§ 238. Notice of violation. 1. The notice of violation shall contain information advising the person charged of the manner and the time in which he may plead either guilty or not guilty to the violation alleged in the notice. Such notice of violation shall also contain a warning to advise the person charged that failure to plead in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon. The form and wording of the notice of violation shall be prescribed by the director. A duplicate of each notice of violation shall be served on the person charged in the manner hereinafter provided. The original or a facsimile thereof shall be filed and retained by the bureau, and shall be deemed a record kept in the ordinary course of business, and shall be prima facie evidence of the facts contained therein.

2. A notice of violation shall be served personally upon the operator of a motor vehicle who is present at the time of service, and his name, together with the plate designation and the plate type as shown by the registration plates of said vehicle and the expiration date; the make or model, and body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect, unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are everyday and/or twenty-four hours a day; the meter number for a meter violation, where appropriate; and the date, time and particular place of occurrence of the charged violation, shall be inserted therein. A mere listing of a meter number in cases of charged meter violations shall not be deemed to constitute a sufficient description of a particular place of occurrence for purposes of this subdivision. The notice of violation shall be served upon the owner of the motor vehicle if the operator is not present, by affixing such notice to said vehicle in a conspicuous place. Whenever such notice is so affixed, in lieu of inserting the name of the person charged with the violation in the space provided for the identification of said person, the words "owner of the vehicle bearing license" may be inserted to be followed by the plate designation and plate type as shown by the registration plates of said vehicle together

with the expiration date; the make or model, and body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are every day and/or twenty-four hours a day; the meter number for a meter violation where appropriate; and the date, time and particular place of occurrence of the charged violation. Service of the notice of violation, or a duplicate thereof by affixation as herein provided shall have the same force and effect and shall be subject to the same penalties for disregard thereof as though the same was personally served with the name of the person charged with the violation inserted therein.

2-a. (a) Notwithstanding any inconsistent provision of subdivision two of this section, where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, the plate type or the expiration date may be omitted from the notice of violation; provided, however, such condition must be so described and inserted on the notice of violation.

(b) If any information which is required to be inserted on a notice of violation is omitted from the notice of violation, misdescribed, or illegible, the violation shall be dismissed upon application of the person charged with the violation.

(c) (i) A determination dismissing a charged parking violation that has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative may be set aside by a hearing examiner as hereinafter provided.

(ii) Notice shall be served on the owner by mail to the last known registered address within two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing

alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative. Such notice shall fix a time when and place where a hearing shall be held before a hearing examiner to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this paragraph and that a default judgment may be entered thereon.

(iii) Upon a finding by a hearing examiner that the dismissal of a charged parking violation has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative, the dismissal shall be set aside and a determination may be rendered against the owner on the charged parking violation. The hearing examiner may impose monetary penalties for the charged parking violation of up to three times the scheduled fine for the violation and three times the additional penalties that may be imposed for failure to respond to a notice of violation pursuant to section two hundred thirty-five of this article. For purposes of determining the amount of such additional penalties, the hearing examiner shall disregard the plea that procured the dismissal that has been set aside and shall calculate such penalties as if there had been no plea or appearance in the proceeding. In any proceeding under this paragraph to set aside a determination and to impose penalties for the violation, it shall not be necessary for the hearing examiner to find that the owner personally committed the unlawful acts that procured the dismissal of the violation.

(iv) Failure to appear at a hearing in response to a notice issued pursuant to this paragraph shall be deemed to be an admission of liability for the charged parking violation as set forth in the original notice of violation and a default judgment may be entered against the owner in the maximum amount set forth in subparagraph (iii) of this paragraph.

(v) Notwithstanding any inconsistent provision of section two hundred forty-one of this article, a default judgment may be entered pursuant to this paragraph more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation, but no more than two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation.

3. For purposes of this section, an operator of a vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive notices of violation, whether personally served on such operator or served by affixation in the manner aforesaid, and service made in either manner as herein provided shall also be deemed to be lawful service upon such owner.