason for immobilization, time limits and circumstances for impoundment, and information regarding fee, payment of tickets or citations and redemption. The notice shall, if applicable, state if the vehicle is subject to a court-ordered impoundment and, therefore, not redeemable except by the terms of the court order. The notice shall provide the following additional information:
 - (1) Date and time the notice is affixed;
 - (2) Police department address;
 - (3) The name and badge number of the officer affixing the notice; and
 - (4) The year, make and vehicle identification number of the vehicle, if available.
 - (b) Cause the immobilization device to be attached to the vehicle by trained personnel.
 - (c) If a responsible person or the owner has not appeared at the police department to redeem the vehicle by paying outstanding tickets or citations, or accomplished other remedial actions and paying fees within 48 hours of the notice, the vehicle shall be impounded and the procedure under 2.5d. shall apply.
- (3) Redemption from immobilization. A responsible person may redeem a vehicle from immobilization as follows:
 - (a) Paying all outstanding parking tickets or citations, default judgments and costs involving the vehicle, or posting a bond for the entire amount thereof; and
 - (b) Paying the immobilization fees.
- (4) Removal of device. No immobilization device may be removed from a vehicle unless the vehicle is properly redeemed or the police department has impounded the vehicle. Unauthorized removal by any person shall constitute a misdemeanor.

Section 2.5j is added to read as follows:

Section 2.5j. Court-ordered immobilized or impounded vehicle.

Any vehicle immobilized or impounded under a court impounding order shall not be redeemed or released except in accordance with the court order.

Section 2.5k is added to read as follows:

Section 2.5k. Fees.

Fees shall be charged for immobilizations and impoundment to defray the cost of these enforcement procedures. The city commission shall determine the fees to be paid

by resolution.

Section 2.6. Section 2.6 is amended to read as follows:

Section 2.6. Reports of stolen and recovered vehicles.

A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

State law reference(s)--Similar provisions, MCL 257.252.

Section 2.59. After Section 2.58, add Section 2.59 as follows:

Section 2.59. Appointment of traffic engineer.

The city manager is hereby appointed to fill the office of traffic engineer established pursuant to section 2.25 of the Uniform Traffic Code for Cities, Townships and Villages.

Section 2.7, entitled "Abandoned scrap vehicle, defined; taking abandoned scrap vehicles in custody; authority; procedure; scrapping vehicles." Delete section entirely.

Section 3.2, concerning obedience to police and fire department officials and violation as misdemeanor, is amended to read:

Section 3.2. Obedience to police and fire department officials; violation as misdemeanor.

- (1) A person shall not willfully fail or refuse to comply with any lawful order or direction of any police officer, or member of the fire department at the scene or in the immediate vicinity of a fire, who is vested with authority under such code to direct, control, or regulate traffic.
- (2) A person who violates this section is guilty of a misdemeanor.

State law reference(s)--Similar provisions, MCL 257.602.

Sections 5.15, 5.15a, 5.15b, 5.15c, 5.15d, 5.15e, 5.15f, 5.15g, 5.1k, 5.15l, 5.15m, 5.15n, and 5.15o are amended to read in entirety as follows:

Section 5.15. Persons under the influence of intoxicating liquor or controlled substance; operating motor vehicles; punishments; prior convictions; payments of costs; plea bargain; special verdicts.

- (1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city if either of the following applies:
 - (a) The person is under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
 - (b) The person has an alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (2) The owner of a vehicle or a person in charge or in control of a vehicle shall not

authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this city by a person who is under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance or who has an alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.

- (3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city when, due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.
- (4) A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:
 - (a) An alcohol content of not less than 0.02 gram or more than 0.07 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.
- (5) A person, whether licensed or not, is subject to the following requirements:
 - (a) He shall not operate a vehicle in violation of subsection (1) or (3) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a crime punishable as follows: A person who violates this subsection is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200.00 or more than \$500.00 and to one or more of the following:
 - (i) Imprisonment for not less than five days or more than 93 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.
 - (ii) Community service for not less than 30 days or more than 90 days.
 - (b) He shall not operate a vehicle in violation of subsection (4) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:
 - (i) Except as provided in subsection (i) (ii), a person who violates this

subsection may be sentenced to one or more of the following:

- (A) Community service for not more than 60 days.
 - (B) A fine of not more than \$500.00.
 - (C) Imprisonment for not more than 93 days.
- (ii) If the violation occurs within seven years of a prior conviction or within ten years of two or more prior convictions, a person who violates this subsection shall be sentenced to pay a fine of not less than \$200.00 or more than \$500.00 and to one or more of the following:
- (A) Imprisonment for not less than five days or more than 93 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.
 - (B) Community service for not less than 30 days or more than 90 days.
- (c) In the judgment of sentence under subsection (a)(i) or (b)(i), the court may, unless the vehicle is ordered forfeited under MCL 257.625n or section 5.15n, order vehicle immobilization as provided in MCL 257.904d or section 5.62d. In the judgment of sentence under section 625n of the Act (MCL 257.625n) or section 5.15n, order vehicle immobilization as provided in section 904d of the Act (MCL 257.904d) or section 5.62d.
- (6) If a person is convicted of violating subsection (1), all of the following apply:
- (a) Except as otherwise provided in subsection (b), the person is guilty of a misdemeanor or punishable by one or more of the following:
 - (i) Community service for not more than 45 days.
 - (ii) Imprisonment for not more than 93 days.
 - (iii) A fine of not less than \$100.00 or more than \$500.00.
 - (b) If the violation occurs within seven years of a prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$500.00 and one or more of the following:
 - (i) Imprisonment for not less than five days or more than 93 days. Not less than 48 hours of the term of imprisonment imposed under this subsection shall be served consecutively.
 - (ii) Community service for not less than 30 days or more than 90 days.
 - (c) A term of imprisonment imposed under subsection (b)(ii) shall not be suspended.
 - (d) In the judgment of sentence under subsection (a), the court may order vehicle immobilization as provided in section 904 of the Act (MCL 257.904) or section 5.62a. In the judgment of sentence under subsection (b) the court shall, unless the vehicle is ordered forfeited under section

625n of the Act (MCL 257.625n) or section 5.15n, order vehicle immobilization as provided in section 904d of the Act (MCL 257.904d) or section 5.62d.

- (e) In the judgment of sentence under subsection (b), the court may impose the sanction permitted under section 625n of the Act (MCL 257.625n) or section 5.15n.
- (7) A person who is convicted of violating subsection (2) is guilty of a crime as follows: A misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100.00 or more than \$500.00, or both.
- (8) If a person is convicted of violating subsection (3), all of the following apply:
- (a) Except as otherwise provided in subsection (b), the person is guilty of a misdemeanor punishable by one or more of the following:
 - (i) Community service for not more than 45 days.
 - (ii) Imprisonment for not more than 93 days.
 - (iii) A fine of not more than \$300.00.
 - (b) If the violation occurs within seven years of one prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$500.00, and one or more of the following:
 - (i) Imprisonment for not less than five days or more than 93 days. Not less than 48 hours of the term of imprisonment imposed under this subsection shall be served consecutively.
 - (ii) Community service for not less than 30 days or more than 90 days.
 - (c) A term of imprisonment imposed under subsection (b) shall not be suspended.
 - (d) In the judgment of sentence under subsection (a), the court may order vehicle immobilization as provided in section 904 of the Act (MCL 257.904) or section 5.62a. In the judgment of sentence under subsection (b) the court shall, unless the vehicle is ordered forfeited under section 625n of the Act (MCL 257.625n) or section 5.15n, order vehicle immobilization as provided in section 904d of the Act (MCL 257.904d) or section 5.62d.
 - (e) In the judgment of sentence under subsection (b), the court may impose the sanction permitted under MCL 257.625n or section 5.15n.
- (9) If a person is convicted of violating subsection (4), all of the following apply:
- (a) Except as otherwise provided in subsection (b), the person is guilty of a misdemeanor or punishable by one or both of the following:
 - (i) Community service for not more than 45 days.
 - (ii) A fine of not more than \$250.00.
 - (b) If the violation occurs within seven years of one or more prior convictions,

the person may be sentenced to one or more of the following:

- (i) Community service for not more than 60 days.
 - (ii) A fine of not more than \$500.00.
 - (iii) Imprisonment for not more than 93 days.
- (10) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the Code of Criminal Procedure (MCL 760.1 et seq.).
- (11) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.
- (12) If the prosecuting attorney intends to seek an enhanced sentence under this section or a sanction under section 625n of the Act (MCL 257.625n) or section 5.15n or section 904(d) of the Act (MCL 257.904(d)) or section 5.62d based upon the defendant having one or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, a statement listing the defendant's prior convictions.
- (13) If a person is charged with a violation of subsection (1), (3), or (5) or section 5.15m, the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (4) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.
- (14) A prior conviction shall be established at sentencing by one or more of the following:
- (a) An abstract of conviction.
 - (b) A copy of the defendant's driving record.
 - (c) An admission by the defendant.
- (15) Except as otherwise provided in subsection (17), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
- (16) Except as otherwise provided in subsection (17), if a person is charged with operating a vehicle while his ability to operate the vehicle was visibly impaired due to his consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption

- of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.
- (17) A special verdict described in subsection (15) and (16) is not required if a jury is instructed to make a finding solely as to either of the following:
- (a) Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
 - (b) Whether the defendant was visibly impaired due to his consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
- (18) If a jury or court finds under subsection (15), (16), or (17) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:
- (a) Report the finding to the secretary of state.
 - (b) On a form or forms prescribed by the state court administrator, forward to the department of state police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed under section 625n of the Act (MCL 257.625n) or section 5.15n or section 904(d) of the Act (MCL 257.904(d)) or section 5.62d.
- (19) Except as otherwise provided by law, a record described in subsection (18)(b) is a public record and the department of state police shall retain the information contained on that record for not less than seven years.
- (20) In a prosecution for a violation of subsection (4), the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.
- (21) Subject to subsection (23), as used in this section, "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
- (a) Except as provided in subsection (22), a violation or attempted violation of section 625(1), (3), (4), (5), (6) or (7) of the Act (MCL 257.625(1), (3), (4), (5), (6), or (7)) and section 625m of the Act (MCL 257.625m), former MCL 257.625(1) or (2), or former MCL 257.625b.
 - (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- (22) Except for purposes of the enhancement described in subsection (9)(b), only one violation or attempted violation of section 625(6) of the Act (MCL 257.625(6)), or a local ordinance substantially corresponding to same, or a law of another state substantially corresponding to same may be used as a prior conviction.
- (23) If two or more convictions described in subsection (21) are convictions for violations arising out of the same transaction, only one conviction shall be used

to determine whether the person has a prior conviction.

State law reference(s)--Similar provisions, MCL 257.625.

Section 5.15a. Driving under influence of intoxicating liquor or controlled substance; warrantless arrests; preliminary chemical breath analysis, administration; evidence, presumptions.

(1) A peace officer may arrest a person without a warrant under either of the following circumstances:

(a) The peace officer has reasonable cause to believe the person was, at the time of an accident in this city, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 5.15.

(b) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this city if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of section 5.15.

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle, upon reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the city while the person's blood, breath, or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city while the person had any bodily alcohol content as that term is defined in section 5.15(4), may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered under this subsection:

(a) A peace officer may arrest a person based in whole or in part upon the result of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15e(1) or in an administrative hearing for one or more of the following purposes:

(i) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subsection does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(ii) As evidence of the defendant's breath alcohol content, if offered by the defendant to rebut testimony elicited on cross examination of a defense witness that the defendant's breath alcohol content was higher at the time of the charged offense than when a chemical test was administered under subsection (6).

- (iii) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony elicited on cross examination of a prosecution witness that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered under subsection (6).
 - (c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 5.15c, 5.15d, 5.15e, and 5.15f for purposes of chemical tests described in those sections.
 - (d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.
- (3) A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out-of-service under section 319d of the Act (MCL 257.319d). A peace officer shall order out-of-service, as required under section 319d of the Act (MCL 257.319d), a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out-of-service under section 319d of the Act (MCL 257.319d).
- (4) A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusing a peace officer's request to take a test described in this section is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both, and will result in the issuance of a 24-hour out-of-service order.
- (5) A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
- (6) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than the preliminary chemical breath analysis:
 - (a) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.
 - (b) A person arrested for a crime described in section 5.15c(1) shall be advised of all of the following:
 - (i) If he takes a chemical test of his blood, urine, or breath administered at the request of a peace officer, he has the right to demand that a person of his own choosing administer one of the chemical tests.
 - (ii) The results of the test are administered in a judicial proceeding as provided under this act and will be considered with other

admissible evidence in determining the defendant's innocence or guilt.

- (iii) He is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his own request.
 - (iv) He refuses the request of a peace officer to take a test described in subsection (i), a test shall not be given without a court order, but the peace officer may seek to obtain a court order.
 - (v) Refusing a peace officer's request to take a test described in subsection (i) will result in the suspension of his operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of six points to his driving record.
- (c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the Public Health Code (MCL 333.16215), qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures does not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.
- (d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15c(1). A person who takes a chemical test administered at a peace officer's request as provided in this section shall be given a reasonable opportunity to have a person of his own choosing administer one of the chemical tests described in this subsection within a reasonable time after his detention. The test results are admissible and shall be considered with other admissible evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.
- (e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection

is not civilly or criminally liable for making the disclosure.

- (f) The department of state police shall promulgate uniform rules in compliance with the Administrative Procedures Act of 1969 (MCL 24.201 et seq.), for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved under rules promulgated by the department of state police.
- (7) The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other admissible evidence bearing upon the question of whether a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had an alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or if the person is less than 21 years of age, whether the person had any bodily alcohol content within his body. As used in this section, "any bodily alcohol content" means either of the following:
- (a) An alcohol content of not less than 0.02 gram or more than 0.07 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.
- (8) If a chemical test described in subsection (6) is administered, the test results shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.
- (9) Except in a prosecution relating solely to a violation of section 5.15(1)(b) or (4), the amount of alcohol in the driver's blood, breath, or urine at the time alleged as shown by chemical analysis of the person's blood, breath, or urine gives rise to the following presumptions:
- (a) If there were at the time 0.07 gram or less of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.
 - (b) If there were at the time more than 0.07 gram but less than 0.10 gram of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.
 - (c) If there were at the time 0.10 gram or more of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the breath or per 67 milliliters of

the defendant's urine, it is presumed that the defendant was under the influence of intoxicating liquor.

- (10) A person's refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 5.15c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly.

Section 5.15b. Misdemeanor violations, arraignment; pretrial conference; time limits, exceptions; adjudication, dismissal; sentencing, screening and assessment; revocation, suspension, restriction of license.

- (1) A person arrested for a misdemeanor violation of section 5.15(1), (3), (4), or (5) or 5.15m shall be arraigned on the citation, complaint, or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit.
- (2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 5.15(1), (3), (4) or (5) or section 5.15m. The pretrial conference shall be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with the applicable time limit. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than one adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days.
- (3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate, by a plea of guilty or nolo contendere, entry of a verdict, or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1), (3), or (4) or section 5.15m, within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued, not more than 77 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit.
- (4) Before accepting a plea of guilty or nolo contendere under section 5.15(1), (2), (3), or (4), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state under section MCL 257.204a.
- (5) Before imposing sentence for a violation of section 5.15(1), (3), (4), or (5) the court shall order the person to undergo screening and assessment by a person

or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. Except as otherwise provided in this subsection, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs as part of the sentence. If the person has one or more prior convictions, the court shall order the person to participate in and successfully complete one or more appropriate rehabilitative programs as part of the sentence. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

- (6) If the judgment and sentence are appealed to circuit court, the court may ex parte order the secretary of state to stay the suspension, revocation, or restricted license issued by the secretary of state pending the outcome of the appeal.

State law reference(s)--Similar provisions, MCL 257.625a.

Section 5.15c. Consent to chemical tests; exceptions; administration of tests.

- (1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city is considered to have given consent to chemical tests of his blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his blood or urine or the amount of alcohol in his breath in all of the following circumstances: if the person is arrested for a violation of section 5.15(1), (3), (4), or (5), section 5.15a(5), or section 5.15m.
- (2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.
- (3) The tests shall be administered as provided in section 5.15a(6).

State law reference(s)--Similar provisions, MCL 257.625c.

Section 5.15d. Refusal to submit to chemical tests; report.

- (1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to 5.15a(6), a test shall not be given without a court order, but the officer may seek to obtain the court order.
- (2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state the officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

State law reference(s)--Similar provisions, MCL 257.625d.

Section 5.15e. Refusal to submit to chemical tests; written notice by officer, form; request for hearing.

- (1) If a person refuses to submit to a chemical test pursuant to 5.15d, the peace officer shall immediately notify the person in writing that within 14 days of the

date of the notice the person may request a hearing as provided in 5.15f. The form of the notice shall be prescribed and furnished by the secretary of state.

- (2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

State law reference(s)--Similar provisions, MCL 257.625e.

Section 5.15f. Refusal to submit to chemical tests; sanctions when hearing not required; hearing; record; review.

- (1) If a person who refuses to submit to a chemical test pursuant to section 5.15d does not request a hearing within 14 days after the date of notice pursuant to section 5.15e, the secretary of state shall impose the following license sanctions:
 - (a) If the person was operating a vehicle other than a commercial motor vehicle, suspends or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for six months or, for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for six months or, for a second or subsequent refusal within seven years, for one year.
 - (b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for one year.
 - (c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from and within ten years of a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than ten years and until the person is approved for the issuance of a vehicle group designation.
 - (d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c other than a violation of section 5.15a(5) or 5.15m, impose the license sanction described in subsection (a) and the license sanction described in subsection (b) or (c), as applicable.
- (2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Act (MCL 257.322). Not less than five days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under

section 5.15d, and, if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than one adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.

- (3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to supply with this time limit.
- (4) The hearing shall cover only the following issues:
 - (a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1).
 - (b) Whether the person was placed under arrest for a crime described in section 5.15c(1).
 - (c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.
 - (d) Whether the person was advised of the rights under section 5.15a(6).
- (5) A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a)--(d).
- (6) The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the Administrative Procedures Act of 1969 (MCL 24.286). Upon notification of the filing of a petition for judicial review pursuant to section 323 of the Act (MCL 257.323) and not less than ten days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.
- (7) If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:
 - (a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for six months or, for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for six months or, for a second or subsequent refusal within seven years,

for one year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323 of the Act (MCL 257.323).

- (b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323 of the Act (MCL 257.323).
 - (c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c other than a violation of section 5.15a(5) or 5.15m, impose the license sanctions described in subsections (a) and (b).
- (8) If the person who requested the hearing prevails, the peace officer who filed the report under section 5.15d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323 of the Act (MCL 257.323).
- (9) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he has a license to operate a motor vehicle.

State law reference(s)--Similar provisions, MCL 257.625f.

Section 5.15g. Chemical tests; results; duties of peace officer; confiscation of license; temporary license.

- (1) If a person refuses a chemical test offered pursuant to section 5.15a(6), or submits to the chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:
- (a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.
 - (b) Except as provided in subsection (2), immediately do all of the following:
 - (i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 5.15d to the secretary of state.
 - (ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.
 - (iii) Destroy the person's driver's license or permit.
- (2) If a person submits to a chemical test offered pursuant to section 5.15a(6) that

requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first class mail to the address given at the time of arrest.

- (3) A temporary license or permit issued under this section is valid for one of the following time periods:
 - (a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to section 5.15f, whichever occurs earlier. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.
 - (b) If the case is prosecuted, until the criminal charges against the person are dismantled, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.
- (4) As used in this section, "unlawful alcohol content" means any of the following, as applicable:
 - (a) If the person tested is less than 21 years of age, 0.02 gram or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) If the person tested was operating a commercial motor vehicle within this city, 0.04 gram or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (c) If the person tested is not a person described in subsection (a) or (b), 0.10 gram or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

State law reference(s)--Similar provisions, MCL 257.625g.

Section 5.15k. Breath alcohol ignition interlock devices; certification; list of manufacturers, affidavit, requirements.

- (1) The department shall approve an ignition interlock device certified by a department-approved laboratory as complying with the national highway traffic safety administration's model specifications for breath alcohol ignition interlock devices (BAIID), 57 F.R. p. 11772, April 7, 1992. Subject to subsection (5), the department shall publish a list of all manufacturers of approved certified devices.
- (2) The secretary of state shall promulgate rules to implement this section in compliance with the Administrative Procedures Act of 1969, Public Act No. 306.6 (MCL 24.201 et seq.).
- (3) The manufacturer of an ignition interlock device shall bear the cost of the

device's certification.

- (4) A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.
- (5) The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published under subsection (1) unless the manufacturer complies with all of the following:
 - (a) The manufacturer has filed copies of all of the following with the department.
 - (i) A bond executed as provided in section 625o of the Act (MCL 257.625o) or a letter of credit.
 - (ii) Evidence of insurance as described in section 5.15l.
 - (iii) An affidavit that the ignition interlock device is all of the following:
 - (A) An alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level.
 - (B) Calibrated to render the motor vehicle incapable of being started if the device detects an alcohol content of 0.025 gram or more per 210 liters of breath of the person who offers a breath sample.
 - (C) Set to periodically take samples while the vehicle is in operation and to do one or both of the following:
 - (I) Emit a warning signal when the device detects an alcohol content of 0.025 gram or more per 210 liters of breath in the person who offers a breath sample.
 - (II) If it detects an alcohol content of 0.04 gram or more per 210 liters of breath of the person who offers the breath sample, render the vehicle inoperable as soon as the vehicle is no longer being operated.
 - (b) The manufacturer of ignition interlock devices provides a list of installers who are authorized to install and service its ignition interlock devices to the secretary of state.
 - (c) Agrees to have service locations within 50 miles of any location within this state.
 - (d) Agrees to provide an ignition interlock device without cost to a person whose gross income for the immediately preceding tax year based on his state income tax return was less than 150 percent of the official poverty line for that same tax year established in the poverty guidelines issued by the secretary of health and human services under authority of section 673(2) of the Community Services Block Grant Act, subtitle B of title VI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, 42 USC 9902. A person in whose vehicle an ignition interlock device is

installed without cost under this subsection shall pay a maintenance fee to the installer of not more than \$1.00 per day.

- (e) Agrees to periodically monitor installed ignition interlock devices and if monitoring indicates that the device has been circumvented, to communicate that fact to the secretary of state.
- (6) A manufacturer that has made a filing under subsection (5) shall immediately notify the department if the device no longer meets the requirements of subsection (5).
- (7) A person who negligently provides false information to the department under subsection (4) or (5) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, together with costs of the prosecution.
- (8) A person who negligently fails to comply with subsection (6) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, together with costs of the prosecution.
- (9) The provider of insurance described in this section may cancel the insurance upon 30 days written notice to the department and is not liable for a claim arising from an event that occurs after the effective date of a cancellation made in compliance with this section.
- (10) An ignition interlock device shall be serviced according to manufacturer's standards. Service shall include, but not be limited to, physical inspection of the device and vehicle for tampering, calibration of the device, and monitoring of the data contained within the device's memory. Only authorized employees of the manufacturer or the department may observe the installation of a device. Reasonable security measures must be taken to prevent the customer from observing the installation of a device or obtaining access to installation materials.

State law reference(s)--Similar provisions, MCL 257.625k.

Section 5.15l. Court-ordered ignition interlock devices; warning label, tampering, etc.; violations; definition.

- (1) The manufacturer of an ignition interlock device shall design a warning label, and the person who has an ignition interlock device shall promptly affix that label to each ignition interlock device upon installation. The label shall contain a warning that any person tampering with, circumventing, or otherwise misusing the device is guilty of a misdemeanor punishable as provided by law.
- (2) A person who has an ignition interlock device installed and whose driving privilege is restricted shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.
- (3) A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privilege is restricted.
- (4) A person shall not tamper with or circumvent the operation of an ignition interlock

device.

- (5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
- (6) As used in this act, "ignition interlock device" or "device" means an alcohol-concentration measuring device that prevents a motor vehicle from being started and at any time without first determining through a deep lung sample the operator's breath alcohol level. The system shall be calibrated so that the motor vehicle may not be started if the breath alcohol level of the operator, as measured by the test, reaches a level of 0.025 gram per 210 liters of breath.
- (7) The city or the department, its officers, employees, or agents are not liable in any claim or action that may arise, directly or indirectly, out of any act or omission by a manufacturer, installer, or servicing agent of an ignition interlock device that results in damage to persons or property.
- (8) A person shall not sell, lease, install, or monitor in a vehicle in this city an ignition interlock device unless the ignition interlock device manufacturer and provider carries liability insurance covering product liability, including, but not limited to, insurance to indemnify the department and any person injured as a result of a design defect or the calibration or removal of the ignition interlock device or a misrepresentation about the ignition interlock device. The insurance required by this subsection shall be in an amount of not less than \$1,000,000.00 per incident.

State law reference(s)--Similar provisions, MCL 257.625l.

Section 5.15m. Commercial motor vehicle drivers; operation of vehicle while intoxicated, blood alcohol limits; warrantless arrest; violation, penalty.

- (1) A person, whether licensed or not, who has an alcohol content of 0.04 gram or more but not more than 0.07 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a commercial motor vehicle within this city.
- (2) A peace officer may arrest a person without a warrant under either of the following circumstances:
 - (a) The peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section.
 - (b) The person is found in the driver's seat of a commercial motor vehicle parked or stopped on a highway or street within this city if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of this section.
- (3) Except as otherwise provided in subsection (4), a person who is convicted of a violation of this section or a local ordinance substantially corresponding to this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$300.00, or both, together with costs of the prosecution.

- (4) A person who violates this section within seven years of one prior conviction may be sentenced to imprisonment for not more than 93 days or a fine not more than \$500.00, or both.
- (5) A term of imprisonment imposed under subsection (4) shall not be suspended.
- (6) Subject to subsection (7), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
 - (a) Except as provided in subsection (7), a violation or attempted violation of this section, section 625(1), (3), (4), (5), (6) or (7) of the Act (MCL 257.625(1), (3), (4), (5), (6), (7)) or former section 625(1) or (2) of this Act or former section 625b of this Act.
 - (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- (7) Only one violation or attempted violation of MCL 257.625(6), or a local ordinance substantially corresponding to MCL 257.625(6), or a law of another state substantially corresponding to MCL 257.625(6) may be used as a prior conviction.
- (8) If two or more convictions described in subsection (6) are convictions for violations arising out of the same transaction, only one conviction shall be used to determine whether the person has a prior conviction.

State law reference(s)--Similar provisions, MCL 257.625m.

Section 5.15n. Violations of section 5.15; penalties with regard to the vehicle used in the offense; notice; forfeiture or return, seizure of vehicle; filing claim of interest; sale of seized vehicle, disposal of proceeds, priority; concealment to avoid forfeiture, violation, penalty.

- (1) Except as otherwise provided in this section and in addition to any other penalty provided for in this act, the judgment of sentence for a conviction for a violation of 5.15(1) described in section 5.15(6), a violation of 5.15(3) described in section 5.15(8)(b), or a violation of section 5.15(5) may require one of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:
 - (a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.
 - (b) Return of the vehicle to the lessor if the defendant leases the vehicle.
- (2) The vehicle may be seized pursuant to an order of seizure issued by the court having jurisdiction upon a showing of provable cause that the vehicle is subject to forfeiture or return to the lessor.
- (3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.
- (4) Within 14 days after the defendant's conviction for a violation described in subsection (1), the prosecuting attorney may file a petition with the court for the forfeiture of the vehicle or to have the court order return of a leased vehicle to the

lessor. The prosecuting attorney shall give notice by first class mail or other process to the defendant and his attorney, to all owners of the vehicle, and to any person holding a security interest in the vehicle that the court may require forfeiture or return of the vehicle.

- (5) If a vehicle is seized before disposition of the criminal proceedings, a defendant who is an owner or lessee of the vehicle may move the court having jurisdiction over the proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner or lessee pending disposition of the criminal proceedings. The court shall hear the motion within seven days after the motion is filed. If the defendant establishes at the hearing that he holds the legal title to the vehicle or that he has a leasehold interest and that it is necessary for him or a member of his family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner or lessee. If the court orders the return of the vehicle to the owner or lessee, the court shall order the defendant to post a bond in an amount equal to the retail value of the vehicle, and shall also order the seizing agency to file a lien against the vehicle.
- (6) Within 14 days after notice by the prosecuting attorney is given under subsection (4), the defendant, an owner, lessee, or holder of a security interest may file a claim of interest in the vehicle with the court. Within 21 days after the expiration of the period for filing claims, but before or at sentencing, the court may hold a hearing to determine the legitimacy of any claim, the extent of any co-owner's equity interest, the liability of the defendant to co-lessee, and whether to order the vehicle forfeited or returned to the lessor. In considering whether to order forfeiture, the court shall review the defendant's driving record to determine whether the defendant has multiple convictions under section 625 of the Act (MCL 257.625), or a local ordinance substantially corresponding to section 625 of the Act (MCL 257.625), or multiple suspensions, restrictions, or denials under section 904 of the Act (MCL 257.904), or both. If the defendant has multiple convictions under section 5.15 or multiple suspensions, restrictions, or denials under section 904 of the Act (MCL 257.904) or both, that factor shall weight heavily in favor of forfeiture.
- (7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle and dispose of the proceeds in the following order of priority.
 - (a) Pay an outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.
 - (b) Pay the equity interest of a co-owner who did not have prior knowledge of or consent to commission of the violation.
 - (c) Satisfy any order of restitution in the prosecution for the violation.
 - (d) Pay the claim of each person who shows that he is a victim of the violation to the extent that the claim is not covered by an order of restitution.
 - (e) Pay any outstanding lien against the property that has been imposed by a governmental unit.
 - (f) Pay the proper expenses of the proceedings for forfeiture and sale,

including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property advertising and court costs.

- (g) The balance remaining after the payment of items (a)--(f) shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subsection shall be used to enhance enforcement of the criminal laws and 25 percent of the money shall be used to implement the Crime Victim's Rights Act (MCL 780.751 et seq.). A unit of government receiving money under this subsection shall report annually to the department of management and budget the amount of money received under this subsection that was used to enhance enforcement of the criminal laws and the amount that was used to implement the Crime Victim's Rights Act (MCL 780.751 et seq.).
- (8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.
- (9) The return of a vehicle to the lessor under this section does not affect or impair the lessor's rights to the defendant's obligations under the lease.
- (10) A person who knowingly conceals, sells, gives away, or otherwise transfers or disposes of a vehicle with the intent to avoid forfeiture or return of the vehicle to the lessor under this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
- (11) The failure of the court or prosecutor to comply with any time limit specified in this section does not preclude the court from ordering forfeiture of a vehicle or its return to a lessor, unless the court finds that the owner or claimant suffered substantial prejudice as a result of that failure.
- (12) The forfeiture provisions of this section do not provide the prosecuting attorney from pursuing a forfeiture proceeding under any other ordinance of the city.

State law reference(s)--Similar provisions, MCL 257.625n.

Section 5.15o. Bond required for manufacturer of ignition interlock devices.

- (1) A person shall not sell, lease, or install in a vehicle in this city an ignition interlock device unless the manufacturer of the device has obtained an executed bond described in subsection (2) or a renewal certificate for that bond.
- (2) The bond required under subsection (1) shall be in the amount of \$50,000.00 with a surety approved by the department and shall be conditioned to indemnify or reimburse a person who has an ignition interlock device installed on his vehicle for monetary loss caused by the manufacturer's fraud, cheating, misrepresentation, or defaulting on a contractual obligation, whether the fraud, cheating, misrepresentation, or defaulting was done by the manufacturer or by an employee or agent of the manufacturer.
- (3) The surety on the bond described in subsection (2) is required to make

indemnification or reimbursement for a monetary loss only after final judgment has been entered in a court of record against the manufacturer or an employee or agent of the manufacturer. The surety on the bond may cancel the bond upon 30 days' written notice to the department and is not liable for a loss arising from an event that occurs after the effective date of the cancellation.

State law reference(s)--Similar provisions, MCL 257.625o.

Sections 5.15p and 5.15q are enacted to read as follows:

Section 5.15p. Operation of commercial motor vehicle by person with certain alcohol content; out-of-service order; violations; penalty.

- (1) A person, whether licensed or not, shall not operate a commercial motor vehicle within this state with an alcohol content of 0.015 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (2) A peace officer who has reasonable cause to believe that a person was operating a commercial motor vehicle within the state with an alcohol content of 0.015 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, as measured by a preliminary chemical breath analysis or a chemical test provided under section 5.15a, shall order the person out-of-service immediately for 24 hours, which shall begin upon issuance of the order.
- (3) A peace officer shall immediately order a person who refuses to submit to a preliminary chemical breath analysis requested or a chemical test provided under section 5.15a out-of-service for 24 hours, which shall begin when the order is issued.
- (4) A person ordered out-of-service under this section, a local ordinance substantially corresponding to this section, or a law or local ordinance of another state substantially corresponding to this section shall not operate a commercial motor vehicle within this state during the 24-hour out-of-service period.
- (5) A peace officer who issues an out-of-service order under this section shall provide for the safe and expeditious disposition of a product carried by a commercial motor vehicle that is hazardous or would result in damage to the vehicle, human health, or the environment.
- (6) Failure to comply with subsection (1) is not a civil infraction or criminal violation of this act.
- (7) A person who violates subsection (4) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

State law reference(s)--Similar provisions, MCL 257.319d.

Section 5.15q. Operation of commercial motor vehicle in violation of out-of-state service order; prohibition; definitions.

- (1) A person shall not operate a commercial motor vehicle in this state in violation of an out-of-service order.
- (2) As used in subsection (1):
 - (a) "Out-of-service order" means a declaration by an authorized enforcement

officer that a driver of a commercial motor vehicle as defined in subdivision (b), or a motor carrier operation, is out-of-service pursuant to 49 CFR 386.72, 49 CFR 392.5, 49 CFR 395.13, 49 CFR 396.9, or the North American uniform out-of-service criteria, or a law or local ordinance of a state, the United States, Canada, Mexico, or a local jurisdiction thereof, substantially corresponding to 49 CFR 386.72, 49 CFR 392.5, 49 CFR 395.13, 49 CFR 396.9, or the North American uniform out-of-service criteria.

- (b) "Commercial motor vehicle" means any motor vehicle as defined in section 7a and any motor vehicle having a GVWR or GCWR of 10,001 pounds or more.

State law reference(s)--Similar provisions, MCL 257.619q.

5.16a is added as follows:

Section 5.16a. Transportation or possession of alcoholic liquor in container open or uncapped or upon which seal broken; violation punishable as a misdemeanor; nonapplicability.

- (1) Except as provided in subsection (2), a person shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway, or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in the city.
- (2) A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal of broken within the passenger compartment of a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this state, if the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.
- (3) A person who violates this section is guilty of a misdemeanor, punishable by a term of imprisonment of not more than 90 days and a fine of not more than \$100.00, or both.
- (4) This section does not apply to a passenger in a chartered vehicle authorized to operate by the state department of transportation.

State law reference(s)--Similar provisions, MCL 257.624a.

Section 5.16b is hereby amended as follows:

Section 5.16b. Consumption of alcoholic liquor on a highway, public place, or area generally accessible to motor vehicles, including area designated for parking of vehicles; violation punishable by a misdemeanor.

- (1) A person shall not consume alcoholic liquor upon a highway, street, alley, or any public or private property which is open to the general public and which is not licensed to sell alcoholic liquor for consumption on the premises, or within the passenger compartment of a moving vehicle upon a highway or in any place

open to the general public or generally accessible to motor vehicles, including an area designed for the parking of vehicles in the city.

- (2) A person who violates this section is guilty of a misdemeanor, punishable by a term of imprisonment of not more than 90 days and a fine of not more than \$100.00, or both.

Section 5.19, entitled "Overtaking and passing of moving vehicles proceeding in same direction; violation as civil infraction," is amended to read:

Section 5.19. Overtaking and passing of moving vehicles proceeding in same direction; violation as civil infraction.

- (1) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules set forth in this code:
 - (a) The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof and, when safely clear of such overtaken vehicle, shall take up a position as near the righthand edge of the main-traveled portion of the highway as is practicable.
 - (b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.
 - (c) The driver of any vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any railway grade crossing nor at any intersection of highways, unless permitted to do so by a police officer.
- (2) A person who violates this section is responsible for a civil infraction.

State law reference(s)--Similar provisions, MCL 257.636.

Section 5.31, entitled "Required positions and method of turning at intersections; violation as civil infraction," is amended to read:

Section 5.31. Required positions and method of turning at intersections; violation as civil infraction.

- (1) The driver of a vehicle who intends to turn at an intersection shall do so as follows:
 - (a) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the righthand and curb or edge of the roadway.
 - (b) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline thereof and by passing to the right of such centerline where it enters the intersection and, after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. When

practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

- (c) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle who intends to turn left at any such intersection shall approach the intersection in the extreme lefthand and lane which is lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the lefthand lane which is lawfully available to traffic moving in such direction on the roadway being entered.
- (d) *Yielding at intersections.* The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but the driver, having so yielded and having given a signal when and as required by law, may make such left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn; provided, that at an intersection at which a traffic signal is located, a driver intending to make a left turn shall permit vehicles bound straight through in the opposite direction which are awaiting a go signal to pass through the intersection before making the turn.

- (2) A person who violates this section is responsible for a civil infraction.

State law reference(s)--Similar provisions, MCL 257.647.

Section 5.33, entitled "Obedience to no-turn signs; violation is civil infraction," is amended to read:

Section 5.33. Obedience to no-turn signs; violation is civil infraction.

- (1) When authorized signs are erected indicating that right, left, or U-turns are not permitted, a driver of a vehicle shall not disobey the directions of any such signs.
- (2) A driver of a vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street, unless such movement can be made in safety and without interfering with other traffic. However, no such turn shall be made where a sign prohibiting such turn has been erected or at any intersection controlled by a traffic signal.
- (3) A person who violates this section is responsible for a civil infraction.

Section 5.53, entitled "Avoidance of traffic control devices prohibited; violation is civil infraction," is amended to read:

Section 5.53. Avoidance of traffic control devices prohibited; violation is civil infraction.

- (1) No person shall drive or operate a motor vehicle through any gasoline filling station or service station driveway, unless for the purpose of obtaining service at such station, and no person shall drive or operate a motor vehicle through or upon any public parking lot, unless for the purpose of parking such motor vehicle in such parking lot.

- (2) A driver of a vehicle shall not attempt to avoid obedience to any traffic control device by driving on or through any private property.
- (3) A person who violates this section is responsible for a civil infraction.

Sections 5.62a, 5.62b, 5.62c, 5.62d, 5.62e, and 5.62f are amended to read in entirety as follows:

Section 5.62a. Operating vehicle if license, registration certificate, or designations suspended, revoked, or denied; penalty; extending period of suspension or revocation; informing court of record and status; applicability.

- (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of the Act (MCL 257.212) of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the city.
- (2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the city by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.
- (3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows:
 - (a) For a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.
 - (b) For a violation that occurs after a prior conviction, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.
- (4) If the prosecuting attorney intends to seek an enhanced sentence under this section or a sanction under section 904d of the Act (MCL 257.904d) or section 5.62d based upon the defendant having one or more prior convictions, or suspensions or revocations under this section, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, municipal court, or family division of circuit court, a statement listing the defendant's prior convictions, suspensions, or revocations.
- (5) A prior conviction, a suspension, or a revocation under this section shall be established at or before sentencing by one or more of the following:
 - (a) An abstract of conviction.

- (b) A copy of the defendant's driving record.
 - (c) An admission by the defendant.
- (6) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under section 732 of the Act (MCL 257.732) while the person's operator's or chauffeur's license is suspended or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.
 - (7) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under section 732 of the Act (MCL 257.732) while the person's operator's or chauffeur's license is indefinitely suspended or whose application for a license has been denied, the secretary of state immediately shall impose a 30-day period of suspension or denial.
 - (8) Upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person for unlawful operation of a motor vehicle requiring a vehicle group designation while the designation is suspended pursuant to section 319a of the Act (MCL 257.319a or 257.319b), or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length, if the violation occurs before the person is approved for a license following a revocation, or if the person operates a commercial vehicle while disqualified under the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.
 - (9) If the secretary of state receives records of more than one conviction or civil infraction determination resulting from the same incident, all of the conviction or civil infraction determinations shall be treated as a single violation for purposes of imposing an additional period of suspension or revocation under subsection (6), (7), or (8).
 - (10) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.
 - (11) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.
 - (12) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of the Act (MCL 257.212) of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this city, except as permitted under this act, while any of those conditions exist is guilty of a misdemeanor punishable, except as otherwise provided in this section, by

imprisonment for not less than three days or more than 93 days or a fine of not more than \$100.00, or both.

- (13) If a person has a second or subsequent suspension or revocation under this section within seven years as indicated on the person's state driving record, the court shall proceed as provided in section 904d of the Act (MCL 257.904d) or section 5.62d.
- (14) Any period of suspension or revocation required under subsection (6), (7), or (8) does not apply to a person who has only one currently effective suspension or denial on his state driving record under section 321a of the Act (MCL 257.321a) and was convicted of or received a civil infraction determination for a violation that occurred during that suspension or denial. This subsection may only be applied once during the person's lifetime.
- (15) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

State law reference(s)--Similar provisions, MCL 257.904.

Section 5.62b. Order of impoundment.

- (1) When a person is convicted of violating section 5.62a(1) or (2) for operating a motor vehicle while his license to operate a motor vehicle is suspended, revoked, or denied punishable under 5.62a(3)(b), the court shall order the motor vehicle, if it is owned in whole or in part or leased by that person, impounded for not less than a period the court orders but not more than 120 days from the date of judgment.
- (2) When a person is convicted of violating section 5.62a(1) or (2) for operating a motor vehicle while his license to operate a motor vehicle is suspended, revoked, or denied punishable under 5.62a(3)(a), the court may order the motor vehicle, if it is owned in whole or in part or leased by that person, impounded for not more than 120 days from the date of judgment.
- (3) An order for the impounding of a motor vehicle issued pursuant to this section is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vehicle to the storage for insurance coverage purposes.
- (4) The owner of a motor vehicle impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vehicle whether or not the vehicle is returned to him. The vehicle shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the vehicle is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the vehicle, the vehicle shall be considered an abandoned vehicle and disposed of as provided in section 252a of the Act (MCL 257.252a) or section 2.5a(9)--(12).
- (5) This section does not affect the rights of a conditional vendor, chattel mortgagee, or lessor of a motor vehicle registered in the name of another person as owner who becomes subject to the Act.

State law reference(s)--Similar provisions, MCL 257.904b.

Section 5.62c. Vehicle immobilization required; duties of police officer; validity of

temporary vehicle registration; duration.

- (1) When a peace officer detains the driver of a motor vehicle for a violation of a law of this state or local ordinance for which vehicle immobilization is required, the peace officer shall do all of the following:
 - (a) Immediately confiscate the vehicle's registration plate and destroy it.
 - (b) Issue a temporary vehicle registration plate for the vehicle in the same form prescribed by the secretary of state for temporary registration plates issued under section 226a or 226b of the Act (MCL 257.226a or 257.226b).
 - (c) Place the temporary vehicle registration plate on the vehicle in the manner required by the secretary of state.
 - (d) Notify the secretary of state through the law enforcement information network in a form prescribed by the secretary of state law that the registration plate was confiscated and destroyed, and a temporary plate was issued.
- (2) A temporary vehicle registration plate issued under this section is valid until the charges against the person are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty of or is acquitted of those charges.

State law reference(s)--Similar provisions, MCL 257.904c.

Section 5.62d. Vehicle immobilization; order.

- (1) Vehicle immobilization applies as follows:
 - (a) For a conviction under section 625(1), (3) or (7) of the Act (MCL 257.625(1), (3), or (7)) or section 5.15(1) or (3) with no prior convictions, the court may order vehicle immobilization for not more than 180 days.
 - (b) For a conviction under section 625(1), (3), (4), (5) or (7) (MCL 257.625(1), (3), (4), (5), or (7)) or section 5.15(1), (3), or (5) within seven years after a prior conviction, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.
 - (c) For a conviction under section 625(1), (3), (4), (5) or (7) of the Act (MCL 257.625(1), (3), (4), (5), or (7)) or section 5.15(1), (3), or (5) within ten years after two or more prior convictions, the court shall order vehicle immobilization for not less than six months or more than three years.
- (2) For a conviction or civil infraction determination occurring during a period of suspension, revocation, or denial, the following apply:
 - (a) Except as provided in subsection (b), for one prior suspension, revocation, or denial under section 904(10), (11), or (12) of the Act (MCL 257.904(10), (11), or (12)) or section 5.62a(6), (7), or (8) within the past seven years, the court may order vehicle immobilization for not more than 180 days.
 - (b) For any combination of two or three prior suspensions, revocations, or denials under section 904(10), (11), or (12) of the Act (MCL 257.904(10),

(11), or (12)) or section 5.62a(6), (7), or (8) within the past seven years, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.

- (c) For any combination of four or more prior suspensions, revocations, or denials under section 904(10), (11), or (12) of the Act (MCL 257.904(10), (11), or (12)) or section 5.62a(6), (7), or (8), the court shall order vehicle immobilization for not less than one year or more than three years.
- (3) The defendant shall provide to the court the vehicle identification number and registration plate number of the vehicle involved in the violation.
 - (4) The court may order vehicle immobilization under this section under either of the following circumstances:
 - (a) The defendant is the owner, co-owner, lessee, or co-lessee of the vehicle operated during the violation.
 - (b) The owner, co-owner, lessee, or co-lessee knowingly permitted the vehicle to be operated in violation of section 625(2) of the Act (MCL 257.625(2)) or section 5.15(2) or section 904(1) of the Act (MCL 257.904(1)) or section 5.62a(1) regardless of whether a conviction resulted.
 - (5) An order required to be issued under this section shall not be suspended.
 - (6) If a defendant is ordered imprisoned for the violation for which immobilization is ordered, the period of immobilization shall begin at the end of the period of imprisonment.
 - (7) This section does not apply to any of the following:
 - (a) A suspension, revocation, or denial based on a violation of the Support and Parenting Time Enforcement Act (MCL 552.601 et seq.).
 - (b) A vehicle that is registered in another state or that is a rental vehicle.
 - (c) Any of the following:
 - (i) A violation of chapter II.
 - (ii) A violation of chapter V.
 - (iii) A violation for failure to change address.
 - (iv) A parking violation.
 - (v) A bad check violation.
 - (vi) An equipment violation.
 - (vii) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan Liquor Control Code of 1998 (MCL 436.1703(1), (2)), or a local ordinance substantially corresponding to same or section 624a or 624b of the Act (MCL 257.624a or 257.624b) or a local ordinance substantially corresponding to same.
 - (viii) A violation of a local ordinance substantially corresponding to a

violation described in subsections (i)--(vii).

- (8) As used in this section:
- (a) Subsection to subsection (9), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
 - (i) Except as otherwise provided in this subsection, a violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7) of the Act (MCL 257.625(1), (3), (4), (5), (6) or (7)), section 625m of the Act (MCL 257.625m), former section 625(1) or (2), or former section 625b. However, only one violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6) of the Act (MCL 257.625(6)), or a law of another state substantially corresponding to section 625(6) of the Act (MCL 257.625(6)) may be used as a prior conviction.
 - (ii) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
 - (b) "Vehicle immobilization" means requiring the motor vehicle involved in the violation immobilized in a manner provided in section 904e of the Act (MCL 257.904e) or section 5.62(e).
- (9) If two or more convictions described in subsection (8)(a) are convictions for violations arising out of the same incident, only one conviction shall be used to determine whether the person has a prior conviction.

State law reference(s)--Similar provisions, MCL 257.904d.

Section 5.62e. Vehicle immobilization; manner; storage; removal.

- (1) A court shall order a vehicle immobilized under section 5.62d by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and in a manner considered appropriate by the court. The court may order the person convicted of violating section 625 of the Act (MCL 257.625) or section 5.15 or a suspension, revocation, or denial under section 904 of the Act (MCL 257.904) or section 5.62a to pay the cost of immobilizing and storing the vehicle.
- (2) A vehicle subject to immobilization under this section may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax under section 3(3)(a) of the Use Tax Act (MCL 205.93(3)(a)), without a court order.
- (3) A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during the immobilization period.
- (4) A person shall not remove, tamper with, or bypass or attempt to remove, tamper

with, or bypass a device that he knows or has reason to know has been installed on a vehicle by court order for vehicle immobilization or operate or attempt to operate a vehicle that he knows or has reason to know has been ordered immobilized.

- (5) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
- (6) To the extent that a local ordinance regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the local ordinance is preempted.
- (7) If a peace officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.
- (8) The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that a vehicle ordered immobilized by the court is immobilized as required.

State law reference(s)--Similar provisions, MCL 257.904e.

Section 5.62f. Vehicle registration records; disclosure.

The vehicle registration records of the secretary of state shall disclose which vehicles are assigned a temporary registration plate under section 904c of the Act (MCL 257.904c) or section 5.62c or are immobilized under the Act.

State law reference(s)--Similar provisions, MCL 257.904f.

Section 5.66a shall read as follows:

Section 5.66a. False identifying information.

- (1) It is unlawful for any person to furnish to a peace officer false, forged, fictitious or misleading verbal or written information identifying the person as another person if the person is detained for violation of the uniform traffic code as adopted by the city or the Act.
- (2) A person who violates this section is guilty of a misdemeanor.

Section 5.69a. After section 5.69 and before section 5.70, add section 5.69a as follows:

Section 5.69a. Attachment of vehicle registration plates.

- (1) The registration plate for all vehicles shall be attached to the rear of the vehicle.
- (2) The registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging, at a height of not less than 12 inches from the ground, measuring from the bottom of the plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible.
- (3) A person shall not attach to a motor vehicle license plate a name plate, insignia, or advertising device.

- (4) A person who violates this section is responsible for a civil infraction.

State law reference(s)--Similar provisions, MCL 257.225.

Sections 5.82 and 5.83 are enacted to read as follows:

Section 5.82. Child restraint system required; exceptions; violation as civil infraction; points; abstract; exemption by rules; alternate means of protection.

- (1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to the Administrative Procedures Act of 1969 (MCL 24.201 et seq.), or federal regulation, each driver transporting a child less than four years of age in a motor vehicle shall properly secure that child in a child restraint system that meets the standards prescribed in 49 CFR 571.213.
- (2) This section does not apply to any child being nursed.
- (3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulations.
- (4) A person who violates this section is responsible for a civil infraction.
- (5) Points shall not be assessed under section 320a of the Act (MCL 257.320a) for a violation of this section. An abstract required under section 732 of the Act (MCL 257.732) shall not be submitted to the secretary of state regarding a violation of this section.
- (6) The secretary of state may exempt by rules promulgated pursuant to the Administrative Procedures Act of 1969 (MCL 24.201 et seq.), a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

State law reference(s)--Similar provisions, MCL 257.710d.

Section 5.83. Safety belt required; driver or passenger to which section inapplicable; transporting child four years of age but less than 16 years of age; enforcement of section; violation as civil infraction.

- (1) This section does not apply to a driver or passenger of any of the following:
 - (a) A motor vehicle manufactured before January 1, 1965.
 - (b) A bus.
 - (c) A motorcycle.
 - (d) A moped.
 - (e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.
 - (f) A motor vehicle that is not required to be equipped with safety belts under federal law.

- (g) A commercial or United States postal service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.
 - (h) A motor vehicle operated by a rural carrier of the United States postal service while serving his rural postal route.
- (2) This section does not apply to a passenger of a school bus.
 - (3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in section 5.82 or section 710d of the Act (MCL 257.710d). If there are more passengers than safety belts available for use, and all safety belts in the motor vehicle are being utilized in compliance with this section, the driver of the motor vehicle is in compliance with this section.
 - (4) Each driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsections (3), then the driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.
 - (5) If after December 31, 2005, the office of highway safety planning certifies that there has been less than 80 percent compliance with the safety belt requirements of this section during the preceding year, then enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.
 - (6) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than five percent.
 - (7) A person who violates this section is responsible for a civil infraction.
 - (8) A law enforcement agency shall conduct an investigation for all reports of police harassment that result from the enforcement of this section.
 - (9) Points shall not be assessed under section 320a of the Act (MCL 257.320a) for a violation of this section.

State law reference(s)--Similar provisions, MCL 257.710e.

Section 5.97. Add section 5.97 to read as follows:

Section 5.97. School buses; overtaking, meeting or passing.

- (1) The driver of a vehicle overtaking or meeting a school bus which has stopped

and is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than ten miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this subsection, who passes a school bus in violation of this subsection, or who fails to stop for a school bus in violation of an ordinance that complies with this subsection, is responsible for a civil infraction.

- (2) The driver of a vehicle upon a highway which has been divided into two roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.
- (3) In a proceeding for a violation of subsection (1), proof that the particular vehicle described in the citation was in violation of subsection (1), together with proof that the defendant named in the citation was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.
- (4) In addition to a civil fine and costs, the judge, district court referee, or district court magistrate may order a person who violates this section to perform not to exceed 100 hours of community service at a school.

State law reference(s)--Similar provisions, MCL 257.682.

Section 5.100. After section 5.99, add section 5.100 as follows:

Section 5.100. Production of evidence of insurance.

This section hereby incorporates by reference section 328 of the Act (MCL 257.328).

Section 5.102. After section 5.101, add section 5.102 as follows:

Section 5.102. Trees and plants not to interfere with view of traffic at intersections.

- (1) All trees, shrubbery or growing plants located on the parkway at or near the corners of any street intersection shall be kept trimmed or so maintained as not to obscure, obstruct or in any manner interfere with the view of pedestrians or drivers or operators of vehicles approaching or entering such intersections, and should the owner or person responsible therefor fail to so trim or maintain such trees, shrubbery or growing plants, it shall be the duty of the department of public works to trim or remove the same without notice.
- (2) A person who violates this section is responsible for a civil infraction.

Section 5.103. After section 5.102, add section 5.103 as follows:

Section 5.103. Vehicles to be operated only in areas designated for vehicular travel.

- (1) No person shall drive or operate a motor vehicle in any area or place other than the public streets and roadway or other such areas so designated for vehicular travel, and no person shall drive or operate a motor vehicle along or upon any unpaved parkway, except where the same is used for a driveway to enter private or public property, nor shall any person drive or operate a motor vehicle in any public park, beach or other public area, except in those areas designated for vehicular travel therein.
- (2) In all cases of violations under this section either the registered owner or the operator of such vehicle may be proceeded against in the district court, and the registered owner of the vehicle at the time of the violation shall be presumed to be the violator as well as the actual operator thereof.
- (3) Any person who violates this section is guilty of a misdemeanor, and, upon conviction, shall be assessed a fine of not less than \$100.00 or sentenced to not less than ten days in the county jail, or both.
- (4) Any person convicted of a second violation of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be assessed a fine of not less than \$200.00 or sentenced to not less than 20 days in the county jail, or both.
- (5) Any person convicted of a third or subsequent violation of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be assessed a fine of not less than \$300.00 or sentenced to not less than 30 days in the county jail, or both.

Section 5.104. After section 5.103, add section 5.104 as follows:

Section 5.104. Securing loads consisting of logs, pipes and other lengthy objects.

- (1) It shall be unlawful to operate on the public streets of the city any motor vehicle carrying logs, tubular products, lumber or other lengthy objects, unless the following conditions are complied with:
 - (a) In case they are loaded crosswise or at right angles to the side of the vehicle, such logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than two wrapping chain binders, each of sufficient length to completely encircle them.
 - (b) In case they are loaded lengthwise of the vehicle, obliquely or parallel to the sides, such logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than two toggle chains and one wrapping chain binder of sufficient length to completely encircle them.
 - (c) The toggle and wrapping chains required shall be of iron or steel material, not less than three-eighths inch in diameter, and having a breaking strength of not less than 12,000 pounds.
 - (d) No vehicle shall be driven or moved on any public street of the city with pipes or other objects in racks or otherwise carried on the side of such vehicle, unless such pipes or other objects are securely fastened to the vehicle in such manner as to prevent them from dropping, shifting or otherwise becoming loose from such vehicle.
- (2) A person who violates this section is responsible for a civil infraction.

State law reference(s)--Similar provisions, MCL 257.720.

5.105 After section 5.104, add section 5.105 as follows:

Section 5.105. Projecting loads on passenger vehicles.

- (1) No passenger-type vehicle shall be operated on any public street of the city with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.
- (2) A person who violates this section is responsible for a civil infraction.

State law reference(s)--Similar provisions, MCL 257.718.

Section 5.106. After section 5.105, add section 5.106 as follows:

Section 5.106. Maximum front project of load.

- (1) No train of vehicles or vehicle operated alone shall carry any load extending more than three feet beyond the front thereof.
- (2) A person who violates this section is responsible for a civil infraction.

Section 6.28. After section 6.27, add section 6.28 as follows:

Section 6.28. Registration.

- (1) No bicycle shall be propelled or operated upon any of the public streets, sidewalks, avenues, lanes, alleys, parks, bridges or public places within the city, unless such bicycle is registered with the police department. Application for such registration shall be filed with the police department, stating the owner's name, residence address, the make and model of the bicycle, the serial number of the bicycle and such other information relative to the bicycle as the chief of police or his designated representative shall require. Such application shall be made upon blank forms furnished by the police department.
- (2) The chief of police or his designated representative shall file all applications for registration of bicycles in the police department and keep a complete and accurate record of the facts appearing therein together with a numerical list of the license plate numbers assigned to each bicycle.
- (3) The fee for the registration of a bicycle under this section shall be \$1.00. All money derived from the registration of bicycles shall be paid by the police department into the general fund of the city.
- (4) In the event of transfer of ownership of a bicycle registered under this section, the new owner shall, within ten days from such transfer, make application on a similar form for the transfer of registration to the new owner, and shall accompany such application with a transfer fee of \$0.25.
- (5) A person who violates this section is responsible for a civil infraction.

Section 6.29. After section 6.28, add section 6.29 as follows:

Section 6.29. License number and plate generally.

- (1) Upon receipt of the fee prescribed by section 6.28 and a satisfactory application pursuant to such section, the chief of police or his designated representative

shall assign a number to each bicycle so registered and delivery to the applicant a license plate bearing the number so assigned. Such license plate shall be firmly attached to the rear of the bicycle and shall be valid for that bicycle only and shall not be transferred from one bicycle to another. Upon assigning such number and issuance of such plate, the number of such bicycle shall be stamped upon the framework of the bicycle so registered.

- (2) All bicycle license plates shall remain the property of the city, and the chief of police or any of the policemen of the city are hereby authorized to confiscate and take possession and custody of any such plate attached to any such bicycle for which it was not issued, or when the person to whom the plate was issued has made or is making unlawful use thereof.
- (3) In the event of the loss of a plate issued under this section, a duplicate plate may be obtained by paying the cost thereof to the city.
- (4) A person who violates this section is responsible for a civil infraction.

Section 6.30. After section 6.29, add section 6.30 as follows:

Section 6.30. Removal, alteration, etc., of license or frame number, license plate, seal, etc.

- (1) It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame registered pursuant to the article. It shall be unlawful for any person to remove, destroy, mutilate or alter any bicycle license plate, seal or registration card during the time in which such license plate, seal or registration card is operative. Nothing in this section shall prohibit the police department from stamping numbers on the frames of bicycles on which no serial number can be found, or on which such number is illegible or insufficient for identification purposes.
- (2) The police department is herewith empowered and authorized to impound any unlicensed bicycle or any bicycle found with the license or frame number removed, destroyed, mutilated or altered until such time as the person in possession, or the owner of the bicycle, can prove ownership. In the event proper ownership is not proven within 60 days after the date of impoundment, the bicycle can be sold at public auction.
- (3) A person who violates this section is responsible for a civil infraction.

Section 6.31. After section 6.30, add section 6.31 as follows:

Section 6.31. Riding prohibited on limited access or multilane roadway.

- (1) No person shall ride any bicycle on Apple Avenue, Laketon Avenue, Webster Avenue, Muskegon Avenue, Sherman Boulevard, Seaway Drive, or any other limited access or multilane roadway within the city, where parking has been prohibited. Any person operating along these routes shall be required to use the pedestrian walkway adjacent thereto.
- (2) A person who violates this section is responsible for a civil infraction.

Section 6.32. After section 6.31, add section 6.32 as follows:

Section 6.32. Riding prohibited in specified areas.

Sec. 6.32 concerning riding prohibited in specified areas has been repealed.

(Ord. No. 2151, 5-24-05)

Section 6.33. After section 6.32, add section 6.33 as follows:

Section 6.33. Operation in dangerous districts.

- (1) If the safety of the operator of a bicycle, the condition of the sidewalk or highway, the foot or vehicular traffic, including the safety of pedestrians, is such in any district as to require the operator of the bicycle to dismount and push the vehicle or to avoid such district in the exercise of ordinary caution and prudence, it shall be the duty of such operator of any bicycle to dismount and push the same through such dangerous district or to avoid the district entirely while it is unsafe for the operation of such bicycle.
- (2) A person who violates this section is responsible for a civil infraction.

Section 6.34. After section 6.33, add section 6.34 as follows:

Section 6.34. Pedal bicycle with helper motor not to be ridden on sidewalks.

- (1) No person shall ride a pedal bicycle with helper motor on city sidewalks.
- (2) A person who violates this section is responsible for a civil infraction.

Section 6.35. After section 6.34, add section 6.35 as follows:

Section 6.35. Racing and trick riding.

- (1) It shall be unlawful for any person riding a bicycle to race with any other person riding a bicycle, to ride without using both hands on handlebars, or to indulge in other trick riding upon any streets, sidewalks, avenues, lanes, alleys, parks, bridges or other public places within the city.
- (2) A person who violates this section is responsible for a civil infraction.

Section 6.36. After section 6.35, add section 6.36 as follows:

Section 6.36. Riding abreast, curving to and fro.

- (1) It shall be unlawful to ride abreast on bicycles upon any highway or public street, or to ride curving to and fro thereon. It shall be unlawful for bicycles to be ridden abreast on the sidewalks of the city, except when passing.
- (2) A person who violates this section is responsible for a civil infraction.

State law reference(s)--Riding abreast on highways, MCL 257.660(2).

Section 6.37. After section 6.36, add section 6.37 as follows:

Section 6.37. Riding on private property.

- (1) No person riding a bicycle shall ride the same upon or across the private property of another person without the permission of the owner of such property or the person in rightful possession thereof.
- (2) A person who violates this section is responsible for a civil infraction.

Section 7.17. After section 7.16, add section 7.17 as follows:

Section 7.17. Standing in street or alley so as to interfere with vehicular traffic.

- (1) No pedestrian shall stand or otherwise remain in any street or alley so as to obstruct the free movement of vehicular traffic.
- (2) A person who violates this section is responsible for a civil infraction.

Section 7.18, entitled "Pedestrians: remaining in street or road, is amended to read as follows:

Section 7.18. Pedestrians: remaining in street or road.

- (1) Where sidewalks are provided or where public beaches, parkland or other accessible public property is adjacent to a street or public right-of-way, it is unlawful for pedestrians to remain in the street or road, including traveled portions and parking areas in said street or road.
- (2) A person who violates this section shall be responsible for a civil infraction.

Section 8.3, entitled "Stopping, standing, or parking on streets signed for angle parking; violation as civil infraction," is amended to read:

Section 8.3. Stopping, standing, or parking on streets signed for angle parking; violation as civil infraction.

- (1) Unless posted signs indicate to the contrary, upon those streets or in those parking areas which have marks or signs for angle parking, a vehicle shall be parked at the angle to the curb or edge of the roadway or traveled portion of the roadway or parking area indicated by such marks or signs with the front of the vehicle nearest the curb or edge of roadway and the rear of the vehicle nearest the traveled portion of the roadway or parking area.
- (2) A person who violates this section is responsible for a civil infraction.

Section 8.10. After section 8.09, add section 8.10 as follows:

Section 8.10. Stopping, standing, or parking vehicles; violation as civil infraction.

- (1) A person shall not stop, stand, or park a vehicle in any of the following places, except when necessary to avoid conflict with other traffic or to comply with the law or the directions of a police officer or traffic control device:
 - (a) On a sidewalk.
 - (b) In front of a public or private driveway.
 - (c) Within an intersection.
 - (d) Within 15 feet of a fire hydrant.
 - (e) On a crosswalk.
 - (f) Within 20 feet of a crosswalk or, if none, then within 15 feet of the intersection of property lines at an intersection of streets.
 - (g) Within 30 feet of any flashing beacon, stop sign, yield sign, or traffic control signal located at the side of a street.
 - (h) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a

different length is indicated by signs or markings.

- (i) Within 50 feet of the nearest rail of a railroad crossing.
- (j) Within 20 feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within 75 feet of the entrance when properly signposted.
- (k) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
- (l) On the street side of any vehicle stopped or parked at the edge or curb of a street.
- (m) On any bridge or other elevated structure on a street or within a street tunnel.
- (n) Within 200 feet of an accident at which police officers are in attendance.
- (o) In front of any theater.
- (p) In any place or in any manner so as to block immediate egress from any emergency exit or exits which are conspicuously marked as building emergency exits.
- (q) In any place or in an manner so as to block or hamper the immediate use of an immediate egress from any fire escape which is conspicuously marked as a fire escape and which provides an emergency means of egress from any building.
- (r) At any place where official signs prohibit stopping, standing, or parking.
- (s) In a parking space which is clearly identified by an official sign as being reserved for use by handicappers and which is on public property or private property that is available for public use, unless the person is a handicapper as described in the act or unless the person is parking the vehicle for the benefit of a handicapper. A certificate of identification issued under section 675(5) of the Act (MCL 257.675(5)) to a handicapper shall be displayed on the lower left corner of the front windshield. A special registration plate issued under section 803d of the Act (MCL 257.803d) to a handicapper shall be displayed on the vehicle.
- (t) Within 500 feet of a fire at which fire apparatus are in attendance when the scene of the fire lies outside of a city or village. However, volunteer firefighters responding to the fire may park within 500 feet in a manner that does not interfere with fire apparatus at the scene. Vehicles legally parked before the fire shall be exempt from this subsection.
- (u) Along or on any unpaved parkway, except where the same is used for a driveway to enter private or public property.
- (v) In any public park, beach or other public area between the hours of 11:00 p.m. and 7:00 a.m.
- (w) In any public or municipal parking areas between the hours of 2:00 a.m. and 7:00 a.m.
- (x) Other than between painted lines in designated parking areas.

(2) A person who violates this section is responsible for a civil infraction.

State law reference(s)--Similar provisions, MCL 257.674.

Section 8.25. After section 8.24, add section 8.25 as follows:

Section 8.25. Vehicles parked in restricted area deemed stationary if not moved more than 50 feet.

Vehicles parked in the restricted parking area, which are not moved, more than 50 feet during the limited parking period, shall be deemed to have remained stationary.

Section 8.25.1. Add section 8.25.1 to read as follows:

Section 8.25.1. Impounding of vehicles for failure to answer parking violation notices or citations.

In addition to the infractions and penalties set forth in this traffic code for parking violations, vehicles may be impounded in the circumstances set forth in section 2.5h.

Section 8.26. After section 8.25, add section 8.26 as follows:

Section 8.26. Limitation on parking or standing of certain commercial vehicles.

Commercial Vehicle defined: "Commercial vehicle" includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn,

- (1) No commercial vehicle shall be parked upon any street or alley for a period longer than two (2) hours.
- (2) No commercial vehicle shall be parked at an angle to the line of the street or alley while loading or unloading for a period longer than one (1) hour.
- (3) No commercial vehicle shall be parked at an angle to the line of the street or alley where such vehicle would prohibit the free flow of traffic.
- (4) A person who violates this section is responsible for a civil infraction.

(Ord. No. 2110, 7-8-03)

Section 8.27. After section 8.26, add section 8.27 as follows:

Section 8.27. Special provisions relating to trailers and semitrailers.

- (1) No unattached trailer or semitrailer shall be parked on any street or alley at any time except when it is necessary to temporarily disconnect such trailer or semitrailer for convenience in loading or unloading.
- (2) Streets in a business district may be designated on which no trailer shall be stopped, parked or allowed to stand between the hours of 10:00 a.m. and 6:00 p.m.
- (3) A person who violates this section is responsible for a civil infraction.

Section 8.28. After section 8.27, add section 8.28 as follows:

Section 8.28. Moving of parked vehicle at request of police officer or owner or occupant of abutting property.

- (1) The operator of a vehicle which is parked shall move the same at any time at the request of a police officer, or at the request of the owner or occupant of the abutting property, if the vehicle has been parked over three hours, or if it is a commercial vehicle, after it has been parked over one hour.
- (2) A person who violates this section is responsible for a civil infraction.

Section 8.29 is amended to state in its entirety as follows:

Section 8.29. Parking violations bureau; minimum parking fines.

- (1) Pursuant to the provisions of State Law MCL 600.8395, there is hereby established within the city a parking violations bureau to accept pleas of responsible in motor vehicle parking violation cases and to collect and retain fines and costs as prescribed by ordinance.
- (2) Upon pleading responsible or being found responsible by a court, the fines for parking violations shall be as follows:

(2.1) Level 1 parking violations, under the following sections of the uniform traffic code:

TABLE INSET:

Code Section	Offense
8.1	Failing to park at the curb in the proper direction (facing traffic)
8.2	Parking in one-way street where prohibited
8.3	Violation of angle parking signs or backed into space
8.4	Violation of loading permit
8.5	Obstruction of traffic by parking
8.18	Loading zone
8.18	Passenger zone
8.21	Parking overtime

The penalties for level 1 parking violations are as follows:

TABLE INSET:

If paid within 7 days	If paid after 7 days but before 14 days	If paid after 14 days but before 30 days	If paid after 30 days
\$10.00	\$20.00	\$30.00	\$60.00

(2.2) Level 2 parking violations, under the following sections of the uniform traffic code:

TABLE INSET:

Code Section	Offense
8.5	Parking so as to obstruct traffic
8.10(a)	Parking on sidewalk
8.10(b)	Blocking driveways
8.10(c)	Within an intersection
8.10(e)	In a crosswalk
8.10(f)	Within 20 feet of a crosswalk or within 15 feet of property lines at intersection
8.10(g)	Too close to a flashing beacon, stop sign, yield sign, traffic control signal, or other traffic sign
8.10(h)	In a safety zone
8.10(i)	Too close to railroad
8.10(j)	Too close to fire station entrance
8.10(k)	Parking along side or opposite of street excavation
8.10(m)	Parking on a bridge or in a tunnel
8.10(n)	Parking within 200 feet of an accident
8.10(o)	Parking in front of a theater
8.10(p)	Blocking emergency exits
8.10(q)	Blocking fire escape
8.10(r)	Posted prohibited parking; parking violation of any posted signs
8.10(t)	Within 500 feet of a fire or fire apparatus (except volunteers and vehicles legally parked before the fire)
8.10(u)	Parking on terrace or parkway
8.13	Alley parking
8.31	2:00 a.m.--6:00 a.m. parking

The penalties for level 2 parking violations are as follows:

TABLE INSET:

If paid within 7 days	If paid after 7 days but before 14 days	If paid after 14 days but before 30 days	If paid after 30 days
\$15.00	\$30.00	\$45.00	\$70.00

(2.3) Level 3 parking violations, under the following sections of the uniform traffic code:

TABLE INSET:

Code Section	Offense
8.10(d)	Too close to a fire hydrant
8.10(l)	Double parking
8.10(v)	Parking in a public park after 11:00 p.m. and before 7:00 a.m.

The penalties for level 3 parking violations are as follows:

TABLE INSET:

If paid within 7 days	If paid after 7 days but before 14 days	If paid after 14 days but before 30 days	If paid after 30 days
\$20.00	\$40.00	\$60.00	\$80.00

(2.4) Level 4 parking violations, under the following sections of the uniform traffic code:

TABLE INSET:

Code Section	Offense
8.10(d)	Launching a Boat at City Launch Ramp Facilities Without Permit From March 1 thru November 30

The penalties for level 4 parking violations are as follows:

TABLE INSET:

If paid within 7 days	If paid after 7 days but before 14 days	If paid after 14 days but before 30 days	If paid after 30 days
\$55.00	\$65.00	\$75.00	\$85.00

Any other violation of the parking provisions which are not listed in the above schedules shall be considered level 2 parking violations and shall carry the penalties set forth above for level 2 violations, except that:

- 1) unlawful parking in a space reserved for persons with disabilities as defined in applicable state law (section 8.10(s)) shall carry a minimum of \$105.00, which shall increase to \$210.00 after the first seven days after the violation, and \$315.00 after 14 days and,
- 2) unlawful parking in a fire lane shall carry a minimum of \$30.00, which shall increase to \$60.00 after the first seven days after the violation and \$90.00 after 14 days and \$120.00 after 30 days.

(Ord. No. 2299, 10-11-2011)

Section 8.30. After section 8.29, add section 8.30 as follows:

Section 8.30. Interference with enforcement.

- (1) No person shall knowingly and willfully obstruct or interfere with the enforcement of any of the provisions of this traffic code regulating the standing or parking of motor vehicles nor shall any person knowingly or willfully obstruct or interfere with any police officer or other city employee while such police officer or other city employee is engaged in the enforcement of any of the provisions of this chapter regulating the standing or parking of motor vehicles.
- (2) A person who violates this section is responsible for a civil infraction.

Section 8.31. After section 8.30, add section 8.31 as follows:

Section 8.31. Parking limited when snow removal necessary.

- (1) No person shall park a vehicle on any street between the hours of 2:00 a.m. and 6:00 a.m. of any day between the dates of November 15 and April 15 or on any other days when snow removal is necessary, except physicians on emergency calls, and in structures or other areas specifically designed and designated for overnight parking.
- (2) A person who violates this section is responsible for a civil infraction.

Section 8.32. After section 8.31, add section 8.32 as follows:

Section 8.32. Unlawful conduct at scene of accident.

- (1) No person shall proceed to the scene of an accident or other emergency or stop and park a vehicle or congregate in the vicinity thereof so as to interfere with police officers or other persons performing their duties at the scene of such accident or other emergency, or for the purpose of advertising or offering any service for hire, nor shall any person thereat solicit gainful employment of any nature.
- (2) A person who violates this section is responsible for a civil infraction.

Section 9.3, entitled "Penalties; civil infraction and misdemeanor," is amended to read:

Section 9.3. Penalties; civil infraction and misdemeanor.

- (1) *Civil infraction.* Any violation of the uniform traffic code adopted or amended by the city which is designated as a civil infraction is not a crime and shall not be punishable by imprisonment or a penal fine. A civil infraction shall not be considered a lesser included offense of any criminal offense. Civil infraction fines shall be in any amount, if not specifically set forth, up to \$500.00, or set forth in a schedule adopted by the district court pursuant to statute. The fines shall be exclusive of costs, expenses or fees.
- (2) *Misdemeanor.* Unless another penalty is expressly provided by the ordinances of the city, every person who is convicted of a misdemeanor violation of any provision of the uniform traffic code shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than 90 days, or both.

Section 10.35 is amended to read as follows:

Section 10.35. Operation between 10:00 p.m. and 7:00 a.m.

A person shall not operate a snowmobile within the city during the hours from 10:00 p.m. until 7:00 a.m.

(Code 1975, § 20-6; Ord. No. 1197, §§ 1, 2, 8-10-1999; Ord. No. 2002, §§ 1, 2, 9-14-1999; Ord. No. 2005, §§ 1--3, 10-12-1999; Ord. No. 2011, 2-8-2000; Ord. No. 2012, 3-28-2000; Ord. No. 2013, 3-28-2000; Ord. No. 2014, § 1, 3-28-2000; Ord. No. 2029, § 1, 8-22-2000; Ord. No. 2113, 9-9-2003; Ord. No. 2182, 1-24-2006)

Secs. 92-34--92-50. Reserved.

ARTICLE III. JUNK VEHICLES*

***Cross reference(s)**--Junk or abandoned property, § 46-151 et seq.

Sec. 92-51. Title.

This article shall be known as the junk vehicle ordinance.

(Ord. No. 2038, § 12-53, 12-12-2000)

Sec. 92-52. Purpose.

This article is enacted to protect the health, safety and welfare of the city and its citizens, and, further, in particular, to prevent and prohibit the storage, accumulation and improper disposal of abandoned, wrecked, dismantled or inoperative vehicles, all of which interfere with the enjoyment of the property, adversely affect property values, create fire hazards, cause health problems, extend and aggravate urban blight, or encourage unsightly, environmentally, or aesthetically degrading uses of land in the city.

(Ord. No. 2038, § 12-54, 12-12-2000)

Sec. 92-53. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Disposal site means a place for legally storing junk vehicles, including, without limitation, impounding lots, junkyards, public storage lots or garages, or other such premises.

Junk vehicle means any vehicle or motor vehicle, including motorized and nonmotorized, highway or nonhighway vehicles, trailers or mobile homes, which are not currently licensed and registered, even if operable, or, whether or not licensed and registered, not operable or usable for their original purpose, or not operable or usable for their original purpose without major repair, or partially/fully dismantled. The term "junk vehicle" includes wrecked, damaged, junked, dismantled, partially dismantled, inoperable, abandoned, unlicensed, registered or discarded vehicles.

Motor vehicle means any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, and race cars.

Private property means any real property within the city that is privately owned and which is not public property as defined in this section.

Public property means any street, easement, alley or highway for its entire dedicated or publicly owned width, or any property owned or controlled or capable of control by a government entity, school district or public educational institution, including institutions of higher learning, vocational training, or an intermediate school district.

Seasonal vehicle means any operative vehicle normally licensed for only part of the year.

(Ord. No. 2038, § 12-55, 12-12-2000)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 92-54. General prohibition.

No person shall store any junk vehicle, except as where permitted and in accordance with this Code. The storage of such vehicles in violation of this article shall be declared a nuisance. All junk vehicles shall be removed and disposed of at a legally established disposal site.

(Ord. No. 2038, § 12-56, 12-12-2000)

Sec. 92-55. Storage requirements and prohibitions.

- (a) No person shall park, store, leave, or permit the parking, storing or leaving of any junk vehicle upon any public or private property within the city. The presence of such vehicle, or parts thereof, on private or public property is hereby declared a public nuisance.
- (b) This section shall not apply to the following vehicles, whether or not they are junk vehicles:
 - (1) Any vehicle enclosed within a legally erected storage building in which they fit completely and are fully enclosed on private property.
 - (2) Any operative vehicle on a sales lot of a licensed motor vehicle dealer.
 - (3) Any vehicle temporarily kept on the premises of a licensed auto repair shop for the purpose of repairing the vehicle, provided the location of the vehicle does not violate the zoning ordinance of the city.
 - (4) One seasonal vehicle, provided it must be currently licensed, and, if it is not currently licensed, it must be stored in a legally erected building as above.

(Ord. No. 2038, § 12-58, 12-12-2000)

Sec. 92-56. Notice of violation; removal; impounding; penalty.

- (a) Whenever any junk vehicle is found, a written notice shall be delivered in person or by first class mail to the owner of the junk vehicle and the owner or occupant of the private property on which the vehicle is located. An additional notice shall be affixed to a conspicuous part of the vehicle. The notice shall describe the violation of this article and shall require the removal of the violation within seven days. If the violation is observed to exist after seven days, a civil infraction ticket for such violation may be issued. The city may determine, with appropriate authority, such as a court order or the property owner or occupant's permission or failure to respond to the notice, to peaceably enter the property to correct the violation, including removal or impounding of the vehicle at a disposal site.
- (b) If a vehicle is removed and impounded by the city at a location where there will be impounding fees or charges, it shall give appropriate or required notice to the registered owner of the vehicle and to the state, provided that the notice shall not designate the vehicle as abandoned. The notice shall indicate that the vehicle will be disposed of by sale if the owner fails to redeem the vehicle by paying any charges or fees occasioned by the removal, impounding or storage of the vehicle.
- (c) The direct cost of any enforcement action, including a 15 percent surcharge for overhead and indirect costs, shall be charged to the owner or occupant of the property, as well as any owner of the vehicle, and in addition shall be levied against the property and collected in the manner of real property taxes, and shall constitute a valid tax lien against the premises if unpaid.
- (d) Any person who violates or fails to comply with the provisions of this article shall

be responsible for a civil infraction. Each act in violation of any of the provisions thereof shall be deemed a separate civil infraction. In connection with and in addition to the civil infraction, the city may request supplemental relief and/or other remedies as available to the city. Civil infraction penalties shall be as set forth in the schedule of civil infraction fines in section 2-204.

(Ord. No. 2038, § 12-59, 12-12-2000)

ARTICLE IV. MICHIGAN VEHICLE CODE.

Sec. 92-60. Title.

This article shall be known as the Michigan Vehicle Code Ordinance.

(Ord. No. 2080 , 06-25-02)

Sec. 92-61. Purpose.

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, is adopted by reference, and is incorporated in the Traffic Code and Ordinances of the City, as authorized by statute. At the time of the adoption of this Ordinance incorporating the Michigan Vehicle Code, no provisions of the Uniform Traffic Code and its amendments have been repealed, and they shall remain in force until further action by the City Commission.

(Ord. No. 2080, 06-25-02)

Sec. 92-62. Definitions.

The references in the Michigan Vehicle Code to "local authorities" shall mean the City of Muskegon.

(Ord. No. 2080, 06-25-02)

Sec. 92-63 Penalties.

Unless otherwise authorized by statute, violations of the misdemeanor provisions of the said incorporated Michigan Vehicle Code shall be limited to fines not exceeding \$500, or imprisonment for up to 93 days, or both. Penalty provisions of the Michigan Vehicle Code in excess of the said maximums are not enforceable in the City in the absence of statutory authority. If said authority is given, the penalties provided in the Michigan Vehicle Code shall apply to the extent authorized by statute.

Any violation which the Michigan Vehicle Code states is a Civil Infraction shall be considered a Municipal Civil Infraction.

(Ord. No. 2080, 06-25-02)