



Village of Peninsula

AGENDA SPECIAL COUNCIL MEETING Thursday March 21, 2024 6:00 p.m. 1582 Main Street Peninsula, Ohio 44264

PURPOSES: To Consider and/or Take Action on the Following Matters:

1. Resolution No. 05-2024
2. Ordinance No. 07-2024
3. Joint Village and Township Valley Fire Dept. Board Rep. Appointment

CALL TO ORDER

ROLL CALL

CITIZEN PARTICIPATION

BUSINESS

LEGISLATION

Second Reading:

Resolution No. 05-2024

Requested by Mayor Schneider and Fiscal Officer Iaconis

A Resolution Establishing the Annual Operating Budget and Setting Forth the Appropriations for 2024

Ordinance No. 07-2024

Requested by Mayor Schneider, Chief Nagy, and Solicitor Bryan

An Emergency Ordinance Amending Codified Ordinance Chapter 319 Entitled Officer-Operated Traffic Law Enforcement Devices

APPOINTMENT

Fire Board, Councilperson Schneider

Joint Village and Township Valley Fire Dept. Board Rep. Appointment

ADJOURNMENT

VILLAGE OF PENINSULA, OHIO
RESOLUTION NO.: 05-2024
INTRODUCED BY: _____
DATE PASSED: _____

**A RESOLUTION ESTABLISHING THE ANNUAL OPERATING BUDGET AND
SETTING FORTH THE APPROPRIATIONS FOR 2024**

WHEREAS, at the direction of the Mayor and Council, Katie Iaconis, the Fiscal Officer, has prepared the attached Annual Operating Budget and Appropriations for 2024; and

WHEREAS, Village Council deems it necessary and proper to exercise its authority over the budget and appropriations by authorizing and certifying the within Annual Operating Budget and Appropriation Resolution for 2024.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Peninsula, Summit County, Ohio, to wit:

SECTION 1. That the attached Annual Operating Budget and Appropriations of the Village of Peninsula, as prepared by Katie Iaconis, Fiscal Officer, for the 2024 calendar year is hereby adopted as the Annual Operating Budget and Appropriations for the Village of Peninsula for the year 2024.

SECTION 2. That the Fiscal Officer is hereby authorized and directed to certify a copy of the within Annual Operating Budget and Appropriation Resolution to the Fiscal Officer of the County of Summit, Ohio as required by law.

SECTION 3. All formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. This Resolution shall take effect and be in force as of the earliest date permitted by law.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 2024.

Passed:

Daniel Schneider, Jr., Mayor

Attest:

Katie Iaconis, Fiscal Officer

RESOLUTION 05-2024
PAGE TWO

Approved as to Legal Form.

Bradric T. Bryan, Solicitor

I, Katie Iaconis, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, do hereby certify that the foregoing Resolution was duly passed by the Council of the Village of Peninsula, at a meeting held on the _____ day of _____, 2024.

Katie Iaconis, Fiscal Officer

Posting Certificate

I, Katie Iaconis, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, hereby certify that there is no newspaper published in the Municipality, and publication of the foregoing Resolution was made by posting true and accurate copies thereof at five of the most public places in the Village as previously determined by Council, each for a period of at least fifteen days, commencing on the _____ day of _____, 2024, as follows:

1. Terry Lumber & Supply;
2. Valley Fire District;
3. Peninsula Library & Historical Society;
4. Peninsula Village Hall Lobby; and
5. Peninsula Post Office.

Katie Iaconis, Fiscal Officer

1000 GENERAL FUND

POLICE DEPT.	
PERSONAL SERVICES	\$ 471,634.00
OTHER EXPENDITURES	\$ 141,000.00
MAINT. DEPT.	
PERSONAL SERVICES	\$ 16,141.00
OTHER EXPENDITURES	\$ 44,600.00
MAYOR/ADMINISTRATIVE DEPT.	
PERSONAL SERVICES	\$ 69,940.00
OTHER EXPENDITURES	\$ 7,000.00
LEGISLATIVE DEPT.	
PERSONAL SERVICES	\$ 65,611.00
OTHER EXPENDITURES	\$ 64,000.00
FINANCE DEPT.	
PERSONAL SERVICES	\$ 47,407.00
OTHER EXPENDITURES	\$ 9,350.00
LAND/BUILDINGS DEPT.	
PERSONAL SERVICES	\$ 3,500.00
OTHER EXPENDITURES	\$ 22,000.00
GENERAL GOVERNMENT OPERATIONS	
OTHER EXPENDITURES	\$ 98,055.00
TOTAL GENERAL FUND EXPENDITURES:	\$ 1,060,238.00

2011 SCMR FUND

MAINT. DEPT.	
PERSONAL SERVICES	\$ 91,587.00
OTHER EXPENDITURES	\$ 9,000.00
TOTAL SCMR FUND EXPENDITURES:	\$ 100,587.00

2901 ROAD LEVY FUND

MAINT. DEPT.	
PERSONAL SERVICE	\$ -
OTHER EXPENDITURES	\$ 301,000.00
TOTAL ROAD LEVY FUND EXPENDITURES:	\$ 301,000.00

2902 POLICE LEVY FUND

POLICE DEPT.	
PERSONAL SERVICE	\$ 151,640.00
OTHER EXPENDITURES	\$ 800.00
TOTAL POLICE LEVY EXPENDITURES:	\$ 152,440.00

4902 CVNP CAPITAL GRANT FUND

LEGISLATIVE DEPT.

OTHER EXPENDITURES

\$ 100,000.00

TOTAL CVNP CAPITAL GRANT FUND EXPENDITURES:

\$ 100,000.00

TOTAL ALL FUNDS EXPENDITURES:

\$ 1,714,265.00

VILLAGE OF PENINSULA, OHIO
ORDINANCE NO.: 07-2024
INTRODUCED BY: _____
DATE PASSED: _____

**AN EMERGENCY ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 319
ENTITLED OFFICER-OPERATED TRAFFIC LAW ENFORCEMENT DEVICES**

WHEREAS, on September 13, 2022, Village Council adopted Codified Ordinance Chapter 319 entitled Officer-Operated Traffic Law Enforcement Devices and amended that Ordinance on April 11, 2023; and

WHEREAS, due to changes requested by the Stow Municipal Court for citations issued pursuant to the Ordinance and the citation appeal process and the Village's experience with the program, the Village Solicitor and Village photo traffic enforcement program consultant have recommended certain amendments to Chapter 319; and

WHEREAS, Council desires to adopt those amendments.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Peninsula, Summit County Ohio, to wit:

SECTION 1. The Village Council hereby amends Codified Ordinance Chapter 319 as indicated in the attachment hereto that is incorporated herein by reference.

SECTION 2. The Mayor shall continue to have full authority, consistent with this Chapter, to execute and deliver the requisite service agreements necessary for the efficient operation of the automated speed enforcement program as long as such changes approved by the Mayor are neither inconsistent with this Chapter nor materially detrimental to the Village.

SECTION 3. If any section, subsection, paragraph, clause, provision, or part of this Ordinance, or the proposed Codified Ordinance contained herein, shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Ordinance and/or Codified Ordinance shall be unaffected by such adjudication and all the remaining provisions of this Ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause, provision, or part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 4. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in conformance with applicable open meetings laws and all deliberations of this Council that resulted in those formal actions were in compliance with all legal requirements, including any applicable open meetings requirements.

SECTION 5. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the residents of the Village of Peninsula for the reason that Council desires to amend this Ordinance as set forth herein and recommence issuing citations under the within photo traffic enforcement program as soon as possible in order to reduce the extent of excessive speeding by motorists forthwith. Therefore, this Ordinance shall take immediate effect upon its passage.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 2024.

Passed:

Daniel Schneider, Jr., Mayor

Attest:

Katie Iaconis, Fiscal Officer

Approved as to Legal Form.

Bradric T. Bryan, Solicitor

I, Katie Iaconis, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, do hereby certify that the foregoing Ordinance was duly passed by the Council of the Village of Peninsula, at a meeting held on the _____ day of _____, 2024.

Katie Iaconis, Fiscal Officer

Posting Certificate

I, Katie Iaconis, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, hereby certify that there is no newspaper published in the Municipality, and publication of the foregoing Ordinance was made by posting true and accurate copies thereof at five of the most public places in the Village as previously determined by Council, each for a period of at least fifteen days, commencing on the _____ day of _____, 2024, as follows:

1. Terry Lumber & Supply;
2. Valley Fire District;
3. Peninsula Library & Historical Society;
4. Peninsula Village Hall Lobby; and
5. Peninsula Post Office.

Katie Iaconis, Fiscal Officer

CHAPTER 319
Officer-Operated Traffic Law Enforcement Devices

VERSION 2

- 319.01 Definitions.
- 319.02 General.
- 319.03 Civil Offense
- 319.04 Notice of Violation Liability.
- 319.05 Rights of those ticketed.
- 319.06 Civil penalties.
- 319.07 Contesting tickets.
- 319.08 Calibration.
- 319.09 Collection of civil penalty.

319.01 DEFINITIONS.

(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 law enforcement officer using an Officer-Operated Traffic Law Enforcement Device that indicates a traffic law violation occurred, identifies as the person who was operating the vehicle of the registered owner at the time of the violation.

(b) "Prosecuting Attorney" means the person appointed by the Village to litigate cases in the Stow Municipal Court.

(c) "Law Enforcement Officer" means a sheriff, marshal, deputy marshal, police officer of a police department of any municipal corporation, police constable of any township, or police officer of a township or joint police district, who is employed or an auxiliary of the Village of Peninsula Police Department.

(d) "Local Authority" means the Village of Peninsula.

(e) "Motor Vehicle Leasing Dealer" has the same meaning as in Ohio Revised Code Section 4517.01.

(f) "Motor Vehicle Renting Dealer" has the same meaning as in Ohio Revised Code Section 4549.65.

(g) "Recorded Images" means any of the following images recorded by a law enforcement officer using an Officer-Operated 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:

- (1) Two or more photographs, microphotographs, electronic images, or digital images;
- (2) Videotape.

(h) "Registered Owner" means any or all of the following:

- (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.

- (i) "System Location" means the approach to an intersection or area of roadway toward which an Officer-Operated Traffic Law Enforcement Device is directed and is in operation.
- (j) "Ticket" means any traffic ticket, citation, summons, or other ticket issued in response to an alleged traffic violation detected by a law enforcement officer using an Officer-Operated Traffic Law Enforcement Device that represents a civil violation.
- (k) "Traffic Law Violation" means the operation of a vehicle at a speed in excess of those set forth in Section 333.03 of these Codified Ordinances or Ohio Revised Code Section 4511.21 as each may be amended from time to time.
- (l) "Officer Enforced Traffic Law System Violations" means tickets for civil violations issued by a Village police officer using an Officer-Operated Traffic Law Enforcement Device.
- (m) "Officer-Operated Traffic Law Enforcement Device" means a portable, 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 person who senses the presence of a motor vehicle and activates the device. Such devices do not have a means of sensing the presence of a motor vehicle that automatically produces recorded images.

319.02 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 system violations as outlined in this chapter. This program imposes monetary liability on the owner of a vehicle for failure of an 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 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 Chief of Police shall be responsible for administering the officer-enforced traffic law system.
- (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 owner or operator of the vehicle involved in the violation.
- (d) The Village may utilize an Officer-Operated Traffic Law Enforcement Device for the purpose of detecting traffic law violations. Village Council may adopt such ~~resolutions~~ legislation as may be necessary to enable the Village to utilize Officer-Operated Traffic Law Enforcement Devices.

319.03 CIVIL OFFENSE.

- (a) The vehicle owner 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 of these Codified Ordinances or Ohio Revised Code Section 4511.21 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 Chapter 319 is a civil violation.

319.04 NOTICE OF ~~LIABILITY~~ VIOLATION.

(a) The Village or its designee shall process such a ticket for a civil violation and shall send the ticket by ~~ordinary~~ regular 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 violation;
- (5) A copy of the images recorded by the law enforcement officer who used the Officer-Operated Traffic Law Enforcement Device to record the violation;
- (6) The badge number of the law enforcement officer who used the Officer-Operated 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;
- (8) A statement signed by a law enforcement officer employed by the Village 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;
- (9) Information advising of the options prescribed in Section 319.05, 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 319.05;
- (10) A warning that failure to exercise one of the options prescribed in Section 319.05 is deemed to be an admission of liability and waiver of the opportunity to contest the violation.

(b) The Village or its designee shall send a ticket not later than 30 days after the date of the alleged traffic law violation.

(c) The Village or its designee may elect to send by ordinary mail a warning notice in lieu of a ticket under this section.

319.05 RIGHTS OF THOSE TICKETED.

(a) A person or entity who receives a Ticket for a Traffic Law Violation sent in compliance with this chapter shall elect to do one of the following within thirty (30) days ~~of the mailing date~~ after receipt 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 this ~~Section 319.05~~ Chapter; or
- (3) The Registered Owner may provide the ~~Village Police Department~~ Stow Municipal Court 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~~ Stow Municipal Court receives an affidavit or notification described in this Section 319.05 from a Registered Owner, the Court shall provide the Village or its designee with a time-stamped copy of the affidavit or notification. Thereafter, the Village or its designee may proceed to send a Ticket that conforms with the requirements set forth in Section 319.04 to the Designated Party. The Village or its designee shall send the Ticket to the Designated Party by ~~ordinary~~ regular mail not later than twenty-one (21) days after receipt of the affidavit or notification or notice from the Stow Municipal Court to the Village or its designee that the affidavit or notification was received by the Stow Municipal Court.

(c) A Registered Owner shall not be responsible for a Traffic Law Violation if, within thirty (30) days after ~~the date of mailing receipt~~ of the Ticket, the Registered Owner furnishes either an affidavit or the notification specified in subsection (b) above, to the ~~Village Police Department~~ Stow Municipal Court and one of the following conditions is met:

- (1) Under this Section 319.05, within thirty (30) days after ~~the date of mailing receipt~~ 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 319.05;
- (2) Under Section 319.05, 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 319.05, 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

Traffic Law Enforcement Device, ~~neither the dealer~~ will not 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.

319.06 CIVIL PENALTIES.

(a) Unless the driver of a motor vehicle received a citation from a police officer at the time of the violation, or unless an exception or defense to liability set forth in Section 319.05 applies, the owner or responsible party for the motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a law enforcement officer using an Officer-Operated Traffic Law Enforcement Device while being operated in violation of this Chapter.

(b) The civil penalty under this chapter shall be the following:

(1)

Miles Per Hour Over Speed Limit	Amount of Penalty
1-19	\$150.00 <u>\$175.00</u>
20-29	\$200.00
30 or more	\$250.00 <u>\$275.00</u>
within a school zone or within the boundaries of a state or local park or recreation area	
1-19	\$150.00 <u>\$175.00</u>
20-29	\$200.00
30 or more	\$250.00 <u>\$275.00</u>

- ~~(2) If the civil penalty is paid more than thirty (30) calendar days, but within forty-five (45) calendar days after date of issuance of the notice of liability, an additional late fee of twenty five dollars (\$25.00) shall be added to the amount of the civil penalty;~~
- ~~(3) If the civil penalty is paid more than forty five calendar days after date of issuance of the notice of liability, an additional late fee of eighty dollars (\$80.00) shall be added to the amount of the civil penalty;~~
- ~~(4) In addition to any civil penalty and any additional late fee, any and all costs or expenses incurred by the Village in connection with the placement of a traffic law violation ticket or notice of liability issued hereunder with outside counsel for litigation or collection thereof shall be assessed against the person or entity found to be liable hereunder.~~
- ~~(5) In addition to any civil penalty and any additional late fee, any and all costs or expenses incurred by the Village in collecting any amount owed hereunder shall be assessed against the person or entity found to be liable hereunder. Amounts owed hereunder may be referred to a collection agency or other service provider for collection. In the event that the Village makes a referral to any such collection agency or service provider for collection of the civil penalty and any additional amounts owed hereunder, the costs or expenses incurred by the Village in collecting said amounts will be thirty five percent (35%) of the amount due and owing. Said thirty five percent (35%) collection fee shall not preclude any other charge, expense or fee allocable under this chapter to a registered owner of a designated party of a motor vehicle.~~
- (6) (2) The failure to respond to a notice of liability violation in a timely fashion as set forth in this ordinance shall constitute a waiver of the right to contest liability for the violation under Section 319.05 of this Chapter.

- (7 3) Persons who choose to pay the civil penalty without appearing before the Stow Municipal Court as set forth in Codified Ordinance Section 319.07 may do so in the manner indicated on the notice of ~~liability violation~~ violation or as otherwise permitted by the Stow Municipal Court.
- (8 4) 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 Revised Code Section 4507.021 for minor misdemeanor moving traffic offenses and may not be recorded on the driving record of the owner or operator of the motor vehicle and shall not be reported to the Bureau of Motor Vehicles, nor shall a violation be recorded in the driving record of the owner or operator of the vehicle involved in the violation.

319.07 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 Stow Municipal Court by completing and filing the appeal form provided by the Stow Municipal Court, within the time frame required.

(b) The Stow Municipal Court shall set the matter for a hearing not sooner than twenty-one (21) days, but not later than forty-five (45) days, after the filing of the request for hearing. The Prosecuting Attorney shall litigate 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 Stow Municipal Court. The Stow 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 whether the person or entity requesting the hearing is the person who was operating the vehicle at the time of the Traffic Law Violation.

(c)

(1) If the Stow Municipal 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 a Designated Party, the Court shall provide to Village or its designee, 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 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 319.04. The Village or its designee shall send the Ticket by ~~ordinary~~ regular mail not later than twenty-one (21) days after receipt of the evidence from the Court of the identity of the Designated Party.

(d) If a Designated Party, who is issued a Ticket under Section 319.04, contests the Ticket by filing a written request for a hearing and does so not later than thirty (30) days after ~~the mailing receipt date~~ the mailing receipt date of the Ticket, the Registered Owner of the motor vehicle shall also attend the hearing. If at the hearing involving the Designated Party the Stow 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 Stow Municipal Court shall then issue a written decision imposing liability for the violation on the Registered Owner and submit it to 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)

(1) The Stow Municipal Court shall determine whether a preponderance of evidence establishes that a Traffic Law Violation occurred and the person requesting the hearing is the party operating the vehicle at the time of the violation.

(i) If the Stow Municipal 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 notice of liability violation is the person who was operating the vehicle at the time of the violation, the hearing officer shall issue a journal entry imposing liability for the violation upon the individual or entity and submit it to the Village of Peninsula or its designee and the person or entity named in the notice of liability violation.

(ii) If the Stow Municipal 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 notice of liability violation is not the person who was operating the vehicle at the time of the violation, the Stow Municipal Court shall issue a journal entry finding that the individual or entity is not liable for the violation and submit it to the Village of Peninsula or its designee and the person or entity named in the notice of liability violation.

(iii) If the person who requested the hearing or a representative of the entity that requested the hearing fails to appear at the hearing, the Stow Municipal Court shall determine that the person or entity is liable for the violation. In such a case, the hearing officer shall issue a journal entry imposing liability for the violation upon the individual or entity and submit it to the Village of Peninsula or its designee and the person or entity named in the notice of liability violation.

(f) If the registered owner or designated party chooses to contest the notice of liability violation, the Stow Municipal Court may consider any of the following as an affirmative defense to a violation upon the defense being established by a preponderance of the evidence by the registered owner or responsible party:

(1) That the motor vehicle or license plates of the motor vehicle were stolen before the violation occurred and were not under control or possession of the registered owner at the time of the traffic law violation. In order to demonstrate that the motor vehicle or license plates were stolen before the traffic law violation occurred and were not under the control or possession of the registered owner at the time of the traffic law violation, the owner must submit proof that a police report about the stolen motor vehicle or license plates was filed prior to the traffic law violation or within 48 hours after the traffic law violation occurred.

(2) That the motor vehicle was under the custody and/or control of another person at the time of the violation. In order to establish this defense, the owner or responsible person must provide the name and address of the person who had custody and/or control of the motor vehicle at the time of the traffic law violation.

(3) That this section is unenforceable because the recorded image is not legible enough to determine the information needed.

(4) Evidence, other than that adduced pursuant to Section 319.07(e)(1), that the registered owner or person named in the notice of liability violation was not operating the motor vehicle at the time of the violation. To satisfy the evidentiary burden under this subsection, the owner or person named in the notice of liability violation shall provide to

the Stow Municipal Court evidence showing the identity of the person who was operating the motor vehicle at the time of the traffic law violation, including, but not limited to, the operator's name and current address, and any other evidence the Stow Municipal Court deems pertinent.

(5) That the motor vehicle operator was yielding the right-of-way to an emergency vehicle in accordance with Ohio law, or to a funeral procession.

~~(6) That the vehicle passed through the intersection in order to yield the right of way to either of the following: (i) a public safety vehicle or coroner's vehicle in accordance with section 4511.45 of the Ohio Revised Code; or (ii) a funeral procession in accordance with Section 4511.451 of the Ohio Revised Code.~~

~~(7) 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 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.~~

(8 ~~6~~) That under consideration of the totality of the circumstances the person or entity named in the notice of liability violation is not liable.

(g) If the Stow Municipal Court finds that the person or entity named in the notice of liability violation was not operating the motor vehicle at the time of the violation or receives evidence ~~under Section 319.07(e) as provided in this Chapter~~ identifying the designated party, the Stow Municipal Court shall provide it to the Village of Peninsula or its designee, along with a copy of any evidence substantiating who was operating the motor vehicle at the time of the traffic law violation.

- (1) Upon receipt of evidence of the responsible party pursuant to this ~~Section or pursuant to Section 319.06(b) Chapter~~, the Village of Peninsula or its designee may issue a notice of liability violation, with the name and address of the designated party and the information required by Section 319.04 of this Chapter, to the person that the evidence indicates was operating the motor vehicle at the time of the violation.
- (2) A notice of liability violation issued under this Section 319.07(g), shall be sent by the Village of Peninsula or its designee by ~~ordinary~~ regular mail no later than twenty-one (21) business days after the receipt of the evidence from the Stow Municipal Court. The content of a notice of liability violation issued under this subsection shall be the same as set forth in division (a) of Section 319.04 of this Chapter.
- (3) If a designated party who was issued a notice of liability violation under Section 319.07(e g) hereof contests the ticket by filing a written request for an ~~appeal~~ hearing not later than thirty days after receipt of the notice of liability violation, the registered owner of the motor vehicle shall also attend the hearing. If at the hearing involving the designated party the hearing officer 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 then may 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.

(h) A person who is named in a notice of liability violation for a civil violation may assert a testimonial privilege in accordance with division (D) of Section 2317.02 of the Ohio Revised Code.

(i) A person or entity found liable for a Ticket may appeal the decision rendered by the Stow Municipal Court in accordance with Ohio law.

(j) 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 319.09 below.

319.08 CALIBRATION.

(a) Upon request, each manufacturer of an Officer-Operated Traffic Law Enforcement Device shall provide to the Village the maintenance record of any such device used in the Village.

(b) The manufacturer of any Officer-Operated 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.

319.09 COLLECTION OF CIVIL PENALTY.

(a) In the event that the Registered Owner or Designated Party fails to take any action set forth in Section 319.05 or fails to satisfy any liability determined by the Stow 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 request and/or receive a judgment from the Stow Municipal Court against the Owner or Designated Party for the amount owed under Section 319.06(b)(1) of this Chapter, plus any applicable post judgment interest 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 may be imposed under this Chapter and by the Stow 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~~ penalties authorized by this Chapter in relation to the commission of a Traffic Law Violation thereof and post-judgment interest warranted pursuant to law, a person liable for the penalties established under this Chapter may be assessed any costs incurred by the Village ~~and the Stow Municipal Court~~ in the collection of the ~~debt~~ judgment, including but not limited to court filing fees and costs in conjunction with any collection proceedings and any collection and attorney's fees incurred by the Village. The amount of any collection or attorney's fees shall not exceed 35 percent of the penalty for which the Owner or Designated Party is liable for the Traffic Law Violation(s) in question pursuant to this Chapter.