

VILLAGE OF MARIEMONT, OHIO

ORDINANCE NO. O-29-20

**TO AMEND SECTION 70.30 OF THE MARIEMONT CODE OF ORDINANCES
REGARDING OBEYING TRAFFIC-CONTROL DEVICES**

WHEREAS, the Rules and Law Committee was asked to review the Mariemont Code of Ordinances to make certain that it complies with the Ohio Manual of Uniform Traffic Control Devices ("OMUTCD"); and

WHEREAS, the Village of Mariemont is a statutory Village and, as such, is required to follow the OMUTCD; and

WHEREAS, questions have arisen in the past as to whether or not the Village has, in fact, followed the OMUTCD; and

WHEREAS, Council wishes to make certain that in the future the Village will, in fact, follow the OMUTCD.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MARIEMONT, STATE OF OHIO, TWO THIRDS OF THE MEMBERS DULY ELECTED THERETO CONCURRING:

SECTION I. That Section 70.30 of the Mariemont Code of Ordinances, Obeying Traffic-Control Devices which now reads as follows:

§ 70.30 OBEYING TRAFFIC-CONTROL DEVICES.

(A) (1) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic-control device placed in accordance with the provisions of this traffic code, unless at the time otherwise directed by a police officer.

(2) No provision of this traffic code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this traffic code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(R.C. § 4511.12(A))

(B) (1) Except as provided in division (C) below, any operator of a commercial motor vehicle, upon approaching a scale location established for the purpose of determining the weight of the vehicle and its load, shall comply with any traffic-control device or the order of a peace officer directing the vehicle to proceed to be weighed or otherwise inspected.

(2) Any operator of a commercial motor vehicle, upon bypassing a scale location in accordance with division (C) below, shall comply with an order of a peace officer to stop the vehicle to verify the use and operation of an electronic clearance device.

(C) Any operator of a commercial motor vehicle that is equipped with an electronic clearance device authorized by the Superintendent of the State Highway Patrol under R.C. § 4549.081 may bypass a scale location, regardless of the instruction of a traffic-control device to enter the scale facility, if either of the following apply:

(1) The in-cab transponder displays a green light or other affirmative visual signal and also sounds an affirmative audible signal;

(2) Any other criterion established by the Superintendent of the State Highway Patrol is met.

(D) Any peace officer may order the operator of a commercial motor vehicle that bypasses a scale location to stop the vehicle to verify the use and operation of an electronic clearance device.

(E) As used in this section, COMMERCIAL MOTOR VEHICLE means any combination of vehicles with a gross vehicle weight rating or an actual gross vehicle weight of more than 10,000 pounds if the vehicle is used in interstate or intrastate commerce to transport property and also means any vehicle that is transporting hazardous materials for which placarding is required pursuant to 49 C.F.R. pts. 100 through 180.

(R.C. § 4511.121(A) through (C), (E))

(F) No person shall use an electronic clearance device if the device or its use is not in compliance with rules of the Superintendent of the State Highway Patrol.

(R.C. § 4549.081(B))

(G) (1) Except as otherwise provided in this division, whoever violates division (A) above is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates division (A) above is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates division (A) above is guilty of a misdemeanor of the third degree.

(R.C. § 4511.12(B))

(2) Whoever violates division (B) above is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to a violation of division (B) above or any substantially equivalent state law or municipal ordinance, whoever violates division (B) above is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of division (B) above or any substantially equivalent state law or municipal ordinance, whoever violates division (B) above is guilty of a misdemeanor of the third degree.

(R.C. § 4511.121(D))

(3) Whoever violates division (F) above is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

(R.C. § 4549.081(C))

(2000 Code, § 70.20)

Statutory reference:

Placing traffic-control devices on state highways, permission required, see R.C. § 4511.10

Traffic-control devices to conform to the state manual and specifications, see R.C. § 4511.11

Uniform system of traffic-control devices, see R.C. § 4511.09

Shall be amended to read as follows:

§ 70.30 OBEYING TRAFFIC-CONTROL DEVICES.

Per Ohio Revised Code §4511.11, Mariemont has to follow the Ohio Manual of Uniform Traffic Control Devices (“OMUTCD”) concerning the installation any maintenance of any and all traffic control devices. As such, before voting to install or modify a traffic control device, council should refer to the OMUTCD if any new traffic control devices are being contemplated, to insure they comply with Ohio law.

(A) (1) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic-control device placed in accordance with the provisions of this traffic code, unless at the time otherwise directed by a police officer.

(2) No provision of this traffic code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this traffic code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(R.C. § 4511.12(A))

(B) (1) Except as provided in division (C) below, any operator of a commercial motor vehicle, upon approaching a scale location established for the purpose of determining the weight of the vehicle and its load, shall comply with any traffic-control device or the order of a peace officer directing the vehicle to proceed to be weighed or otherwise inspected.

(2) Any operator of a commercial motor vehicle, upon bypassing a scale location in accordance with division (C) below, shall comply with an order of a peace officer to stop the vehicle to verify the use and operation of an electronic clearance device.

(C) Any operator of a commercial motor vehicle that is equipped with an electronic clearance device authorized by the Superintendent of the State Highway Patrol under R.C. § 4549.081 may bypass a scale location, regardless of the instruction of a traffic- control device to enter the scale facility, if either of the following apply:

(1) The in-cab transponder displays a green light or other affirmative visual signal and also sounds an affirmative audible signal;

(2) Any other criterion established by the Superintendent of the State Highway Patrol is met.

(D) Any peace officer may order the operator of a commercial motor vehicle that bypasses a scale location to stop the vehicle to verify the use and operation of an electronic clearance device.

(E) As used in this section, COMMERCIAL MOTOR VEHICLE means any combination of vehicles with a gross vehicle weight rating or an actual gross vehicle weight of more than 10,000 pounds if the vehicle is used in interstate or intrastate commerce to transport property and also means any vehicle that is transporting hazardous materials for which placarding is required pursuant to 49 C.F.R. pts. 100 through 180.

(R.C. § 4511.121(A) through (C), (E))

(F) No person shall use an electronic clearance device if the device or its use is not in compliance with rules of the Superintendent of the State Highway Patrol.

(R.C. § 4549.081(B))

(G) (1) Except as otherwise provided in this division, whoever violates division (A) above is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates division (A) above is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates division (A) above is guilty of a misdemeanor of the third degree.

(R.C. § 4511.12(B))

(2) Whoever violates division (B) above is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to a violation of division (B) above or any substantially equivalent state law or municipal ordinance, whoever violates division (B) above is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of division (B) above or any substantially equivalent state law or municipal ordinance, whoever violates division (B) above is guilty of a misdemeanor of the third degree.

(R.C. § 4511.121(D))

(3) Whoever violates division (F) above is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

(R.C. § 4549.081(C))

(2000 Code, § 70.20)

Statutory reference:

Placing traffic-control devices on state highways, permission required, see R.C. § 4511.10

Traffic-control devices to conform to the state manual and specifications, see R.C. § 4511.11

Uniform system of traffic-control devices, see R.C. § 4511.09

SECTION II. In all other respects, §70 of the Mariemont Code of Ordinances shall remain unchanged and in full force and effect.

SECTION III. That this Ordinance shall go into effect at the earliest date allowed by law.

Passed: November 23, 2020.

William A. Brown, Mayor

ATTEST:

Anthony Borgerding, Fiscal Officer

I, Anthony Borgerding, Fiscal Officer of the Village of Mariemont, Ohio, do hereby certify that there is no newspaper printed in said municipality and that publication of the foregoing Ordinance was duly made by posting true copies thereof at five of the most public places in said corporation as determined by the Council, as follows: the Concourse, Miami Bluff and Flintpoint Way; the Tennis Court property, on the east side of Plainville Road between

Maple and Chestnut Streets; the site of the Municipal Building. Wooster Pike and Crystal Springs Road; the northeast corner of the intersection of Rembold and Miami Road inside the enclosure; the northwest corner of the Old Town Center, intersection of Chestnut and Oak Streets; each for a period of fifteen days commencing on the 24th day of November 2020.

Anthony Borgerding, Fiscal Officer.