

Record of Ordinances

Ordinance No.: 2023-58

Passed: December 18, 2023

AN ORDINANCE ESTABLISHING RULES AND REGULATIONS FOR THE INSTALLATION OF A PHOTO TRAFFIC ENFORCEMENT SYSTEM WITHIN SCHOOL ZONES AND ESTABLISHING PENALTIES.

WHEREAS, The Council of the Village of West Lafayette believes that the health and safety of the citizens of the Village of West Lafayette would best be protected by establishing rules and regulations for photo traffic enforcement systems within school zones within the village.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL of the Village of West Lafayette, Coshocton County, Ohio that:

SECTION 1: DEFINITIONS. To this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Location: means the street, intersection, school zone or other duly dedicated public thoroughfare where a photo traffic enforcement system is in operation.

Photo traffic enforcement system: means any photographic equipment linked to a violation detection system that synchronizes the taking of a photograph, video or digital image with the occurrence of a vehicle operation in excess of the speed permitted by the Ohio Revised Code.

Photographic equipment: include, but is not limited to, devices that combine a camera, and computer, alone or in combination with other devices, to measure the speed of a motor vehicle or other object and to record an image of the motor vehicle, or other objects. The results of photographic, video or digital imaging equipment means the images, and any other data or information produced by the photo traffic enforcement system.

Vehicle owner: means,

- (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.

Violation: means that a vehicle owner or operator shall be liable for the civil penalty imposed under this section if the owner or operator of a motor vehicle is in violation of any provisions of the Ohio Revised Code. Imposition of liability for a violation shall not be deemed a conviction for any purpose and shall not be made part of the operating record of any person on whom the liability is imposed.

SECTION 2: ADOPTION AND ENFORCEMENT.

1. The Village of West Lafayette hereby adopts a photo traffic enforcement system for the purpose of using photographic, video or digital imaging equipment to record visual

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images of vehicles entering a photo traffic enforcement system location in violation of the laws of the State of Ohio and the traffic laws set forth in this Codified Ordinances and using said images as the basis for issuing a notice of liability to the owners of such vehicles within thirty (30) days of the violation.

2. The Chief of Police or his or her designee(s) shall be responsible for implementing the photo traffic enforcement system for violations of the laws of the State of Ohio and the traffic laws set forth in these Codified Ordinances. The Chief of Police or his or her designee is hereby empowered to designate the location to be monitored by the photo traffic enforcement system. The selection of locations where automated cameras are placed and the enforcement of this section shall be made on the basis of sound professional traffic engineering and law enforcement judgments. The Chief of Police or his or her designee is further empowered to issue notices of liability for persons who commit violations at such locations, to select a hearing officer for the purpose of hearing appeals of notices of liability, and to promulgate any rules and regulations deemed to be necessary to carry out the provisions and enforcement of this chapter.
3. The location selected for photo enforcement under this chapter must comply with the Ohio Department of Transportation's Manual of Uniform Traffic Control Devices.

Section 3: NOTICE OF LIABILITY.

1. Prior to the activation of a photo traffic enforcement system at a location, the Chief of Police or his or her designee shall erect a sign in a conspicuous location that provides notice that a photo traffic enforcement system is being used to monitor traffic.
2. For thirty (30) days after the activation of a photo red light traffic enforcement system at a location, a notice of liability will be issued based upon the images produced by the system. Warnings may be issued during this thirty (30) day period.
3. A police officer, special policeman, employed by the Village of West Lafayette Police Department shall examine the image recorded by the photo traffic enforcement system to determine whether a violation as defined in this ordinance has occurred. If the image recorded by the photo traffic enforcement system shows a violation, contains a date and time of the violation, and shows the vehicle's license plate number as well as the state in which the license was issued, the officer may use any lawful means to identify the vehicle's owner.
4. It shall be 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, or as defined in Section 1, was operating the vehicle at the time of the violation as defined in Section 1.
5. Within thirty (30) days of the violation and upon identification of the registered owner of the vehicle, the Chief of Police or his or her designee may issue a notice of liability, charging the owner with a violation. The notice of liability shall be sent by regular U.S. mail and must state the date on which the notice of liability was issued, the date, time and location of the violation, the time in which an answer must be made by the vehicle owner, and the manner in which the notice of liability may be appealed. In addition, a copy of the image(s) that served as a basis for the violation must accompany the notice of liability.

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6. A person who receives a notice of liability pursuant to this section shall be required to respond in one of the following methods:
 - (A) By paying the civil penalty as directed on the notice of liability within thirty (30) days of the date the notice was issued; or
 - (B) By submitting evidence of one of the exceptions to liability listed in Section within thirty (30) days of the notice's issue date; or
 - (C) By submitting to the address listed on the notice of liability, a request for a hearing within thirty (30) days of the notice's issue date.

7. The owner of the vehicle shall not be liable for a civil penalty under this section if the Chief of Police or his or her designee determines that sufficient evidence of either of the following conditions exists:
 - (A) At the time of the violation, the vehicle was in the custody of someone other than its owner pursuant to a written lease or rental agreement and the owner submits, to the address listed on the ticket, a copy of the lease or rental agreement along with the name and address of the lessee or renter.
 - (B) At the time of the violation, the vehicle or the license plate depicted in the image which served as the basis for the notice of liability was stolen and the owner submits, to the address listed on the ticket, a copy of the police report stating the vehicle or license plate had been reported stolen at the time.

8. Nothing in this section shall be construed as altering or limiting the liability of the owner or operator of a motor vehicle for any violation of the Ohio Revised Code, the criminal penalties imposed by those traffic laws, or the ability of a police officer to enforce those traffic laws against any offender observed by the officer violating any of those traffic laws. Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation as defined in section 1.

Section 4: APPEAL OF NOTICE OF LIABILITY.

1. A person who received a notice of liability pursuant to this section may appeal the notice of liability by making a written request for a hearing to the address listed on the notice of liability. Said request shall be accompanied by a monetary deposit in an amount equal to the amount of the civil penalty listed on the notice of liability.
2. Within thirty (30) days of the receipt of the request for a hearing, a hearing officer appointed by the Chief of Police or his or her designee shall hold a hearing. The hearing officer shall determine whether the City has demonstrated by a preponderance of the evidence that a violation occurred and that the person who received the notice of liability is liable for the civil penalty set forth in Section 5 of this chapter.
3. A copy of the notice of liability alleging the violation, along with a copy of the image that served as a basis for the notice of liability, shall be prima facie evidence of the facts

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contained therein, and shall be admissible in a proceeding alleging a violation under this Chapter.

4. In considering whether the person is liable, the hearing officer shall consider any of the following as an affirmative defense of a violation:
 - (A) That the notice of liability was issued and sent more than thirty (30) days after the date of the violation recorded by the photo traffic enforcement system.
 - (B) That the driver of the vehicle passed through the location or had increased speed 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 Ohio R.C. 4511.451.
 - (C) That either the vehicle or the license plate depicted on the image, which served as the basis for the notice of liability, was stolen before the violation occurred and was not in possession of the owner at the time of the violation. To qualify as an affirmative defense under this provision, the owner must submit proof that a police report about the stolen vehicle or license plate was filed prior to or within forty-eight (48) hours after the violation.
 - (D) That this section is unenforceable because the photo traffic enforcement system was not operating properly, or the automated traffic enforcement system was not in a proper position, or that the image that served as the basis for the notice of liability is not legible enough to show the letters and numbers or the State that issued the license plate on the vehicle.
 - (E) That the owner or person named in the notice of liability was not operating the vehicle at the time of the violation. To satisfy the evidentiary burden under this provision, the owner or person named in the notice of liability shall provide the hearing officer with evidence of the identity of the person who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address.
5. The hearing officer shall issue a written decision within ten (10) days of the hearing and serve the person named on the notice of liability and the Chief of Police with a copy of said decision. If the hearing officer concludes that the testimony and/or exhibits presented at the hearing shows by a preponderance of the evidence that someone other than the person named in the notice of liability was operating at the time of the violation, the hearing officer shall forward to the Chief of Police all evidence provided to him at the hearing as to the operator's identity.
6. If the hearing officer determines that the Village has demonstrated by a preponderance of the evidence that the person named in the notice of liability committed the violation, the hearing officer shall enter judgment against the person requiring him or her to pay the appropriate fine and any additional penalties, fees and costs. The monetary deposit submitted by the person named in the notice of liability shall be forfeited and applied toward satisfaction of payment of penalties, fees and costs. The person named in the notice of liability shall be responsible for payment of any balance owed after application of forfeited funds on deposit. Such judgment shall be entered into the records of the West Lafayette Police Department.

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7. If the hearing officer does not determine, by a preponderance of the evidence, that a person committed the violation named in the notice of liability, the hearing officer shall enter judgment against the Village of West Lafayette, shall dismiss the notice of liability against the person and shall enter the judgment and dismissal into the records of the West Lafayette Police Department.
8. Within ten (10) business days of receiving evidence from the vehicle owner indicating that he or she was not operating the vehicle at the time of the violation, the Chief of Police or his or her designee may issue a notice of liability to the person whom the evidence indicates was operating the vehicle at the time of the violation.
9. Any person against whom a judgment or default judgment is entered pursuant to this section may appeal the judgment or default judgment to the Coshocton County Municipal Court by filing notices of appeal to the Chief of Police and the Municipal Court within thirty (30) days of the date of entry of the judgment and by the payment of such reasonable costs as the Court requires.
10. Upon the filing of the appeal, the Court shall schedule a hearing date and notify the parties of the date, time, and place of the hearing.
11. The hearing shall be held by the Court in accordance with local court rules.
12. Service of a notice of appeal under this division does not stay enforcement and collection of the judgment or default judgment from which appeal is taken by the person unless the person who files the appeal posts bond with the court in the amount of the judgment, plus costs, at or before the service of the notice of appeal.
13. Notwithstanding any other provision of law, the judgment on appeal by the Municipal Court is final, and no other appeal may be taken.

SECTION 5; CIVIL PENALTIES.

1. Unless the operator of a vehicle receives a traffic citation from a police officer at the time of the violation, a civil penalty shall be imposed for a violation of this Chapter as follows:
 - (A) Up to thirteen (13) miles per hour over the speed limit: \$100.00;
 - (B) Between fourteen (14) and nineteen (19) miles per hour over the speed limit: \$125.00;
 - (C) In excess of twenty (20) miles per hour over the speed limit: \$150.00;
2. A violation for which a civil penalty is imposed under this section shall not be considered a traffic offense or a moving violation for the purpose of assessing points under Ohio R.C. 4507.021 and shall not be reported to the Bureau of Motor Vehicles of any state.
3. Upon receipt of a notice of liability pursuant to the method described in Section 4, the vehicle owner shall have thirty (30) days to pay the civil penalty without additional monetary civil penalty.

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4. If the vehicle owner does not respond to the notice of liability within this period, the following action shall be taken by the Chief of Police or his or her designee:
 - (A) A notice of default judgment shall be sent by regular U.S. Mail to the recipient of the notice of liability indicating that payment is due within thirty (30) days after receipt of the notice of default judgment.
 - (B) The notice of default judgment shall contain the following information:
 - a. An identification of the violation with which the person was charged and the time and date of the violation, which identification may be a copy of the notice of liability charging the violation that was served upon the person;
 - b. An identification of the amount of the administrative fine, late fees and costs arising out of the violation that is due;
 - c. A warning that the person must answer the notice of liability within thirty (30) days or a default civil judgment in the amount of the fine, penalties and costs due may be entered against the person;
 - d. A description of the allowable answers that may be made and notification that the person will be afforded a hearing before the hearing officer if the vehicle owner denies in his or her answer that he committed the violation;
 - e. An identification of the manners in which and the entity to which an answer may be made;
 - f. A warning that if the person fails to appear at a requested hearing, a default civil judgment in the amount of the fine, penalties and costs due may be entered against the person.
5. If a person who is issued a notice of default judgment fails to timely answer, the failure to answer shall be considered an admission that the person committed the violation and a default judgment, in the amount of the fine, civil penalties and costs due maybe entered against the person by the hearing officer. Failure to timely answer the notice of liability identified in the notice of default judgment within thirty (30) days shall result in the imposition of an additional late civil penalty fee of twenty dollars (\$20.00). Failure to pay the civil penalty and the twenty dollar (\$20.00) default fee within 60 days from the date of mailing of the notice of liability 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 civil penalty and the forty dollar (\$40.00) default fee within 90 days of mailing of the notice of liability will result in an additional twenty dollar (\$20.00) default fee, bringing the default fee to the total amount of sixty dollars (\$60.00), and the unpaid civil penalty and default fee shall be forwarded for collection.
6. A person who receives a notice of default judgment pursuant to this section may answer the violation with which he is charged that is identified in the notice of default judgment in any of the manners provided in this section for answers to violations charged in a notice of liability. An answer under this section shall be made within thirty (30) days after the

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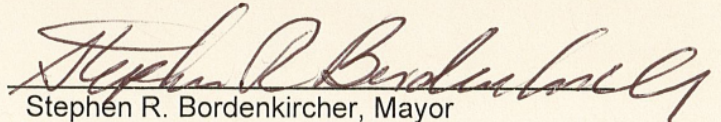
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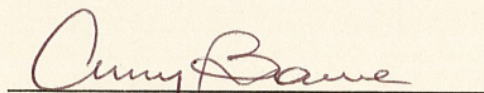
date on which the notice of default judgment was mailed in accordance with the methods provided in this section, except that if the answer consists solely of payment of the civil penalty arising out of the notice of liability any civil penalty arising out of failing to timely answer shall also be imposed.

7. If a person for whom a hearing is to be conducted under this section of this chapter fails to appear at the scheduled hearing and fails to submit evidence, the hearing officer shall, upon a determination from any testimony or exhibits presented at the hearing that the Village demonstrated by a preponderance of the evidence that the person committed the violation, enter a default judgment against the person and require the person to pay the appropriate fine and any additional penalties, fees and costs. A default judgment entered under this division shall be entered in the records and filed with the Clerk of the Coshocton County Municipal Court.
8. The hearing officer may vacate a default judgment entered under this section if all of the following apply:
 - A. The person against whom the default judgment was entered files a motion with the Chief of Police within one (1) year of the date of entry of the default judgment; and
 - B. The motion sets forth a sufficient defense to the violation out of which the judgment arose; and
 - C. The motion sets forth excusable neglect as to the person's failure to attend the hearing or answer the notice of default judgment.
9. Payment of any judgment or default judgment entered against a person pursuant to this section shall be made to the Chief of Police within ten (10) days of the date of entry by the hearing officer. The Chief of Police or his or her designee shall create and maintain a record of all money paid in satisfaction of a judgment or default judgment. If payment is not made within this time period, the judgment or default judgment shall be filed with the Clerk of the Coshocton County Municipal Court and when so filed, shall have the same force and effect as a money judgment in a civil action rendered in that court.
9. All fee money collected for payment of fines, judgment or default judgment in accordance with this Chapter shall be forwarded to the Village of West Lafayette Finance Department and a fund shall be created and monies shall be allocated from said fund to pay for costs and expenses, including personnel, equipment and supplies needed to support the processing of violations issued under this Chapter.

Passed this 18th day of December 2023.


Stephen R. Bordenkircher, Mayor

Attest:


Amy Bourne,
Fiscal Officer/Clerk