

ORDINANCE NO. 2015-10

AN ORDINANCE AMENDING CHAPTER 315 AUTOMATED TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM AND DECLARING AN EMERGENCY

WHEREAS, the Ohio Legislature has made many changes in the traffic law photo monitoring device law, contained in Senate Bill No. 342, which take effect in 2015; and

WHEREAS, it is necessary for Parma Heights Codified Ordinances Chapter 315 Automated Traffic Control Photographic System to conform with the State Statute with respect to traffic law photo monitoring devices law.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Parma Heights, County of Cuyahoga and State of Ohio:

Section 1. That Chapter 315 Automated Traffic Control Photographic System of the Parma Heights Codified Ordinance is hereby amended to read as follows:

CHAPTER 315  
~~AUTOMATED TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM~~  
TRAFFIC LAW PHOTO MONITORING

315.01 DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) ~~“Automated Traffic Control Signal Photographic System (ATCSPS).”~~ **“Traffic Law Photo Monitoring Device”** means a device with one or more motor vehicle sensors, that produces recorded images of motor vehicles entering an intersection against a red signal indication and /or that produces recorded images of motor vehicles traveling at a prohibited rate of speed.
- (b) **“(b) “Designated Party” means the person whom the registered owner of a motor vehicle, upon receipt of a ticket based upon images recorded by a traffic law photo-monitoring device that indicate a traffic law violation, identifies as the person who was operating the vehicle of the registered owner at the time of the violation.**
- ~~—(b) (c) “Hearing Officer.” The Parma Heights Mayor's Court Magistrate or his designee.~~
- ~~—(c) “In operation.” Operating in good working condition.~~
- ~~—(d) “Motor vehicle.” The same definition as in Section 301.185.~~
- ~~—(e) “Owner.” Owner includes the following:~~

~~— (1) The person or entity identified by the Ohio Bureau of Motor Vehicles as the registered owner of the vehicle;~~

~~— (2) The person or entity registered with any other State vehicle registration office as the registered owner of a vehicle;~~

~~— (3) A lessee of a motor vehicle under a lease of six months or more; or~~

~~— (4) The renter of a vehicle during the period of infraction pursuant to a written rental agreement with a motor vehicle renting dealer.~~

**(d) "Motor vehicle leasing dealer" has the same meaning as in section 4517.01 of the Revised Code.**

**(e) "Motor vehicle renting dealer" has the same meaning as in section 4549.65 of the Revised Code.**

**(f) "Motor vehicle" has the same meaning as in Parma Heights Codified Ordinances Section 301.185.**

~~(g) "Recorded images." Images recorded by an automated traffic control signal photographic system on any of the following:~~

~~— (1) Two or more photographs;~~

~~— (2) Two or more microphotographs;~~

~~— (3) Two or more electronic images;~~

~~— (4) Two or more digital images;~~

~~— (5) Videotape;~~

~~— (6) Any other medium; and~~

~~— (7) Showing the front or rear of a motor vehicle and on at least one image or portion of tape, clearly identifying the license plate number of the motor vehicle.~~

**means any of the following images recorded by a traffic law photo-monitoring device that show, on at least one image or on a portion of the videotape, the rear of a motor vehicle and the letters and numerals on the rear license plate of the vehicle:**

**(1) Two or more photographs, microphotographs, electronic images, or digital images;**

**(2) Videotape.**

~~(g) "Responsible party." The person who was operating the motor vehicle at the time of the violation or the person who had care, custody, and control of the motor vehicle at the time of the violation.~~

~~—(h) “System location.” The approach to an intersection toward which a photographic, microphotographic, electronic image, digital image, videotape, or any other medium is directed and is in operation. It is the location where the automated traffic control photographic system is installed to monitor offenses under this chapter.~~

**(h) "Registered owner" means all of the following:**

- (1) Any person or entity identified by the bureau of motor vehicles or any other state motor vehicle registration bureau, department, or office as the owner of a motor vehicle;**
- (2) The lessee of a motor vehicle under a lease of six months or longer;**
- (3) The renter of a motor vehicle pursuant to a written rental agreement with a motor vehicle renting dealer.**

**(i) "System location" means the approach to an intersection or area of roadway toward which a traffic law photo-monitoring device is directed and is in operation.**

**(j) "Ticket" means any traffic ticket, citation, summons, or other ticket issued in response to an alleged traffic law violation detected by a traffic law photo-monitoring device, that represents a civil violation.**

**(k) "Traffic law photo-monitoring device" means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces recorded images.**

**(l) "Traffic law violation" means either of the following:**

- (1) A violation of Section 313.01 based on the failure to comply with Section 313.03 of the Parma Heights Codified Ordinances or a substantially equivalent municipal ordinance that occurs at an intersection due to failure to obey a traffic control signal;**
- (2) A violation of section 333.03 (b) or 333.035 or a substantially equivalent municipal ordinance due to failure to observe the applicable speed limit.**

#### 315.02 APPLICABILITY.

(a) Notwithstanding any other provision of the traffic code, the City hereby adopts a civil enforcement system for red light camera system and speeding violations as outlined in this chapter. ~~The automated traffic control photographic system~~ **traffic law photo monitoring system** imposes monetary liability on the owner and/or responsible party of a motor vehicle for failure of an operator thereof to comply with traffic control indications in the City in accordance with the provisions of Section 315.03 and/or Section 333.03.

(b) The Police Department or its designee shall be responsible for administering the automated traffic control photographic system.

(c) Section 315.03 applies whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrow, successively one at a time or in combination. Only the colors green, red, and yellow shall be used, except for special

pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of motor vehicles as follows:

- (1) Green indication means the same as defined in Section 313.03(a)(11).
- (2) Steady yellow indication means the same as defined in Section 313.03(a)(10).
- (3) Steady red indication means the same as defined in 313.03(a)(3).

~~—(d) Signs shall be posted within the City limits, as determined in the sole discretion of the Mayor, advising motorists that an ATCSPS is in use in the City.~~

~~—(e) (d)~~ The Police Department shall maintain a list of system locations within the City limits where the automated traffic control photographic systems are installed.

~~—(f) (e)~~ Whenever a police officer witnesses a violation of Part Three-Traffic Code or Ohio R.C. 4511.13, and has issued a citation pursuant to those sections, this chapter does not apply. However, the recorded items may be used as evidence for a violation of Part Three-Traffic or Ohio R.C. 4511.13. Any citation for a violation of Part Three-Traffic Code or Ohio R.C. 4511.13 issued personally by an officer of the Police Department at an automated traffic control photographic system location shall not be issued in the manner described in this chapter. The citation shall be treated in the same manner as Part Three-Traffic Code of these Codified Ordinances.

~~(g) (f)~~ In the case of speeding, the ~~owner and/or responsible party~~ **registered owner and/or designated party** of a vehicle shall be liable for the penalty imposed under this chapter if the vehicle is operated at a speed in excess of the limitations set forth in Section 333.03 of the Codified Ordinances.

~~(h) (g)~~ This chapter shall not apply to violations involving motor vehicle or pedestrian collisions.

### 315.03 RED LIGHT CAMERA VIOLATION.

It shall be unlawful for a motor vehicle to cross the stop line at a system location when the traffic controls signal for that motor vehicle's direction of travel is emitting a steady red light. The **registered** owner of the motor vehicle and/or ~~responsible designated~~-party shall be responsible for a violation under this section, except when the **registered** owner and/or ~~responsible designated~~ party can provide evidence that the motor vehicle was in the care, custody, and control of another person at the time of the violation, as described in Section 315.05.

### 315.04 ~~NOTICE OF LIABILITY. TICKET~~

(a) **A traffic law violation for which a ticket is issued by the City pursuant to Chapter 315 of the Parma Heights Codified Ordinances is a civil violation. If the City issues a ticket for such a violation, the ticket shall comply with the requirements of this section.**

~~(a) The notice of liability shall be reviewed and processed by the Police Department or its designee and shall be served by ordinary mail to the owner's and/or responsible party's address as given on the motor vehicle registration from the Bureau of Motor Vehicles, or its equivalent, of the state registered. The notice of liability shall include:~~

- ~~—— (1) The name and address of the registered owner of the motor vehicle;~~
- ~~—— (2) The license plate number of the motor vehicle involved in the violation;~~
- ~~—— (3) The violation charged;~~
- ~~—— (4) The location of the violation;~~
- ~~—— (5) The date and time of the violation;~~
- ~~—— (6) A copy of the recorded image(s);~~
- ~~—— (7) The amount of the civil penalty imposed and the date by which the civil penalty should be paid and where the payment should be made;~~
- ~~—— (8) Information advising the person alleged to be liable of the options as provided in Section 315.05(a);~~
- ~~—— (9) The time, place, and manner in which an administrative appeal can be initiated and a warning that failure to exercise the options provided under Section 315.05(a)(4) in a timely manner is an admission of liability.~~

~~(b) Except as provided in Section 315.05(c), a notice of liability issued under this chapter shall be mailed no later than 15 calendar days after the alleged violation.~~

~~(c) Except as provided under Section 315.05(c), the Police Department or its designee may not mail a notice of liability to a person who is not the owner of the motor vehicle.~~

~~(d) The owner and/or responsible party of the motor vehicle shall not be responsible for the violation if, within 15 calendar days after notification of liability, the owner furnishes the Police Department or its designee with:~~

- ~~—— (1) The name and address of the person who leased, rented, borrowed, or otherwise had the care, custody, and control of the motor vehicle at the time of the violation, a signed affidavit sworn to before a notary public that the affiant was operating the motor vehicle, and payment of the appropriate civil penalty as set forth herein;~~
- ~~—— (2) An affidavit by the owner stating that at the time of the violation, the motor vehicle or the license plates of the motor vehicle involved were stolen or were in the care, custody, or control of some person who did not have the owner's permission to use the motor vehicle, or that the motor vehicle or license plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation. In order to demonstrate that the motor vehicle or license plates were stolen before the violation occurred and were not under the control or possession of~~

~~the owner at the time of the violation, the owner must submit proof that a police report about the stolen motor vehicle or license plates was filed prior to the violation or within 48 hours after the violation occurred.~~

~~—(e)— A certified copy of the notice of liability alleging the violation of this chapter occurred, sworn to or affirmed by a duly authorized police officer, with the recorded images produced by an automated traffic control signal photographic system shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding alleging a violation under this chapter.~~

~~—(f)— If the motor vehicle involved in the violation is a commercial motor vehicle and the notice of liability is issued to a corporate entity, the corporate entity must provide to the Police Department or its designee an affidavit, sworn to or affirmed by the statutory agent of the corporate entity, that:~~

~~——(1)—— States that the person/entity named in the notice of liability was not in operation of the commercial motor vehicle at the time of the violation; and~~

~~——(2)—— Provides the name, address, and driver's license identification number of the person who was in operation of the commercial motor vehicle at the time of the violation.~~

**(b) The City or its designee shall process such a ticket for a civil violation and shall send the ticket by ordinary mail to any registered owner of the motor vehicle that is the subject of the traffic law violation. The City or designee shall ensure that the ticket contains all of the following:**

**(1) The name and address of the registered owner;**

**(2) The letters and numerals appearing on the license plate issued to the motor vehicle;**

**(3) The traffic law violation charged;**

**(4) The system location;**

**(5) The date and time of the violation;**

**(6) A copy of the recorded images;**

**(7) The name and badge number of the law enforcement officer who was present at the system location at the time of the violation;**

**(8) 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;**

**(9) A statement signed by a law enforcement officer employed by the city 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;**

**(10) Information advising the person or entity alleged to be liable of the options prescribed in Section 315.05 , specifically to include the time, place, and manner in which an administrative appeal may be initiated and the procedure for disclaiming liability by submitting an affidavit as prescribed in that section;**

**(11) A warning that failure to exercise one of the options prescribed in section 315.05 is deemed to be an admission of liability and waiver of the opportunity to contest the violation.**

**(c) The City or its designee shall send a ticket not later than thirty days after the date of the alleged traffic law violation.**

### **315.05 PROCEDURE.**

**(a) A person or entity who receives a ticket for a civil violation sent in compliance with section 315.04 shall elect to do one of the following:**

**(1) In accordance with instructions on the ticket, pay the civil penalty, thereby failing to contest liability and waiving the opportunity to contest the violation;**

**(2)(a) Within thirty days after receipt of the ticket, provide the City or its designee with either of the following affidavits:**

**(i) 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;**

**(ii) 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 forty-eight hours after the violation occurred.**

**(3) A registered owner is not responsible for a traffic law violation if, within thirty days after the date of mailing of the ticket, the registered owner furnishes an affidavit specified in division (a)(2)(a)(i) or (ii) of this section to**

**the City or its designee in a form established by the City and the following conditions are met:**

**(i) If the registered owner submits an affidavit as specified in division (a)(2)(a)(i) of this section, the designated party either accepts liability for the violation by paying the civil penalty or failing to request an administrative hearing within thirty days or is determined liable in an administrative hearing;**

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

**(4) If the registered owner is a motor vehicle leasing dealer or a motor vehicle renting dealer, notify the City or its designee 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.**

**(5) If the vehicle involved in the traffic law violation is a commercial motor vehicle and the ticket is issued to a corporate entity, provide to the City or its designee 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.**

**(6) Contest the ticket by filing a written request for an administrative hearing to review the ticket along with payment in the amount equal to the amount of the civil penalty in accordance with the instructions indicated on the ticket. The person or entity shall file the written request and post payment not later than thirty days after receipt of the ticket. The person or entity desiring a hearing must post payment equal to the amount of the civil penalty before an appeal will be scheduled. 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.**

**(b) The City or its designee that receives an affidavit described in division (a)(2)(a)(i) or (a)(4) of this section or a notification under division (a)(3) of this section from a registered owner may proceed to send a ticket that conforms with section 315.04 (b) to the designated party. The City or its designee shall send the ticket to the designated party by ordinary mail not later than twenty-one days after receipt of the affidavit or notification.**

315.05-6 ADMINISTRATIVE APPEAL.

~~—(a)— An owner and/or responsible party who receives a “notice of liability,” under this chapter may do one of the following:~~

~~——(1)—— Pay the civil penalty, in accordance with the instructions on the notice of liability; or~~

~~——(2)—— Within 15 calendar days provide the Police Department or its designee, information as to the driver and/or responsible party of the motor vehicle at the time of the violation; or~~

~~——(3)—— Contest the notice of liability by filing a written request for review of the notice of liability with payment in the amount equal to the amount of the civil penalty in accordance with the instructions indicated on the notice of liability. An individual desiring a hearing must post payment equal to the amount of the civil penalty before an appeal will be scheduled. A written notice of request for review must be filed within 15 calendar days after receipt of the notification of liability. The failure to give notice of request for review within this time period shall constitute a waiver of the right to contest the notice of liability. A Hearing Officer shall hear reviews. Hearings shall be held within ten business days of the receipt of the request for review; this time may be extended upon a written request for additional time.~~

~~———A.—— The Hearing Officer shall determine whether a preponderance of evidence establishes that a violation of Section 315.03 and/or Section 333.03 occurred and the person requesting a review is liable. A certified copy of the notice of liability alleging the violation of Section 315.03 and/or Section 333.03 occurred, sworn to or affirmed by a duly authorized Police Officer, with the recorded images produced by an automated traffic control signal photographic system shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding alleging a violation of Section 315.03 and/or Section 333.03. Adjudication of liability shall be based on a preponderance of the evidence.~~

~~———B.—— If the Hearing Officer finds a sufficient evidence of a violation, but the owner and/or responsible party is not liable, the Hearing Officer shall, in writing, issue a decision finding the owner or responsible party not liable and submit it to the Police Department or its designee.~~

~~—(b)— If the owner and/or responsible party chooses to contest the notice of liability, the Hearing Officer may consider any of the following as an affirmative defense of a violation upon the defense being established by a preponderance of the evidence by the owner and/or responsible party:~~

~~——(1)—— That the owner and/or responsible party of the motor vehicle passed through the intersection in order to yield the right of way to an emergency vehicle in accordance with Ohio R.C. 4511.45, or to a funeral procession in accordance with Section 331.24 of the Codified Ordinances.~~

~~——(2)—— That the motor vehicle or license plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner~~

~~and/or responsible party at the time of the violation. In order to demonstrate that the motor vehicle or the license plates were stolen before the violation occurred and were not under the control or possession of the owner and/or responsible party at the time of the violation, the owner and/or responsible party must submit proof that a police report about the stolen motor vehicle or license plates was filed prior to the violation or within 48 hours after the violation occurred.~~

~~— (3) — That the motor vehicle was under the custody and/or control of another person at the time of the violation. In order to establish this, the owner and/or responsible person must provide the name and address of the person who had custody and/or control of the motor vehicle at the time of the violation.~~

~~— (4) — That this section is unenforceable because at the time and place of the alleged violation, a relevant, traffic control signal was not operating properly and/or the automated traffic control signal photographic system was not in proper position and the recorded image is not legible enough to determine the information needed.~~

~~— (5) — That the owner and/or responsible party of the vehicle increased speed in order to yield the right of way to an emergency vehicle in accordance with Ohio R.C. Chapter 4511.~~

~~— (6) — That the owner and/or responsible party of the vehicle is directed by a police officer on the scene to exceed the speed limit.~~

~~— (7) — Substantial and convincing evidence other than that adduced pursuant to Section 315.05(b)(2), that the owner and/or responsible party named in the notice of liability was not operating the motor vehicle at the time of the violation. To satisfy the evidentiary burden under this division, the owner and/or responsible party named in the notice of liability shall provide to the Hearing Officer evidence showing the identity of the person who was operating the motor vehicle at the time of the violation, including, but not limited to, the operator's name and current address, and any other evidence the Hearing Officer deems pertinent.~~

~~— (e) — If the Hearing Officer finds that the owner and/or responsible party named in the notice of liability was not operating the motor vehicle at the time of the violation or receives evidence under Section 315.05(b)(4) identifying the person driving the motor vehicle at the time of the violation, the Hearing Officer shall provide to the Police Department or its designee within five calendar days, a copy of any evidence substantiating who was operating the motor vehicle at the time of the violation.~~

~~— (1) — Upon receipt of evidence of the responsible party pursuant to this division or pursuant to Section 315.03(b)(1), the Police Department or its designee may issue a notice of liability, with the name and address of the responsible party and the information required by Section 315.04, to the owner and/or responsible party that the evidence indicates was operating the motor vehicle at the time of the violation.~~

~~— (2) — A notice of liability issued under this Section 315.05(c)(2) shall be sent by the City or its designee by ordinary mail no later than five business days after the receipt of the evidence from the Hearing Officer or the owner.~~

**(a) When a person or entity named in a ticket for a civil violation under Section 315.04 (a) elects to contest the ticket and completes the requirements prescribed in 315.05 (a) (5) in a timely manner, all of the following apply:**

**(1) The hearing officer shall conduct a hearing not sooner than twenty-one but not later than forty-five days after the filing of a written request for the hearing. The hearing officer may extend the time period by which a hearing must be conducted upon a request for additional time by the person or entity who requested the hearing.**

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

**(3) The person who requested the administrative hearing or a representative of the entity that requested the hearing shall appear for the hearing and may present evidence at the hearing.**

**(4) The hearing officer 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.**

**(b) (1) If the hearing officer 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 hearing officer shall issue a written decision imposing liability for the violation upon the individual or entity and submit it to the City or its designee and the person or entity named in the ticket.**

**(2) If the hearing officer 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 hearing officer shall issue a written decision finding that the individual or entity is not liable for the violation and submit it to the City or its designee and the person or entity named in the ticket.**

**(3) If the person who requested the administrative hearing or a representative of the entity that requested the hearing fails to appear at the hearing, the hearing officer shall determine that the person or entity is liable for the violation. In such a case, the hearing officer shall issue a written decision imposing liability for the violation upon the individual or entity and submit it to the local authority or its designee and the person or entity named in the ticket.**

**(4) The hearing officer shall render a decision on the day a hearing takes place.**

**(c) (1) In determining whether the person or entity named in the ticket is liable, the hearing officer may consider any of the following as an affirmative defense to a traffic law violation:**

**(a) That the vehicle passed through the intersection in order to yield the right-of-way to either of the following:**

**(i) A public safety vehicle or coroner's vehicle in accordance with section 4511.45 of the Revised Code or a substantially equivalent municipal ordinance;**

**(ii) A funeral procession in accordance with section 331.24 of the Codified Ordinances**

**(b) That the motor vehicle or license plates of the motor vehicle were stolen prior to the occurrence of the violation and were not under the control or possession of the registered owner at the time of the violation. In order to demonstrate that the motor vehicle or license plates were stolen prior to the occurrence of the violation and 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 traffic law violation or within forty-eight hours after the traffic law violation occurred.**

**(c) At the time and place of the alleged traffic law violation, the traffic control signal was not operating properly or the traffic law photo-monitoring device was not in proper position and the recorded image is not of sufficient legibility to enable an accurate determination of the information necessary to impose liability.**

**(d) That the registered owner or person or entity named in the ticket was not the person operating the motor vehicle at the time of the violation. In order to meet the evidentiary burden imposed under division (C)(1)(d) of this section, the registered owner or person or entity named in the ticket shall provide to the hearing officer the identity of the designated party, that person's name and current address, and any other evidence that the hearing officer determines to be pertinent.**

**(2) A hearing officer also may consider the totality of the circumstances when determining whether to impose liability upon the person or entity named in the ticket.**

**(d) (1) If the hearing officer 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 hearing officer 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.

(3) The City shall ensure that a ticket issued under division (d)(2) of this section conforms with Section 315.04(b). The City or its designee shall send the ticket by ordinary mail not later than twenty-one days after receipt of the evidence from the hearing officer or the registered owner of the identity of the designated party.

(e) If a designated party who is issued a ticket under division (d)(2) of this section or 315.05 (b) contests the ticket by filing a written request for an administrative hearing to review the ticket not later than thirty days after receipt of the ticket, the City shall require the registered owner of the motor vehicle also to attend the hearing. If at the hearing involving the designated party the hearing officer 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 hearing officer then shall issue a written decision imposing liability for the violation on the registered owner and submit it to the City or its designee and to 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 civil violation may assert a testimonial privilege in accordance with division (D) of section 2317.02 of the Revised Code.

(g) A person or entity may appeal a written decision rendered by a hearing officer under this section to Parma Municipal Court.

(h) No decision rendered under this section, and no admission of liability under this section or Section 315.04, is admissible as evidence in any other judicial proceeding in this state.

(i) A certified copy of the ticket alleging a traffic law violation, sworn to or affirmed by a law enforcement officer employed by the City, 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.

#### 315.06 CIVIL PENALTIES.

(a) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, ~~the owner or responsible party~~ **the registered owner or designated party** for the motor vehicle is subject to a civil penalty if the motor vehicle is recorded by an ~~automated traffic control photographic~~ **traffic law photo monitoring** system while being operated in violation of this chapter.

(b) (1) The civil penalty under this chapter shall be in accordance with the following schedule:

A. All traffic violations not listed in subsections (b)(1)B., C. and D. of this section:	\$100.00
B. Up to nine mph over the speed limit:	\$100.00
C. Ten mph or more over the speed limit:	\$200.00
D. Any violation of a School Zone:	\$200.00

E. Late payments. If the amount of the original penalty is not paid within 30 days from the date of mailing of the ticket to the offender, a late payment fee of twenty dollars (\$20.00) shall be added to the original penalty. If the amount of the original penalty and the late payment of twenty dollars (\$20.00) is not paid within 60 days from the date of the initial mailing of the ticket to the offender, an additional late payment fee of forty dollars (\$40.00) shall be imposed, for a total late payment fee of sixty dollars (\$60.00) added to the original penalty.

(2) Persons who choose to pay the civil penalty without appearing before a Hearing Officer may do so in the manner indicated on the ~~notice of liability~~ ticket.

(c) A violation for which a civil penalty is imposed under this chapter is not a moving violation for the purpose of assessing points under Ohio R.C. 4510.03 through 4510.037 for minor misdemeanor moving traffic offenses and may not be recorded on the driving record of the ~~owner and/or responsible party~~ **registered owner or designated party** of the motor vehicle and shall not be reported to the Bureau of Motor Vehicles.

### 315.07 COLLECTION OF CIVIL PENALTY.

If the civil penalty is not paid, the civil penalty imposed under the provisions of this chapter shall be collectable, together with any interest and penalties thereon, in any manner authorized by law including but not limited to civil suit.

Section 2. That Chapter 315 as it has heretofore existed is hereby amended effective immediately.

Section 3. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 4. This Ordinance is declared to be an emergency measure immediately necessary for the public peace, health, and safety of the Municipality and for the further reason that it is necessary to conform with current state law; wherefore, this Ordinance shall be in full force and effect from and immediately after its passage by Council and approval by the Mayor.

PASSED: 3-9-2015

*KJ McCall* President Pro-tem  
PRESIDENT OF COUNCIL

ATTEST: *Florence G. Bolden* 3-9-2015  
CLERK OF COUNCIL APPROVED

FILED WITH  
THE MAYOR: 3-9-2015 *Mary Nello*  
Acting MAYOR