

ORDINANCE 2022 -2

AN ORDINANCE TO AMEND CHAPTER 315 "TRAFFIC LAW PHOTO MONITORING" OF THE
CODIFIED ORDINANCES OF THE CITY OF PARMA HEIGHTS, AND DECLARING AN EMERGENCY,
AS AMENDED.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA HEIGHTS, STATE OF OHIO:

Section 1. Chapter 315 "Traffic Law Photo Monitoring" of the Codified Ordinances of the City of Parma Heights is amended to read as set forth in Exhibit A.

Section 2. Chapter 315 "Traffic Law Photo Monitoring" of the Codified Ordinances of the City of Parma Heights as it heretofore existed is repealed.

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 amend the Chapter 315 of the Codified Ordinances to reflect 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: 3.14.22

Thomas Rounds
PRESIDENT OF COUNCIL
THOMAS ROUNDS

ATTEST: [Signature]
CLERK OF COUNCIL

3.14.22
APPROVED

FILED WITH
THE MAYOR: 3.14.22

[Signature]
MAYOR MARIE GALLO

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315.01 Definitions.

315.02 Applicability.

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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) "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) ~~"Hearing Officer." The Parma Heights Mayor's Court Magistrate or his designee.~~
- (c) "Motor vehicle." The same definition as in Section 301.185.
- (d) "Motor vehicle leasing dealer." Has the same meaning as in Ohio R.C. 4517.01.
- (e) "Motor vehicle renting dealer." Has the same meaning as in Ohio R.C. 4549.65.
- (f) "Recorded images." 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) "Registered owner." Means all of the following:

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- (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.
- (g) "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.
- (h) "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.
- (i) "Traffic law photo monitoring device." Means an electronic system consisting of a photographic, video, or electronic camera and **either 1) a means of sensing the presence of a motor vehicle that automatically produces recorded images or 2) an activated hand held device with a means of producing recorded images.**
- (j) "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 these 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.
(Ord. 2009-26. Passed 11-23-09. Ord. 2012-19. Passed 5-21-12; Ord. 2015-10. Passed 3-9-15.)

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 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 Sections 315.03, 333.03 and/or 333.035.
- (b) The Police Department or its designee shall be responsible for administering the automated traffic control photographic system.

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- (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).
 - (2) Steady yellow indication means the same as defined in Section 313.03(b).
 - (3) Steady red indication means the same as defined in 313.03(c).
- (d) The Police Department shall maintain a list of system locations within the City limits where the automated traffic control photographic systems are installed.
- (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.
- (f) In the case of speeding, the registered owner and/or responsible 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 Sections 333.03, 333.035 of the Codified Ordinances.
- (g) This chapter shall not apply to violations involving motor vehicle or pedestrian collisions.

(Ord. 2009-26. Passed 11-23-09. Ord. 2012-19. Passed 5-21-12; Ord. 2015-10. Passed 3-9-15.)

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 designated party shall be responsible for a violation under this section, except when the registered owner and/or designated party can provide evidence that the motor vehicle was in the care, custody,

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and control of another person at the time of the violation, as described in Section 315.05.

(Ord. 2009-26. Passed 11-23-09. Ord. 2012-19. Passed 5-21-12; Ord. 2015-10. Passed 3-9-15.)

315.04 TICKET.

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

(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~~ **file the ticket with the Parma Municipal Court in compliance with the Court's 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 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;

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(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 30 days after the date of the alleged traffic law violation.

(Ord. 2009-26. Passed 11-23-09. Ord. 2012-19. Passed 5-21-12; Ord. 2015-10. Passed 3-9-15.)

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) Within 30 days after receipt of the ticket, provide the ~~City or its designee~~ **court** with either of the following affidavits:

A. 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;

B. 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.

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- (3) A registered owner is not responsible for a traffic law violation if, within 30 days after the date of mailing of the ticket, the registered owner furnishes an affidavit specified in division (a)(2)A. or B. of this section to the ~~City or its designee~~ **court** in a form established by the ~~City~~ **court** and the following conditions are met:
- A. If the registered owner submits an affidavit as specified in division (a)(2)A. of this section, the designated party either accepts liability for the violation by paying the civil penalty or failing to request an ~~administrative a~~ hearing within 30 days or is determined liable in an ~~administrative a~~ hearing;
 - B. If the registered owner submits an affidavit as specified in division (a)(2)B. 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, notifies the ~~City or its designee~~ **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.
- (5) If the vehicle involved in the traffic law violation is a commercial motor vehicle and the ticket is issued to a corporate entity, provides to the ~~City or its designee~~ **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.
- (6) Contest the ticket by filing a written request for an ~~administrative a~~ 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 30 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~~ If **the Court** receives an affidavit described in division (a)(2)A. or (a)(4) of this section or a notification under division (a)(3) of

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this section from a registered owner, **the Court** may proceed to **notify the City** to send a ticket that conforms with Section 315.04(b) to the designated party. ~~The City or its designee~~ **The City Court** shall send the ticket to the designated party by ordinary mail not later than 21 days after receipt of the affidavit or notification.

(Ord. 2015-10. Passed 3-9-15.)

315.06 ADMINISTRATIVE APPEAL.

(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)~~ (4) ~~The hearing officer~~ **Parma Municipal Court** shall conduct a hearing ~~no not~~ ~~sooner than 21 but not later than~~ **180 45** days after the filing of a written request for the hearing. ~~The hearing officer~~ **Court** 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~~ **any party**.
- (2) ~~The hearing officer~~ **Court** shall ensure that the hearing is open to the public. ~~The hearing officer~~ **Court** shall post a docket in a conspicuous place near the entrance to the hearing room. ~~The hearing officer~~ **Court** shall identify on the docket, by respondent, the hearings scheduled for that day and the time of each hearing. ~~The hearing officer~~ **Court** 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~~ **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.

(b) (1) ~~If the hearing officer~~ **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 hearing officer~~ **Court** 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.

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- (2) If the ~~hearing-officer~~ **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 ~~hearing-officer~~**Court** 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 Court** hearing or a representative of the entity that requested the hearing fails to appear at the hearing, the ~~hearing-officer~~ **Court** shall determine that the person or entity is liable for the violation. In such a case, the ~~hearing-officer~~ **Court** 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~~ **Court** 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~~ **Court** 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:
 1. A public safety vehicle or coroner's vehicle in accordance with Ohio R.C. 4511.45 or a substantially equivalent municipal ordinance;
 2. 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 48 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

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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~~ **Court** the identity of the designated party, that person's name and current address, and any other evidence that the ~~hearing-officer~~ **Court** determines to be pertinent.

- (2) A ~~hearing-officer~~ **Court** 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~~ **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 ~~hearing-officer~~ **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.

- (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~~ **file** the ticket by ~~ordinary mail~~ not later than 21 days after receipt of the evidence from the ~~hearing-officer~~ **Court** 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 30 days after receipt of the ticket, the ~~City-Court~~ 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~~ **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 ~~hearing-officer~~ **Court** 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.

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(f) A person who is named in a ticket for a civil violation may assert a testimonial privilege in accordance with Ohio R.C. 2317.02(D).

~~(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.

(Ord. 2009-26. Passed 11-23-09. Ord. 2012-19. Passed 5-21-12; Ord. 2015-10. Passed 3-9-15.)

315.07 CIVIL PENALTIES.

(a) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the registered owner or designated party for the motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a 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:	\$150.00
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~~ **default** fee of twenty dollars (\$20.00) shall be added to the original penalty. If the amount of the original penalty and the ~~late payment~~ **default fee** 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~~ **default fee** of forty dollars (\$40.00) shall be imposed, for a total ~~late payment~~ **default** fee of sixty dollars (\$60.00) added to the original penalty.

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(2) Persons who choose to pay the civil penalty without appearing before a Hearing Officer ~~the Court~~ may do so in the manner indicated on the 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 registered owner or designated party of the motor vehicle and shall not be reported to the Bureau of Motor Vehicles.

(Ord. 2009-26. Passed 11-23-09; Ord. 2010-2. Passed 2-8-10. Ord. 2012-19. Passed 5-21-12; Ord. 2015-10. Passed 3-9-15.)

315.08 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.

(Ord. 2009-26. Passed 11-23-09. Ord. 2012-19. Passed 5-21-12; Ord. 2015-10. Passed 3-9-15.)

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