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ORDINANCE NO. 2021-10
INTRODUCED BY: Mayor Bodnar

**AN EMERGENCY ORDINANCE
ENACTING MAYFIELD VILLAGE CODIFIED ORDINANCE
CHAPTER 317 OFFICER-OPERATED HANDHELD TRAFFIC
LAW ENFORCEMENT DEVICES**

WHEREAS, the Ohio Department of Transportation traffic monitor located just north of Highland Road on I-271 found a 102% increase in vehicles traveling above 85 miles per hour over the past year;

WHEREAS, the Mayfield Village Police Department began traffic enforcement details targeting unsafe drivers, particularly during morning and evening rush hour, on I-271 and have not only observed and ticketed drivers traveling at speeds in excess of 80 MPH, motorists have been failing to slow down or move over when approaching stopped police vehicles;

WHEREAS, in order to enhance officer safety and have a substantial impact on the unsafe motorists traveling on I-271 the Mayfield Village Police Chief has recommended establishing a photo enforcement program to supplement traditional traffic enforcement operations;

WHEREAS, the Mayfield Village Council deems it in the best interest of the Village and its residents to enact Chapter 317 Officer-Operated Handheld Traffic Law Enforcement Devices as set forth below.

NOW, THEREFORE, BE IT ORDAINED by the Council of Mayfield Village, Cuyahoga County, State of Ohio that:

SECTION 1. Chapter 317 Officer-Operated Handheld Traffic Law Enforcement Devices of the Village's Codified Ordinances is enacted to read as fully set forth in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 2. That any sections of the Codified Ordinances in conflict herewith are hereby and herein repealed and amended accordingly. All other provisions of the Village Codified Ordinances not inconsistent herewith shall remain in full force and effect.

SECTION 3. The Clerk of Council is authorized and directed to forward a certified copy of this Ordinance to the Codifier of Mayfield Village.

SECTION 4. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council and that deliberations of this Council and of its committees, resulting in such formal action, took place in meeting open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of health, safety and welfare of the residents of Mayfield Village, Ohio, for the reason that it provides for necessary regulations to ensure that the Village Police Department are properly supported and traffic safety is enforced. It shall, therefore, take effect immediately upon the passage by the affirmative vote of not less than five (5) members elected to Council and approved by the Mayor or otherwise at the earliest time allowed by law.



STEPHEN SCHUTT
Council President

First Reading: September 20, 2021

Second Reading: Suspended, 2021

Third Reading: Suspended, 2021

PASSED: September 20, 2021



BRENDA T. BODNAR, Mayor

APPROVED AS TO FORM:



ANTHONY J. COYNE, ESQ.,
Director of Law

ATTEST: 

MARY E. BETSA, MMC
Clerk of Council

EXHIBIT A

CHAPTER 317

Officer-Operated Handheld Traffic Law Enforcement Devices

- 317.01 Definitions.
- 317.02 General.
- 317.03 Examination of evidence.
- 317.04 Civil offense ticket.
- 317.05 Rights of those ticketed.
- 317.06 Contesting tickets.
- 317.07 Civil penalty.
- 317.08 Collection of civil penalty.
- 317.09 Maintenance; Calibration.

317.01 DEFINITIONS.

- (a) "Registered Owner" means any or all of the following:
 - (1) Any person or entity identified by the Ohio Bureau of Motor Vehicles or any other state motor vehicle registration bureau, department, or office as the owner of a motor vehicle; and/or
 - (2) The lessee of a motor vehicle under a lease of six months or longer; and/or
 - (3) The renter of a motor vehicle pursuant to a written rental agreement with a Motor Vehicle Renting Dealer.
- (b) "Designated Party" means the person a Registered Owner of a motor vehicle identifies as the person who was operating the vehicle of the Registered Owner at the time of the Traffic Law Violation.
- (c) "Prosecuting Attorney" means the person appointed by the Village Mayor to prosecute cases in the Lyndhurst Municipal Court.
- (d) "Law Enforcement Officer" means a police officer who is employed by or is an auxiliary of the Village Police Department.
- (e) "Local Authority" or "Village" means Mayfield Village, Ohio.
- (f) "Motor Vehicle Leasing Dealer" has the same meaning as in Ohio Revised Code Section 4517.01(M).
- (g) "Motor Vehicle Renting Dealer" has the same meaning as in Ohio Revised Code Section 4549.65(A)(2).
- (h) "Recorded Images" means images recorded by a Law Enforcement Officer using an Officer-Operated Handheld Traffic Law Enforcement Device that show, on at least one image or on a portion of the videotape, the letters and numerals on the front or rear license plate of the vehicle.
- (i) "System Location" means the area of roadway toward which an Officer-Operated Handheld Traffic Law Enforcement Device is directed and is being used and 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 Law Enforcement Officer using an Officer-Operated Handheld Traffic Law Enforcement Device, that represents a civil violation.
- (k) "Traffic Law Violation" or "Officer-Enforced Traffic Law Violation" means a civil violation of Ohio Revised Code Section 4511.21 or 4511.211 or Village Codified Ordinance Section 317.04 or any other substantially equivalent municipal ordinance due

to failure to observe the applicable speed limit, issued by a Law Enforcement Officer using an Officer-Operated Handheld Traffic Law Enforcement Device.

- (l) "Officer-Operated Handheld Traffic Law Enforcement Device" means a portable, handheld electronic device that contains laser speed measurement and photographic imaging components that can determine the speed of a moving vehicle only upon manual activation by a Law Enforcement Officer who senses the presence of a motor vehicle and activates the device. Such devices do not have a means of automatically sensing the presence of a motor vehicle that then automatically produces Recorded Images.

317.02 GENERAL.

- (a) Notwithstanding any other provision of the traffic code ordinances of the Village, the Village hereby adopts a civil enforcement program for Officer-Enforced Traffic Law Violations as is outlined in this Chapter. This program imposes monetary liability on the Registered Owner or Designated Party of a vehicle for failure of the operator thereof to strictly comply with the posted speed limit on streets or highways within the Village. The imposition of a liability under this Chapter shall not be deemed a criminal conviction for any purpose and shall not be made part of the operating record of any person upon whom the liability is imposed.
- (b) The Village's Chief of Police shall be responsible for administering the enforcement of violations resulting from the use of an Officer-Operated Handheld Traffic Law Enforcement Device.
- (c) A Traffic Law Violation for which a civil penalty is imposed under this Chapter is not a moving violation and points shall not be assessed against a person's driver's license. In no case shall such a violation be reported to the Bureau of Motor Vehicles or motor vehicle registration bureau, department, or office of any other state, nor shall such a violation be recorded on the driving record of the Registered Owner or Designated Party of a vehicle involved in the violation.
- (d) The Village may utilize an Officer-Operated Handheld Traffic Law Enforcement Device for the purpose of detecting Traffic Law Violations in the Village and in the interest of public health and safety.

317.03 EXAMINATION OF EVIDENCE.

- (a) A Law Enforcement Officer prior to the issuance of any Ticket shall examine all the evidence of the alleged Traffic Law Violation recorded by a Law Enforcement Officer using an Officer-Operated Handheld Traffic Law Enforcement Device to determine whether such a violation has occurred. If the image recorded by a Law Enforcement Officer using an Officer-Operated Handheld Traffic Law Enforcement Device shows such a violation, contains the date and time of the violation, and shows the letter and numerals on the license plate of the vehicle involved, as well as the state that issued the license plate, the Law Enforcement Officer may use any lawful means to identify the Registered Owner.
- (b) The fact that a person or entity is the Registered Owner of a motor vehicle is prima facie evidence that person or entity is the person who was operating the vehicle at the time of the Traffic Law Violation.

- (c) A certified copy of the Ticket alleging a Traffic Law Violation, sworn to or affirmed by a Law Enforcement Officer, including the electronic means, and the Recorded Images produced by an Officer-Operated Handheld Traffic Law Enforcement Device used by a Law Enforcement Officer at the date, time, and location where a violation occurred, is prima facie evidence of the facts contained therein and is admissible in a proceeding for review of the Ticket issued under this Chapter.

317.04 CIVIL OFFENSE TICKET.

- (a) The Registered Owner shall be liable for a civil penalty imposed pursuant to this Chapter if such vehicle is operated at a speed in excess of those set forth in Section 333.03 of the Village's Codified Ordinances or Ohio Revised Code Sections 4511.21 or 4511.211, as each may be amended from time to time.
- (b) A Traffic Law Violation for which a Ticket is issued by the Village pursuant to this Chapter is a civil violation.
- (c) The Village 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 Village or its 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 date, time, and location of the Traffic Law Violation;
 - (5) A copy of the images recorded by the Law Enforcement Officer who used the Officer- Operated Handheld Traffic Law Enforcement Device to record the violation;
 - (6) The name and badge number of the Law Enforcement Officer who operated the Officer- Operated Handheld Traffic Law Enforcement Device to record the violation;
 - (7) 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 and/or other means of payment;
 - (8) A statement signed by a Law Enforcement Officer indicating that, based on an inspection of Recorded Images, the motor vehicle was involved in a Traffic Law Violation, and that the Recorded Images are prima facie evidence of that Traffic Law Violation, the statement may be signed electronically;
 - (9) Information advising of the options prescribed in Section 317.05(a), specifically to include the time, place, and manner to contest a violation and any necessary forms to do so, and the procedure for disclaiming liability by submitting an affidavit as prescribed in this Section 317.05(a)(3); and
 - (10) A warning that failure to exercise one of the options prescribed in Section 317.05(a) is deemed to be an admission of liability and waiver of the opportunity to contest the violation.
- (d) The Village or its designee shall send the Ticket by ordinary mail not later than thirty (30) days after the date of the alleged Traffic Law Violation.

- (e) The Village or its designee may elect to send, by ordinary mail not later than thirty (30) days after the date of the alleged Traffic Law Violation, a warning notice in lieu of a Ticket under this Chapter.

317.05 RIGHTS OF THOSE TICKETED.

- (a) A person or entity who receives a Ticket for a Traffic Law Violation sent in compliance with Section 317.04 shall elect to do one of the following within thirty (30) days of the mailing date of the Ticket:

- (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; or
- (2) Contest liability for the Ticket in accordance with Section 317.06; or
- (3) The Registered Owner may provide the Village Police Department with one of the following affidavits or requisite notification:

(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 shall be held liable for the violation, and containing at a minimum the name and address of the Designated Party; or

(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 Traffic Law Violation or within forty-eight (48) hours after the Traffic Law Violation occurred; or

(C) If the Registered Owner is a corporate entity, 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 Traffic Law Violation and who is the Designated Party; or

(D) If the Registered Owner is a Motor Vehicle Leasing Dealer or a Motor Vehicle Renting Dealer, written notification of the name and address of the lessee or renter of the motor vehicle at the time of the Traffic Law Violation and who is the Designated Party. Neither the Motor Vehicle Leasing Dealer nor the Motor Vehicle Renting Dealer shall pay such a Ticket and subsequently attempt to collect

a fee or assess the lessee or renter for any payment of such a Ticket made on behalf of the lessee or renter.

- (b) When the Village Police Department receives an affidavit described in Section 317.05(a)(3)(A), (B), or (C) of this section or a notification under Section 317.05(a)(3)(D) of this section from a Registered Owner, the Village or its designee may proceed to send a Ticket that conforms with the requirements set forth in Section 317.04 to the Designated Party. The Village or its designee shall send the Ticket to the Designated Party by ordinary mail not later than twenty-one (21) days after receipt of the affidavit or notification.
- (c) A Registered Owner shall not be responsible for a Traffic Law Violation if, within thirty (30) days after the date of mailing of the Ticket, the Registered Owner furnishes either an affidavit or the notification specified in subsection (a)(3) above, to the Village Police Department and one of the following conditions is met:
 - (1) Under Section 317.05(a)(3)(A) or (a)(3)(C), within thirty (30) days after the date of mailing of a Ticket to the Designated Party, the Designated Party either accepts liability for the Traffic Law Violation by paying the civil penalty or fails to contest liability for the Ticket in accordance with Section 317.06;
 - (2) Under Section 317.05(a)(3)(B), the Registered Owner submits an affidavit that is supported by a stolen vehicle or stolen license plate report filed with an appropriate law enforcement agency.
 - (3) Under Section 317.05(a)(3)(D), if it is determined that a valid Motor Vehicle Leasing Dealer or Motor Vehicle Renting Dealer received a Ticket for an alleged Traffic Law Violation detected by a Law Enforcement Officer using an Officer-Operated Handheld Traffic Law Enforcement Device, neither will be held 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.
- (d) Failure to timely elect and perform one of the options set forth in Section 317.05(a) above shall constitute an admission of liability of the Traffic Law Violation and a waiver of the opportunity to contest the Traffic Law Violation.

317.06 CONTESTING TICKETS.

- (a) When a person or entity named in a Ticket for a civil violation elects to contest a Ticket, the person or entity shall request a hearing in the Lyndhurst Municipal Court by completing and filing the form provided under Section 317.04 above, in the time frame required.
- (b) The Lyndhurst Municipal Court shall set the matter for a hearing not sooner than twenty-one (21) days, but not later than forty-five (45), after the filing of the request for hearing. The Prosecuting Attorney shall prosecute the case to a conclusion. The Court may extend

the time period in which a hearing must be conducted upon its own motion, or either a request for additional time or waiver of time limits by the person or entity who requested the hearing. Notice of the hearing shall be provided by the Lyndhurst Municipal Court. The Lyndhurst Municipal Court shall determine whether a preponderance of the evidence establishes that a Traffic Law Violation alleged in the Ticket did in fact occur and that the person or entity requesting the hearing is the person who was operating the vehicle at the time of the Traffic Law Violation.

- (c) If as a result of the adjudication of a Ticket by the Lyndhurst Municipal Court, the Village or its designee becomes aware that the person or entity named in the Ticket was not the person who was operating the vehicle at the time of the violation and the Village or its designee is privy to or receives evidence identifying a Designated Party, upon receipt of the evidence of the identity of the Designated Party, the Village or its designee may issue a Ticket to the Designated Party. The Village shall ensure that a Ticket issued under this section conforms with Section 317.04. The Village or its designee shall send the Ticket by ordinary mail not later than twenty-one (21) days after receipt of the evidence of the identity of the Designated Party.
- (d) If a Designated Party, who is issued a Ticket as a result of subsection (c) above, contests the Ticket by filing a written request for a hearing and does so not later than thirty (30) days after the mailing date of the Ticket, the Village shall require the Registered Owner of the motor vehicle to also attend the hearing. If at the hearing involving the Designated Party the Lyndhurst Municipal Court cannot determine the identity of the operator of the vehicle at the time of the violation, the Registered Owner shall be liable for the violation. The Lyndhurst Municipal Court shall then issue a written decision imposing liability for the violation on the Registered Owner and submit it to the Village 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.
- (e) A person or entity found liable for a Ticket may appeal the decision rendered by the Lyndhurst Municipal Court in accordance with Ohio law.
- (f) No decision rendered under this Section, and no admission of liability under this Chapter is admissible as evidence in any other judicial proceeding in this state, except as is provided in Section 317.08 hereinbelow.

317.07 CIVIL PENALTIES.

- (a) The Registered Owner or Designated Party of the motor vehicle is subject to a civil penalty if the motor vehicle is recorded, by a Law Enforcement Officer using an Officer-Operated Handheld Traffic Law Enforcement Device, being operated in violation of this Chapter.
- (b) The civil penalty under this Chapter shall be the following:

Miles Per Hour Over Speed Limit	Amount of Penalty
1-19	\$150.00

20-29	\$200.00
30 or more	\$300.00

- (d) The amount of the penalty shall be paid within thirty (30) days from the mailing date of the Ticket. If the amount of the penalty is not paid within this time, twenty dollars (\$20.00) shall be imposed as a default fee. Failure to pay the penalty and the twenty-dollar (\$20.00) default fee within sixty (60) days from the date of the mailing of the Ticket will result in the unpaid penalty and default fee being collected by civil suit or other appropriate means of collection per Section 317.08 below.

317.08 COLLECTION OF CIVIL PENALTY.

- (a) In the event that the Registered Owner or Designated Party fails to take any action set forth in Section 317.05(a) or fails to satisfy any liability determined by the Lyndhurst Municipal Court for the penalties established under this Chapter and the time to appeal such decision has passed without the filing of an appeal, the Village may seek to collect the amount due and owing and/or may initiate a civil enforcement action in a court of competent jurisdiction to obtain a judgment for the civil penalty and any late fees, costs and attorney's fees that may be imposed under this Chapter and by the Lyndhurst Municipal Court.
- (b) If a judgment for a civil penalty under this Chapter is not satisfied, the Village may seek payment on the judgment amount, together with any applicable interest and cost thereon, in any manner authorized by law. In addition to any other fees or charges authorized by this Chapter in relation to the commission of a Traffic Law Violation thereof, a person liable for the penalties established under this Chapter may be assessed any costs incurred by the Village and the Lyndhurst Municipal Court in the collection of the debt, including but not limited to attorney's fees.

317.09 MAINTENANCE; CALIBRATION.

- (a) Upon request, each manufacturer of an Officer-Operated Handheld Traffic Law Enforcement Device shall promptly provide to the Village the maintenance records of any such device used in the Village.
- (c) Commencing January 2022, and not later than the last day of January of each year, the manufacturer of any Officer-Operated Handheld Traffic Law Enforcement Device used by the Village shall provide to the Village a certificate of proper operation that attests to the accuracy of the device.
- (c) The Village shall test the accuracy of each such Officer-Operated Handheld Traffic Law Enforcement Device with an independent, certified speed measuring device or some other commonly accepted method prior to its use at each System Location.