

313.035 TRAFFIC LAW PHOTO-MONITORING DEVICES.

(a) Definitions. As used in this section, the meanings of applicable terms are as defined in R.C. 4511.092. In addition, the term "System" may be used interchangeably with the term "Traffic Law Photo-Monitoring Device."

(b) Civil Enforcement System Established.

(1) General. The City hereby adopts the use of traffic law photo-monitoring devices to detect and enforce violations of applicable speed limits in school zones. The City shall operate this system in compliance with all pertinent requirements and limitations set forth in R.C. Chapter 4511.

A violation of this section shall be deemed a civil violation for which a fine is assessed. No points shall be assessed against the operating record of any person on whom liability is imposed under this section.

(2) Prerequisites to System Deployment. The Safety Director shall ensure the requirements of R.C. 4511.094 and R.C. 4511.095 are met prior to deploying any traffic law photo-monitoring device.

(3) System Locations. Traffic law photo-monitoring devices may be deployed in any area used as a school zone in the City.

(4) Program Oversight. The Safety Director shall oversee the program authorized by this section. The Service Director shall oversee the installation and maintenance of all traffic law photo-monitoring devices by a vendor.

(5) Rules and Regulations. The Safety Director may issue rules and regulations to carry out the provisions of this section, which shall be effective 30 days after being posted at the Council office. The rules and regulations may also be published on the City website and kept on file with the Safety Director.

(c) Offense.

(1) Speeding Violation; Civil Fine. The registered owner of a vehicle that is recorded by a traffic law photo-monitoring device being operated in a school zone at a speed greater than five miles per hour over the speed limit set forth in Section 333.03(b) of these Codified Ordinances is liable for the following civil penalties:

- A. Six to nine miles per hour over the speed limit: \$100.
- B. Ten miles per hour or more over the speed limit: \$200.

(2) Evidence of Ownership. It is prima facie evidence that the person registered as the owner of the vehicle with the Ohio Bureau of Motor Vehicles, or with any other State vehicle registration office, was operating the vehicle at the time of the offense set out in division (c)(1) of this section.

(3) Issuing Ticket. Any ticket for a traffic violation set forth in this section shall be issued in compliance with R.C. 4511.096, as follows:

A. A Parma police officer shall examine evidence of alleged traffic law violations recorded by the system to determine whether a violation has occurred. If the image(s) recorded by the traffic law photo-monitoring device shows a violation, contains the date and time of the violation, and shows the letter and numerals on the license plate of the vehicle involved as well as the state that issued the license plate, the officer may use any lawful means to identify the registered owner.

B. Within 30 days of the traffic law violation, the City or its designee will file the ticket with the Parma Municipal Court in compliance with the Courts rules and regulations relating to such tickets.

The Court may then issue and send by regular mail or other methods consistent with the Court's rules, a ticket charging the registered owner with the violation.

C. A certified copy of the ticket alleging a traffic law violation, sworn to or affirmed by a Parma police officer, including by electronic means, and the recorded images produced by the traffic law photo-monitoring device, is prima facie evidence of the facts contained therein and is admissible in a proceeding for review of the ticket issued under this section.

(4) Content of Ticket. Any ticket issued pursuant to this section shall contain the following information, in accordance with R.C. 4511.097:

A. The name and address of the registered owner;

B. The letters and numerals appearing on the license plate issued to the motor vehicle;

C. The traffic law violation charged;

D. The system location;

E. The date and time of the violation;

F. A copy of the recorded images;

G. The amount of the civil penalty imposed, the date by which the civil penalty is required to be paid, and the address to which the payment is to be sent;

H. A statement signed by a Parma police officer indicating that, based on an inspection of recorded images, the motor vehicle was involved in a traffic law violation, and a statement indicating that the recorded images are prima facie evidence of that traffic law violation both of which may be signed electronically;

I. Information advising the person or entity alleged to be liable of the options prescribed in division (d)(1) of this section, specifically to include the time, place, and manner in which an appeal may be initiated and the procedure for disclaiming liability by submitting an affidavit as prescribed in that subsection;

J. A warning that failure to exercise one of the options prescribed in division (d)(1) of this section is deemed to be an admission of liability and waiver of the opportunity to contest the violation.

(5) Payments; Default Fees. The amount of the penalty shall be paid within 30 days from the receipt of the ticket. If the amount of the penalty is not paid within this time, twenty dollars (\$20.00) shall be imposed as a default fee. Failure to pay the penalty and the twenty-dollar (\$20.00) default fee within 60 days from the date of mailing of the ticket will result in the imposition of an additional twenty-dollar (\$20.00) default fee, bringing the default fee to forty dollars (\$40.00). Failure to pay the penalty and the forty-dollar (\$40.00) default fee within 90 days from the date of mailing of the ticket will result in the unpaid penalty and default fee being forwarded for collection.

(6) Default and Collection. Failure to timely elect and perform one of the options contained in division (d)(1) of this section shall constitute an admission of the violation and a waiver of the opportunity to contest the violation. Further, if the registered owner or operator fails to pay the penalty within the period set forth in division (c)(5) of this section, the penalty, along with the additional late fee(s), may be collected by civil suit or other appropriate means of collection.

(7) Other Offenses and Penalties Not Abrogated. Nothing in this section shall be construed as altering or limiting Sections 333.03 or 313.03 of these Codified Ordinances, the criminal penalties imposed by those sections, or the ability of a police officer to enforce those sections against any offender observed by the officer violating either of those sections. Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of division (c)(1) of this section.

(d) Contesting Ticket.

(1) Options Upon Receipt of Ticket. Consistent with R.C. 4511.098, a recipient of a ticket shall elect to do one of the following:

A. In accordance with instructions on the ticket, within 30 days after receipt of the ticket, pay the civil penalty, thereby failing to contest liability and waiving the opportunity to contest the violation;

B. Within 30 days after receipt of the ticket, provide the Court with either of the following affidavits:

1. An affidavit executed by the registered owner stating that another person was operating the vehicle of the registered owner at the time of the violation, identifying that person as a designated party who may be held liable for the violation, and containing at a minimum the name and address of the designated party;

2. An affidavit executed by the registered owner stating that at the time of the violation, the motor vehicle or the license plates issued to the motor vehicle were stolen and therefore were in the care, custody, or control of some person or entity to whom the registered owner did not grant permission to use the motor vehicle. In order to demonstrate that the motor vehicle or the license plates were stolen prior to the traffic law violation and therefore were not under the control or possession of the registered owner at the time of the violation, the registered owner shall submit proof that a report about the stolen motor vehicle or license plates was filed with the appropriate law enforcement agency prior to the violation or within 48 hours after the violation occurred.

C. If the recipient is the registered owner of the motor vehicle involved in the traffic law violation and is a motor vehicle leasing dealer or a motor vehicle renting dealer, the recipient shall within 30 days after receipt of ticket notify the Court of the name and address of the lessee or renter of the motor vehicle at the time of the traffic law violation. A motor vehicle leasing dealer or motor vehicle renting dealer who receives a ticket for an alleged traffic law violation detected by a traffic law photo-monitoring device is not liable for a ticket issued for a motor vehicle that was in the care, custody, or control of a lessee or renter at the time of the alleged violation. The dealer shall not pay such a ticket and subsequently attempt to collect a fee or assess the lessee or renter a charge for any payment of such a ticket made on behalf of the lessee or renter;

D. If the recipient is the registered owner of the motor vehicle involved in the traffic law violation and the motor vehicle is a commercial motor vehicle, and the ticket is issued to a corporate entity, the recipient shall within 30 days after receipt of ticket, provide to the Court an affidavit, sworn to or affirmed by an agent of the corporate entity, that provides the name and address of the employee who was operating the motor vehicle at the time of the alleged violation and who is the designated party;

E. Contest the ticket by filing a written request with the Court for a hearing. The person or entity shall file the written request not later than 30 days after receipt of the ticket. The failure to request a hearing within this time period constitutes a waiver of the right to contest the violation and ticket, and is deemed to constitute an admission of liability and waiver of the opportunity to contest the violation.

(2) A registered owner is not responsible for a traffic law violation if, within 30 days after the date of receipt of the ticket, the registered owner furnishes an affidavit specified in division (d)(1)B or (d)(1)D. of this section to the Court in a form established by the Court and the following conditions are met:

A. If the registered owner submits an affidavit as specified in division (d)(1)B.1. or (d)(1)D. of this section, and the designated party either accepts liability for the violation by paying the civil penalty or fails to request a hearing within 30 days or is determined liable at hearing;

B. If the registered owner submits an affidavit as specified in division (d)(1)B.2. of this section, the affidavit is supported by a stolen vehicle or stolen license plate report as required in that division.

(3) If the Court timely receives an affidavit described in division (d)(1)B.1. or (d)(1)D. of this section or a notification under division (d)(1)C. of this section from a registered owner, it may proceed to notify the City to send a ticket that conforms with division (c)(4) of this section to the designated party. The City shall send the ticket to the designated party by ordinary mail not later than 21 days after receipt of the affidavit or notification.

(4) Initial Appearance; Hearing; Procedures.

A. Initial appearance. When a person or entity named in a ticket elects to contest the ticket and completes the requirements prescribed in division (d)(1)E. of this section in a timely manner the case shall be set for an initial appearance, and the following will apply:

1. The Parma Municipal Court shall conduct an initial appearance not later than 180 days after the filing of a written request for the hearing. The Court may extend the time period in which an initial appearance must be conducted upon a request for additional time for good cause shown.

2. At the initial appearance, the person or entity named in the ticket can discuss any questions or concerns relating to the ticket, including possible resolution.

B. Evidentiary hearing. If the case is not resolved at the initial appearance, it will be set for an evidentiary hearing. The court shall conduct an evidentiary hearing within 90 days of the initial appearance. The following will apply:

1. The Court shall ensure that the evidentiary hearing is open to the public. The Court shall post a docket in a conspicuous place near the entrance to the hearing room. The Court shall identify on the docket, by respondent, the hearings scheduled for that day and the time of each hearing. The Court may schedule multiple hearings for the same time to allow for occurrences such as nonappearances or admissions of liability.

2. The person who requested the evidentiary hearing or a representative of the entity that requested the hearing shall appear for the hearing and may present evidence at the hearing. The City may present evidence at the hearing.

3. At the evidentiary hearing, the Court shall determine whether a preponderance of the evidence establishes that the violation alleged in the ticket did in fact occur and that the person or entity requesting the review is the person who was operating the vehicle at the time of the violation.

4. If the Court finds by a preponderance of the evidence that the alleged traffic law violation did in fact occur and that the person or entity named in the ticket is the person who was operating the vehicle at the time of the violation, the Court shall issue a written decision imposing liability for the violation upon the individual or entity.

5. If the Court finds by a preponderance of the evidence that the alleged traffic law violation did not occur or did in fact occur but the person or entity named in the ticket is not the person who was operating the vehicle at the time of the violation, the Court shall issue a written decision finding that the individual or entity is not liable for the violation.

C. If the person who requested the hearing or a representative of the entity that requested the hearing fails to appear at the hearing, the Court shall determine that the person or entity is liable for the violation. In such a case, the Court shall issue a written decision imposing liability for the violation upon the individual or entity.

D. 1. If the Court finds that the person or entity named in the ticket was not the person who was operating the vehicle at the time of the violation or receives evidence identifying the designated party, the Court shall provide to the City or its designee, within five days of the hearing, a copy of any evidence substantiating the identity of the designated party.

2. Upon receipt of evidence of the identity of the designated party, the City or its designee may issue a ticket to the designated party. The City shall send the ticket by ordinary mail not later than 21 days after receipt of the evidence from the Court or the registered owner of the identity of the designated party.

E. If a designated party who is issued a ticket under this section contests the ticket by filing a written request for a hearing not later than 30 days after receipt of the ticket, the Court shall require the registered owner of the motor vehicle also to attend the hearing. If at the hearing involving the designated party the Court cannot determine the identity of the operator of the vehicle at the time of the violation, the registered owner is liable for the violation. The Court then shall issue a written decision imposing liability for the violation on the registered owner. If the designated party also is a registered owner of the vehicle, liability for the violation shall follow the order of registered owners as listed on the title to the vehicle.

F. A person who is named in a ticket for a traffic violation under this section may assert a testimonial privilege in accordance with R.C. 2317.02(D).

G. No decision rendered under this section, and no admission of liability under this section or R.C. 4511.098, is admissible as evidence in any other judicial proceeding in this state.

(Ord. 21-22. Passed 2-22-22.)