



## Legislation Details (With Text)

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**File created:** 11/29/2010      **In control:** Rules & Reference Committee  
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**Title:** To amend various sections of Title 21 of the Columbus City Codes, 2115 entitled "Photo Traffic Enforcement System " in order to: issue mobile speed citations in schools zones and other areas where children congregate; amend the right turn on red citation language; amend the bond requirement for administrative appeals; and amend other miscellaneous revisions.

**Sponsors:** Michael C. Mentel, Andrew Ginther

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
12/16/2010	1	CITY CLERK	Attest	
12/14/2010	1	MAYOR	Signed	
12/13/2010	1	Columbus City Council	Approved	Pass
12/13/2010	1	COUNCIL PRESIDENT	Signed	
12/6/2010	1	Columbus City Council	Read for the First Time	
11/30/2010	1	CITY ATTORNEY	Reviewed and Approved	
11/30/2010	1	Safety Reviewer	Sent to Clerk's Office for Council	
11/29/2010	1	Safety Drafter	Sent for Approval	
11/29/2010	1	SAFETY DIRECTOR	Reviewed and Approved	
11/29/2010	1	Finance Reviewer	Sent for Approval	
11/29/2010	1	Finance Reviewer	Reviewed and Approved	
11/29/2010	1	FINANCE DIRECTOR	Reviewed and Approved	
11/29/2010	1	Safety Reviewer	Reviewed and Approved	
11/29/2010	1	Auditor Reviewer	Reviewed and Approved	
11/29/2010	1	CITY AUDITOR	Reviewed and Approved	
11/29/2010	1	Safety Reviewer	Reviewed and Approved	

**BACKGROUND:** This ordinance amends various sections of Title 21 of the Columbus City Codes, 2115, which deals with Photo Traffic Enforcement System.

The "Focus on Safety" Photo Red Light Program is helping to save lives by reducing deadly right angle crashes at some of the most dangerous intersections. The purpose of this ordinance is to impose a limited expansion of this life saving, safety force multiplier initiative by permitting the issuance of mobile speed citations in schools zones and in other areas where children congregate; amend the right turn on red citation language; amend the bond requirement for administrative appeals; and amend miscellaneous provisions.

**FISCAL IMPACT:**

There are no expenditures from the General Fund due to this ordinance..

To amend various sections of Title 21 of the Columbus City Codes, 2115 entitled "Photo Traffic Enforcement System " in order to: issue mobile speed citations in schools zones and other areas where children congregate; amend the right turn on red citation language; amend the bond requirement for administrative appeals; and amend other miscellaneous revisions.

**WHEREAS**, the photo red camera system saves lives by reducing deadly right-angle crashes due to drivers attempting to "beat the light"; and

**WHEREAS**, the success of the Columbus system is demonstrated by a dramatic decrease in both right angle crashes as well as a reduction in red light violations;and

**WHEREAS**, it is not recommended to retrofit our existing photo red light cameras nor introduce new fixed speed cameras at any of our locations; and

**WHEREAS**, the Columbus system will utilize mobile speed vehicles to patrol areas where children assemble, i.e. schools zones, parks, playgrounds, and pools; and

**WHEREAS**, in addition to authorizing limited speed enforcement the ordinance will also: amend right turn on red provisions; amend the bond requirements for administrative hearings, and amend various miscellaneous provisions; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That various Sections of Title 21 of the Columbus City Codes 2115, entitled "Photo Traffic Enforcement System" be and is hereby amended as follows:

**Chapter 2115 - PHOTO TRAFFIC ENFORCEMENT SYSTEM**

**Sections:**

- 2115.01 - Definitions.
- 2115.02 - Adoption and enforcement.
- 2115.03 - Notice of liability.
- 2115.04 - Appeal of notice of liability.
- 2115.05 - Penalties.

**2115.01 - Definitions.**

As used in this chapter:

- (A) "Photo traffic enforcement system" means any photographic, [video, digital, radar, laser, or lidar](#) equipment linked to a violation detection system that synchronizes the taking of a photograph, video or digital image with the occurrence of a traffic signal [or speeding](#) violation.
- (B) "Photographic equipment" means a system that may include, but is not limited to, devices which link a camera, computer, and traffic signal, alone or in combination with other devices, to detect vehicles which have violated the traffic signal and to record an image of the motor vehicle. "Photographic equipment" may also include, but is not limited to, devices that combine a camera, ~~and~~ computer, [radar, laser, or lidar](#), alone or in combination with other devices, to measure the speed of a motor vehicle or other ~~object~~ [objects](#) 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.
- (C) A "violation" ~~means that~~ [is either of the following](#):

- (1) a vehicle has crossed the stop line in a system location when the traffic control signal for that vehicle's direction of travel

is emitting a steady red light. Even if the motor vehicle stops at a point past the stop line or crosswalk where a driver is required to stop, as specified in Section 4511.13(C) of the Ohio Revised Code or a similar provision of a local ordinance, the City of Columbus will not use photo traffic enforcement to issue violations in instances where the motor vehicle makes a right turn on red that is otherwise permissible, during the cycle of the red signal indication, unless one or more pedestrians are present in, or are about to enter, the crosswalk.

(2) a vehicle has exceeded the maximum speed limit, as specified in Columbus City Code Section 2133.03, in a school zone or adjacent to a park, public swimming pool, commercial swimming pool, or recreation center.

(D) A vehicle's "owner" means the person or entity identified by the Ohio Bureau of Motor Vehicles or registered with any state vehicle registration office as the owner of a vehicle; or lessee of a motor vehicle under a lease of 30 days or more; or the renter of a vehicle during the period of infraction pursuant to a written rental agreement with a motor vehicle renting dealer.

(E) The term "school zone" has the same meaning as set forth in Section 2101.355 of the Columbus City Codes, and includes year-round schools.

(F) The term "year-round school" means a school where students receive the requisite education over an 11-month or 12-month period rather than over a shorter period.

(G) The terms "park" and "parks" have the same meaning as set forth in Section 919.01(F) of the Columbus City Codes, and include playgrounds that are open to the public.

(H) The term "public swimming pool" has the same meaning as set forth in Section 3393.01(d) of the Columbus City Codes.

(I) The term "commercial swimming pool" has the same meaning as set forth in Section 3393.01(f) of the Columbus City Codes.

(J) The term "recreation center" means those buildings and areas surrounding such buildings owned, operated, or maintained by the City of Columbus where recreational activities, day care, healthcare, and other services beneficial to the public are provided.

*(Ord. 958-05 § 1 (part).)*

#### **2115.02 - Adoption and enforcement.**

(A) The City of Columbus hereby adopts a photo traffic enforcement system for the purpose of using photographic, video, or digital imaging equipment to record visual images of vehicles entering intersections or exceeding the maximum speed limit in violation of Section 2115.03 of this chapter, 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.

(B) The director of public safety or his or her designee(s) shall be responsible for implementing the photo traffic enforcement system for traffic signals and speed enforcement. The director or his or her designee is hereby empowered to designate the intersections and other locations to be monitored by the photo traffic enforcement system, to issue notices of liability for persons who commit violations at such intersections or places, 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 for the enforcement of this chapter.

(C) The intersections selected for photo enforcement under this chapter must display a yellow traffic control signal for a time that complies with the Ohio Department of Transportation's Manual of Uniform Traffic Control Devices.

*(Ord. 958-05 § 1 (part).)*

#### **2115.03 - Notice of liability.**

(A) Prior to the activation of a photo traffic enforcement system at an intersection, the director of public safety 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.

(B) For thirty (30) days after the activation of a [traffic signal](#) photo red light traffic enforcement system at an intersection, no notices of liability will be issued based upon the images produced by the system. Warnings may be issued during this thirty (30) -day period.

(C) A police officer employed by the Columbus division of police shall examine the image recorded by the photo traffic enforcement system to determine whether a violation as defined in Section 2115.01(C) of this chapter 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~~ [and](#) the state in which the license was issued, the officer may use any lawful means to identify the vehicle's owner.

(D) The fact that a person is ~~registered as~~ the owner of a vehicle ~~with the vehicle registration office of the state that issued the license plate displayed on the vehicle~~ shall be prima facie evidence that said person was operating the vehicle at the time of a violation recorded by a photo traffic enforcement system.

(E) Within thirty (30) days of the violation and upon identification of the ~~registered~~ owner of the vehicle, the director of public safety 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 ~~vehiele~~ 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.

(F) A person who receives a notice of liability pursuant to this section shall be required to respond in one of the following methods:

(1) By paying the administrative fine as directed on the notice of liability within thirty (30) days of the date the notice was issued; or

(2) By submitting evidence of one of the exceptions to liability listed in division (G) of this section within thirty (30) days of the notice's issue date; or

(3) 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.

(G) The owner of the vehicle shall not be liable for a penalty under this section if the director of public safety [or](#) his or her designee determines that sufficient evidence of ~~either one~~ of the following conditions exist:

(1) 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.

(2) 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.

[\(3\) At the time of the violation, the vehicle was in the custody and control of someone other than its owner, and the owner submits an affidavit identifying under penalty of perjury the name and current address of said person.](#)

(H) ~~Nothing~~[Except as set forth herein, nothing](#) in this chapter shall be construed to limit the liability of an operator of a motor vehicle for any violation of the Ohio Revised Code or the Columbus Traffic Code.

*(Ord. 958-05 § 1 (part).)*

#### **2115.04 - Appeal of notice of liability.**

(A) 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. Prior to the hearing, a bond must be posted in the amount of the fine. The bond shall be payable by either a check or money order. If the former, the check is to be made payable to "Columbus Focus on Safety Program". If the latter, the money order is to be made payable to "cash". Should the owner or designee be found by the hearing officer to be not liable and/or the citation is dismissed by the officer, then the check or bond will be immediately returned after the hearing. ~~Said request shall be accompanied by a monetary deposit in an amount equal to the amount of the administrative fine listed on the notice of liability.~~

(B) Within ~~forty-five (45)~~ thirty (30) days of the receipt of the request for a hearing, a hearing officer appointed by the director of public safety 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 penalty set forth in Section 2115.05 of this chapter.

(C) A certified 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 contained therein, and shall be admissible in a proceeding alleging a violation under this ordinance.

(D) In considering whether the person is liable, the hearing officer shall consider any of the following as an affirmative defense of a violation:

- (1) 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.
- (2) That the driver of the vehicle passed through the intersection or had increased speed in order to yield the right of way to an emergency vehicle, in accordance with R.C. 4511.45 or to a funeral procession, in accordance with R.C. 4511.451.
- (3) 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.
- (4) 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.
- (5) That the driver of the vehicle entered the intersection as part of a funeral procession or at the direction of a police officer.
- (6) 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.

(E) 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 issuing police officer with a copy of said decision. All such decisions shall be entered into the records of the department of public safety.

(F) If the hearing officer determines by a preponderance of the evidence that the city has demonstrated that the person named in the notice of liability committed the violation, the hearing officer's decision shall be against the person and require him or her to pay the appropriate fine and any additional penalties, fees and costs.

(G) If the hearing officer determines by a preponderance of the evidence that a person has not committed the violation named in the notice of liability, the hearing officer's decision shall be against the City of Columbus, and the hearing officer shall dismiss the notice of liability against the person and immediately return the bond.

(H) 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 department of public safety all evidence provided to him at the hearing as to the operator's identity.

~~(F) If the hearing officer determines that the city 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. Such judgment shall be entered into the records of the department of public safety.~~

~~(G) 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 City of Columbus, shall dismiss the notice of liability against the person and shall enter the judgment and dismissal into the records of the department of public safety.~~

~~(H) 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 director of public safety 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.~~

(I) Any person against whom a ~~judgment or default judgment~~[decision](#) is entered pursuant to this section may appeal the ~~judgment or default judgment~~[the decision](#) to the Franklin County Municipal Court by filing notices of appeal to the Columbus Division of Police and the Municipal Court within thirty (30) days of the date of entry of the ~~judgment~~[decision](#) and by the payment of such reasonable costs as the court requires.

(J) 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.

(K) The hearing shall be held by the court in accordance with local court rules [and a decision shall be rendered by the court on the appeal.](#)

(L) 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~~[appropriate fine and any additional penalties, fees and costs](#) unless the person who files the appeal posts bond with the court in the [full](#) amount of the ~~judgment, plus costs, fine, penalties and costs~~ at or before the service of the notice of appeal.

~~(M) Notwithstanding any other provision of law, the judgment on appeal by the municipal court is final, and no other appeal may be taken.~~

*(Ord. 958-05 § 1 (part).)*

## 2115.05 - Penalties.

(A) Unless the operator of a vehicle receives a traffic citation from a police officer at the time of the violation~~;~~:

~~(1) an administrative fine in the amount of ninety-five dollars (\$95.00) shall be assessed against the vehicle owner for the commission of a violation as defined in Section 2115.01(C)(1) of this chapter; :~~

~~(2) an administrative fine in the amount of ninety-five dollars (\$95.00) shall be assessed against the vehicle owner for the commission of a violation as defined in Section 2115.01(C)(2) of this chapter, except that an administrative fine in the amount of one-hundred and forty-six dollars (\$146.00) shall be assessed against the vehicle owner for the commission of a violation as defined in Section 2115.01(C)(2) of this chapter where the vehicle was traveling greater than twenty (20) miles per hour over the maximum speed limit in a school zone.~~

(B) A violation for which an administrative fine is imposed under this section shall not be considered a traffic offense or a moving violation for the purpose of assessing points under Ohio Revised Code 4507.021 and shall not be reported to the Bureau of Motor Vehicles of any state.

(C) Upon receipt of a notice of liability pursuant to the method described in Section 2115.03(E), the vehicle owner shall have thirty (30) days to pay the administrative fine without additional monetary penalty.

(D) If the vehicle owner does not respond to the notice of liability within this period, the following action shall be taken by the director of public safety or his or her designee:

(1) A notice of decision by default judgment shall be sent by regular U.S. mail to the recipient of the notice of liability indicating that an adverse decision has been entered by default and that payment is due within thirty (30) days after receipt of thesaid notice of default judgment.

(2) The notice of decision by 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 decision by default within thirty (30) days or a default civil judgment in the amount collection of the fine, penalties and costs due may be entered begin 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 the decision by default civil judgment in the amount previously entered will be [upheld/maintained] and collection of the fine, penalties and costs due may be entered begin against the person. ; In addition to the original fine, penalties, and costs, any costs incurred after the original decision by default may be added to the amount owed, and become immediately collectable.

(3) If a person who is issued a notice of decision by default judgment fails fails to timely answer, the failure to answer shall be considered an admission that the person committed the violation and a the decision by default judgment previously entered shall stand, in the amount of the fine, penalties and costs previously due may be entered against the person by the hearing officer. Failure to timely answer the notice of liability identified in the notice of decision by default judgment may result in the imposition of an additional penalty of twenty-five dollars (\$25.00). (4) A person who receives a notice of decision by default judgment pursuant to this section may answer the violation with which he is charged that is, identified in the notice of decision by default judgment in any of the manners provided in division (F) of Section 2115.03 for answers to violations charged in a notice of liability. An answer under this section shall be made within thirty (30) days after the date on which the notice of decision by default judgment was mailed in accordance with the methods provided in Section 2115.03 (G), except that if the answer consists solely of payment of the administrative fine arising out of the notice of liability any penalty arising out of failing to timely answer shall also be imposed.

(5) If a person for whom a hearing is to be conducted under Section 2115.04 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 city demonstrated by a preponderance of uphold the evidence that the person committed the violation, enter a default judgment original decision by default against the person and require the person to pay the appropriate fine and any additional penalties, fees and costs. A default judgment entered decision by default upheld under this division shall be reentered in the records of the department of public safety and filed with the clerk of the Franklin County municipal court.

(6) The hearing officer may vacate a decision by default judgment entered under this section if all of the following apply:

(a) The person against whom the decision by default judgment was entered files a motion with the department of public safety within one (1) year of the date of entry of the default judgment decision; and

(b) The motion sets forth a sufficient defense to the violation out of which the judgment decision arose; and

(c) The motion sets forth excusable neglect as to the person's failure to attend the hearing or answer the notice

of [decision by](#) default ~~judgment~~.

(7) Payment of any ~~judgment or fine, penalties, fees and costs pursuant to an upheld decision by~~ default ~~judgment~~ entered against a person pursuant to this section shall be made to the department of public safety within ten (10) days of the date of entry by the hearing officer. The director of public safety or his or her designee shall create and maintain a record of all money paid in satisfaction of a ~~judgment or~~ [decision by](#) default ~~judgment~~. ~~If payment is not made within this time period, the judgment or default judgment shall be filed with the clerk of the Franklin 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. .~~

*(Ord. 958-05 § 1 (part).)*

**SECTION 2.** That prior existing sections inconsistent with the above are hereby repealed.

**SECTION 3.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.