

**SAFETY COMMITTEE MEETING
WEDNESDAY, FEBRUARY 20, 2013
6:30 PM**

CHAIRWOMAN JONES HAS CALLED A SAFETY COMMITTEE MEETING FOR **WEDNESDAY, FEBRUARY 20, 2013 AT 6:30 PM** IN THE EUCLID MUNICIPAL CENTER COUNCIL CHAMBER.

AGENDA

Ord. (240-13) An ordinance amending the Traffic Code of the City of Euclid to provide for the implementation of portable, automated traffic photographic systems for the enforcement of traffic code provisions to be used only in school zones during restricted hours. (Sponsored by Mayor Cervenik)

Status of towing contract

Timeline for Jail

Communication Protocol between Safety Forces and Council

Chairperson Jones will share information regarding Safe Routes to School program received from the Ohio Advocacy Organizer.

REGINA CAHILL
CLERK OF COUNCIL

COMMITTEE: CAVINESS, HOLZHEIMER GAIL, LANGMAN, SCARNIENCH, JONES

(240-13)

Ordinance No.

By – Mayor Cervenik

An ordinance amending the Traffic Code of the City of Euclid to provide for the implementation of portable, automated traffic photographic systems for the enforcement of traffic code provisions to be used only in school zones during restricted hours.

WHEREAS, the City has experienced an ongoing problem of motorists disobeying posted speed limits in school zones during restricted hours; and

WHEREAS, the incidence of such violations will be reduced by this program; and

WHEREAS, it is the intention of the Euclid Police Department to use photo enforcement only during existing school zone hours and only on school days when there is a greater likelihood that children will be crossing streets while walking to school.

WHEREAS, the use of stationary or portable, automated traffic enforcement systems will assist the City in accomplishing such a reduction without the disadvantages attendant to conventional traffic enforcement, such as disruptions in the flow of traffic at heavily traveled intersections and expenses associated with increased police manpower.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That Chapter 349 of the Traffic Code of the City of Euclid is hereby amended to read as follows:

349.01 DEFINITIONS

As used in this chapter:

(a) "Automated Traffic Enforcement System" shall mean any electronic system consisting of a photographic, video or electronic camera installed to synchronize the taking of a photograph, video or digital image with the occurrence of a moving infraction in accordance with Chapters 313 and 333. Such systems shall be used only in school zones during restricted school zone hours. (School zones 333.03)

(b) "Electronic System" shall mean a system that may include, but is not limited to, devices that combine a Doppler radar instrument, 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, speed measurement, and any other data or information produced by the automated traffic enforcement system. Such systems shall be used only in school zones during restricted school zone hours

(c) "Hearing Officer" is the independent third party appointed by the Mayor.

(d) "Vehicle owner" is the person or entity identified by the Ohio Bureau of Motor Vehicles, or registered with any other state vehicle registration office, as the registered owner of a vehicle or a lessee of a motor vehicle under a lease of six months or more.

349.02 AUTOMATED TRAFFIC ENFORCEMENT SYSTEM

(a) General

(1) The City of Euclid hereby adopts a civil enforcement system for speeding violations as outlined in this section. The civil enforcement system imposes monetary liability on the owner of a vehicle for failure of an operator to comply with a speed limitation in a school zone during restricted school zone hours.

(2) The Euclid Police Department shall be responsible for implementing the automated traffic enforcement system for speed enforcement. This department is hereby empowered to designate the school zones to be monitored by automated traffic enforcement systems; to install, operate, and maintain

automated traffic enforcement systems at such designated locations; and to take any and all other measures necessary for the implementation of the system. The Police Department shall maintain a list available to the public, of locations so monitored.

(3) The Director of Public Safety shall notify the general public by means of a press release issued at least thirty days before any given automated traffic enforcement system is made fully operationally and is used to issue citations to offenders. Before a given system issues actual citations, there shall be a period of at least two weeks, which may run concurrently with the thirty day public notice period, during which only "warning" notices shall be issued.

(4) At each site of a fixed camera to detect excessive speed, the Director of Public Safety shall cause signs to be posted to notify ordinarily observant motorists that they are approaching an area where an automated camera is monitoring for speed violations. Mobile speed units may be placed in unmarked vehicles.

(b) Notice Requirements. Any citation for an automated traffic enforcement system violation under this section shall:

(1) Be reviewed by a Euclid police officer;

(2) Be forwarded by first-class mail or personal service to the vehicle owner's address, as given on the state's motor vehicle registration; and

(3) Clearly state the date on which the citation was issued; the date, time, and location of the infraction; the time in which a response must be made; and the manner in which the citation may be appealed.

(c) Offense.

(1) The owner of a vehicle shall be liable for a penalty imposed pursuant to this Section if such vehicle is operated at a speed in excess of those set forth in Section 333.03.

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

(3) Notwithstanding subsection (c)(2) of this section, the vehicle owner shall not be liable for a penalty under this section if, within twenty-one days from the date listed on the citation, he furnishes the Hearing Officer:

- A. An affidavit by the vehicle owner, stating the name and address of the person or entity who leased the vehicle in a lease of six months or more at the time of the violation; or
- B. A law enforcement incident report/general offense report from any state or local law enforcement agency/record bureau stating that the vehicle involved was reported as stolen before the time of the violation.

(4) An imposition of liability under this Section shall not be deemed a conviction as an operator and shall not be made part of the operating record upon whom such liability is imposed.

(5) Nothing in subsection (c)(3) of this section shall be construed as limiting the liability of an operator of a vehicle for any violation of the Traffic Code of the Codified Ordinances of the City of Euclid or the traffic laws of the State of Ohio.

(6) Unless the operator received a citation from a police officer at the time of the violation, the owner of the motor vehicle is subject to a civil penalty if the motor vehicle is recorded by an automated traffic enforcement system while being operated in violation of this section.

(d) Administrative Appeal

(1) A person who received a citation pursuant to this section may appeal the citation by making a written request for a hearing to the address listed on the citation. Said appeal must be received no later than twenty-one days from the date listed on the citation.

(2) Within 45 days after receipt of the request for a hearing, a hearing officer appointed by the Safety Director or designee shall hold a hearing. The hearing officer shall determine whether a preponderance of evidence established that a violation occurred and that the person who received the citation is liable for the penalty set forth in subsection (e) of this section.

(3) A certified copy of the citation alleging the violation, along with a copy of the image that served as a basis for the citation, shall be prima facie evidence of the facts 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 may consider any of the following as an affirmative defense of a violation:

A. That the citation was issued and sent by first-class mail more than thirty days after the date of the infraction was recorded by the automated traffic enforcement system.

B. That the driver of the vehicle 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 citation was stolen before the violation occurred and was not in possession of the owner at the time of the violation, if the owner submits proof that a police report about the stolen vehicle or license plate was filed prior to, or within forty-eight hours after the violation.

D. That this section is unenforceable because the automated 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 citation is not legible enough to show the letters and numbers or the state that issued the license plate on the vehicle.

E. Substantial and convincing evidence that the vehicle owner or person named in the citation was not operating the vehicle at the time of the violation. To satisfy the evidentiary burden under this subsection, the vehicle owner or person named in the citation shall provide the hearing officer with substantial and convincing 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 address.

(5) The hearing officer shall notify the Police Chief or the Police Chief's designee, as well as the person named in the citation, of the decision within five days of the hearing. In addition, should the hearing officer conclude that a preponderance of evidence demonstrates that some other than the person named in the citation was operating the vehicle at the time of the violation, the hearing officer shall forward to the Euclid Police Department all evidence provided to him or her as to the operator's identity.

(6) Within ten business days of receiving the evidence referred to in subsection (d)(5) of this section, the Police Department or its designee may issue a citation to the person whom the evidence indicates was operating the vehicle at the time of the violation.

(e) Penalty

(1) Any violation of subsection (c)(1) herein shall be deemed a non-criminal violation for which a civil penalty of \$100.00 shall be assessed and for which no points authorized by Ohio R.C. 4507.021 ("Point system for license suspension") shall be assigned to the owner or driver of the vehicle.

(2) The failure to respond to a citation with twenty-one days from the date listed on the citation shall constitute a waiver of the right to contest liability and be considered an admission.

(3) If the penalties set forth in this subsection remain unpaid for more than sixty days after the date on which the citation was issued, the penalties shall be collected, together with any interest and penalties thereon and costs of collections, by civil suit or other appropriate means of collection.

Section 2: Part Three, Title One of the Codified Ordinances of the City of Euclid shall be amended to provide for the implementation of stationary or portable, automated traffic photographic systems for the enforcement of traffic code provisions to be used only in school zones during restricted hours.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Effective:

Mayor