

ORDINANCE 17677-07-2007

AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION OF AN AUTOMATED RED LIGHT ENFORCEMENT PROGRAM IN THE CITY OF FORT WORTH, TEXAS THROUGH THE AMENDMENT OF CHAPTER 22, "MOTOR VEHICLES AND TRAFFIC", OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (1986), AS AMENDED, BY THE ADDITION OF ARTICLE XII, TITLED AUTOMATED RED LIGHT ENFORCEMENT; IMPOSING A CIVIL PENALTY; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PULICATION AND BECOMING EFFECTIVE THE DAY AFTER THE SECOND PUBLICATION DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

1.

That Chapter 22, "**Motor Vehicles and Traffic**", of the Code of the City of Fort Worth, Texas (1986), as amended, is hereby further amended by the addition of Article XII, Automated Red Light Enforcement, so that said article shall be and read as follows:

ARTICLE XII

AUTOMATED RED LIGHT ENFORCEMENT

Section 12.01 - Definitions

In this Article:

"**Approach**" shall mean one direction of travel of up to four contiguous lanes on a road or a traffic Intersection.

"**City**" shall mean the City of Fort Worth, Texas.

"**Contractor**" shall mean the contractor hired by the City to install, operate, enforce and administer the City's Automated Red Light Enforcement Program.

"**Department**" shall mean the City of Fort Worth Department of Transportation and Public Works.

"**Intersection**" shall mean the place or area where two (2) or more streets intersect.

"**Owner**" shall mean the Owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country. The term "Owner" includes (i) a lessee of a motor vehicle under a lease of six (6) months or more or (ii) the lessee of a motor vehicle rented or leased from a motor

vehicle rental or leasing company, but does not include the motor vehicle rental or leasing company itself.

"Photographic Traffic Enforcement System" shall mean a system that: (1) consists of a camera and vehicle sensor installed to exclusively work in conjunction with an electrically operated Traffic Control Signal; and (2) is capable of producing at least two Recorded Images that depict the license plate attached to the front or rear of a motor vehicle that is not operated in compliance with the instructions of the Traffic Control Signal.

"Recorded Image" shall mean an image recorded by a photographic or digital traffic monitoring system that depicts the front or rear of a motor vehicle and is automatically recorded on a photograph or digital image.

"Traffic Control Signal" as defined by Texas Transportation Code, Section 541.304, means a manual, electric, or mechanical device that alternately directs traffic to stop and to proceed.

Section 12.02 - Imposition of Civil Penalty for Creating Dangerous Intersections

- A. A vehicle that proceeds into an Intersection, when the Traffic Control Signal for that vehicle's direction of travel is emitting a steady red signal, damages the public by endangering vehicle operators and pedestrians alike, by decreasing the efficiency of traffic control and traffic flow effort, and by increasing the number of serious accidents to which public safety agencies must respond at the expense of the taxpayers.
- B. The Owner of a motor vehicle is liable to the City for a civil penalty if, while facing only a steady red signal displayed by an electrically operated traffic-control signal operated in the City of Fort Worth, the vehicle is operated in violation of the instructions of that traffic-control signal, as specified by Texas Transportation Code Section 544.007(d).
- C. The civil penalty for which the Owner is liable for each violation is seventy-five dollars (\$75.00).
- D. An Owner who fails to timely pay the civil penalty shall be subject to a late payment penalty of twenty-five dollars (\$25.00).

Section 12.03 - Enforcement; Procedures

- A. The Department is responsible for the enforcement and administration of this Article. Upon authorization of the City Council of the City of Fort Worth, a Contractor will be hired to perform these functions.
- B. Before a civil penalty may be imposed under this Article, the Contractor shall mail a notice of violation to the Owner of the motor vehicle liable for the civil penalty not later than the 30th day after the date the violation is alleged to have occurred to:

1. The Owner's address as shown on the registration records of the Texas Department of Transportation or;
 2. If the vehicle is registered in another state or country, the Owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Transportation.
- C. A notice of violation issued under this Article shall contain the following:
1. A description of the violation alleged;
 2. The location of the Intersection where the violation occurred;
 3. The date and time of the violation;
 4. The name and address of the Owner of the vehicle involved in the violation;
 5. The registration number displayed on the license plate of the vehicle involved in the violation;
 6. A copy of a Recorded Image of the violation limited solely to a depiction of the area of the registration number displayed on the license plate of the vehicle involved in the violation;
 7. The amount of the civil penalty for which the Owner is liable;
 8. The number of days the person has in which to pay or contest the imposition of the civil penalty and a statement that the person incurs a late payment penalty if the civil penalty is not paid or imposition of the penalty is not contested within that period. Said number of days cannot be less than 30 days after the date the notice was mailed;
 9. A statement that the Owner of the vehicle in the notice of violation may elect to pay the civil penalty sent to a specified address instead of appearing at the time and place of the administrative adjudication hearing; and
 10. Information that informs the person named in the notice of violation:
 - a. of the Owner's right to contest the imposition of the civil penalty against the person in an administrative adjudication;
 - b. that imposition of the civil penalty may be contested by submitting a written request for an administrative adjudication hearing before the expiration of the period specified under Subsection 8 of this Section;

- c. that failure to pay the civil penalty or to contest liability for the penalty in a timely manner is an admission of liability and a waiver of the Owner's right to appeal the imposition of the civil penalty;
 - d. that failure to appear at an administrative adjudication hearing after having requested a hearing is an admission of liability and a waiver of the Owner's right to appeal the imposition of the civil penalty;
 - e. that failure to pay the civil penalty within the time allowed shall result in the imposition of a late payment penalty of twenty-five dollars (\$25.00); and
 - f. that if the Owner fails to timely pay the amount of the civil penalty, an arrest warrant may not be issued for the Owner, and the imposition of the civil penalty may not be recorded on the Owner's driving record.
- D. A notice of violation under this Article is presumed to have been received on the fifth day after the date the notice of violation is mailed.
- E. In lieu of issuing a notice of violation, the Contractor may mail a warning notice to the Owner.

Section 12.04 - Admission of Liability

A person who fails to pay the civil penalty or to contest liability for the penalty in a timely manner or who requests an administrative adjudication hearing to contest the imposition of the civil penalty against the person and fails to appear at that hearing is considered to:

- 1. admit liability for the full amount of the civil penalty stated in the notice of violation mailed to the person; and
- 2. waive the person's right to appeal the imposition of the civil penalty.

Section 12.05 - Presumption

- A. It is presumed that the Owner of the motor vehicle committed the violation alleged in the notice of violation mailed to the person if the motor vehicle depicted in a photograph or digital image taken by a Photographic Traffic Enforcement System belongs to the Owner of the motor vehicle.
- B. If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in the Recorded Image was owned by a person in the business of selling, renting, or leasing motor vehicles or by a person who was not the person named in the notice of violation, the presumption under Subsection A is rebutted on the presentation of evidence establishing that the vehicle was at that time:
- 1. being test driven by another person;

2. being rented or leased by the Owner to another person; or
 3. owned by a person who was not the person named in the notice of violation.
- C. Notwithstanding Subsections A and B of this Section 12.05, the presentation of evidence under Subsection B by a person who is in the business of selling, renting, or leasing motor vehicles or did not own the vehicle at the time of the violation must be made by affidavit, through testimony at the administrative adjudication hearing provided for under this Ordinance, or by a written declaration under penalty of perjury. The affidavit or written declaration may be submitted by mail to the address specified on the notice of violation in the same manner prescribed in the written request for administrative hearing procedure.
- D. If the presumption established by Subsection A is rebutted under Subsection B, a civil penalty may not be imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.
- E. If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in the Recorded Image was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the Owner shall provide to the Contractor the name and address of the individual who was renting or leasing the motor vehicle depicted in the Recorded Image and a statement of the period during which that individual was renting or leasing the vehicle. The Owner shall provide the information required by this Subsection not later than the 30th day after the date the notice of violation is received. If the Owner provides the required information, it is presumed that the individual renting or leasing the motor vehicle committed the violation alleged in the notice of violation and the Contractor may send a notice of violation to that individual at the address provided by the Owner.

Section 12.06 - Administrative Adjudication Hearing

- A. A person who receives a notice of violation under this Article may contest the imposition of the civil penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. The request for a hearing must be filed on or before the date specified in the notice of violation, which may not be earlier than the 30th day after the date the notice of violation was mailed.
- B. On receipt of a timely request for an administrative adjudication hearing, the City shall notify the person of the date and time of the hearing. Said hearing must be held within forty-five (45) days after the receipt of a timely filed request.
- C. The City Council of the City of Fort Worth will appoint a hearings officer(s) with authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents. A designated hearings officer shall conduct the administrative adjudication hearing.

- D. In an administrative adjudication hearing, the issue must be proven by a preponderance of the evidence.
- E. The reliability of the Photographic Traffic Enforcement System used to produce the Recorded Image of the motor vehicle involved in the violation may be attested to by affidavit of an officer or employee of the City or of the Contractor who is responsible for inspecting and maintaining the system.
- F. An affidavit of an officer or employee of the City or the Contractor that alleges a violation based on an inspection of the applicable Recorded Image is:
 - 1. admissible in the administrative adjudication hearing and in an appeal under Section 12.08 of this Article; and
 - 2. evidence of the facts contained in the affidavit.
- G. At the conclusion of the administrative adjudication hearing, the hearing officer shall enter a finding of liability for the civil penalty or a finding of no liability for the civil penalty. A finding under this Subsection G must be in writing and be signed and dated by the hearing officer.
- H. A finding of liability for a civil penalty must specify the amount of the civil penalty for which the person is liable. If the hearing officer enters a finding of no liability, a civil penalty for the violation may not be imposed against the person.
- I. A person who is found liable for a civil penalty after an administrative adjudication hearing shall pay the civil penalty within thirty (30) calendar days of the hearing.

Section 12.07 - Untimely Request for Administrative Adjudication Hearing

Notwithstanding any other provision of this Article, a person who receives a notice of violation under this Article and who fails to timely pay the amount of the civil penalty or fails to timely request an administrative adjudication hearing is entitled to an administrative adjudication hearing if:

- 1. the person submits a written request for the hearing to the designated hearing officer, accompanied by an affidavit that attests to the date on which the person received the notice of violation; and
- 2. the written request and affidavit are submitted to the hearing officer within the same number of days after the date the person received the notice of violation as specified under Section 12.03.

Section 12.08 - Appeal

- A. An Owner determined by a hearing officer to be liable for a civil penalty may appeal that determination to a City of Fort Worth Municipal Court Judge by filing an appeal petition with the court's clerk.
- B. The petition must be:
 - 1. filed before the 31st day after the date on which the administrative adjudication hearing officer entered the finding or liability for the civil penalty; and
 - 2. accompanied by payment of the costs required by law for the court.
- C. The court clerk shall schedule a hearing and notify the Owner and the appropriate Department or Contractor of the date, time, and place of the hearing.
- D. An appeal stays enforcement and collection of the civil penalty imposed against the Owner. The Owner shall file a notarized statement of personal financial obligation to perfect the Owner's appeal.
- E. An appeal under this Subsection 12.08 shall be determined by the court by trial de novo.

Section 12.09 - Delinquent Penalty

- A. If an Owner is delinquent in the payment of a civil penalty imposed under this Article, the Contractor will pursue collection of the penalty.
- B. Pursuant to Texas Transportation Code Chapter 707, if an Owner is delinquent in the payment of a civil penalty imposed, the county assessor-collector of the Texas Department of Transportation may refuse to register a motor vehicle alleged to have been involved in the violation.

Section 12.10 - Effect of Liability; Exclusion of Civil Remedy; Suit for Collection

- A. The imposition of a civil penalty under this Article is not a conviction and may not be considered a conviction for any purpose.
- B. The Contractor may not impose a civil penalty under this Article on the Owner of a motor vehicle if the operator of the vehicle was arrested or was issued a citation and notice to appear by a peace officer for a violation of Section 544.007(d) of the Texas Transportation Code recorded by the traffic-control signal monitoring system.
- C. The City Attorney is authorized to file suit to enforce collection of a civil penalty imposed under this Article.

Section 12.11 – Deposit of Revenue; Deductions; Uses

- A. Not later than the 60th day after the end of a fiscal year, after deducting amounts authorized by Subsection B to retain, the City shall:
1. send 50 percent of the revenue derived from civil penalties collected under this Article to the comptroller for deposit to the credit of the regional trauma account established under Section 782.002, Health and Safety Code; and
 2. deposit the remainder of the revenue in a special account in the City's treasury that may be used only to fund traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement.
- B. The City may retain an amount necessary to cover the costs of:
1. purchasing or leasing equipment that is part of or used in connection with the Photographic Traffic Signal Enforcement System;
 2. installing the Photographic Traffic Signal Enforcement System at sites in the City, including the costs of installing cameras, flashes, computer equipment, loop sensors, detectors, utility lines, data lines, poles and mounts, networking equipment, and associated labor costs;
 3. operating the Photographic Traffic Signal Enforcement System in the City, including the costs of creating, distributing, and delivering violation notices, review of violations conducted by employees of the City, the processing of fine payments and collections, and the costs associated with administrative adjudications and appeals; and
 4. maintaining the general upkeep and functioning of the Photographic Traffic Signal Enforcement system.

2.

This Ordinance shall be cumulative of all other provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

3.

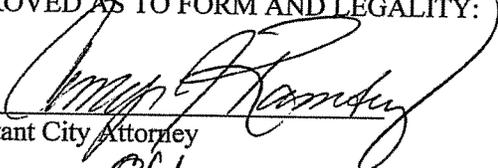
It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this

Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

4.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this Ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code. This Ordinance shall take effect upon adoption and publication as required by law. The effective date of this Ordinance shall be the day after the date of the second publication.

APPROVED AS TO FORM AND LEGALITY:)


Assistant City Attorney

8/1/07
Date:

ADOPTED: July 31, 2007

EFFECTIVE: August 3, 2007

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 7/31/2007 - Ordinance No. 17677-07-2007

DATE: Tuesday, July 31, 2007
LOG NAME: 20REDLIGHTORD

REFERENCE NO.: G-15801

SUBJECT:

Adopt an Ordinance Amending Chapter 22, "Motor Vehicles and Traffic"; by Adding a New Article XII titled "Automated Red Light Enforcement"; Providing for the Implementation of a Red Light Enforcement Program; Imposing a Civil Penalty of \$75 Per Violation and a \$25 Late Payment Penalty; Providing that the Ordinance is Cumulative; Providing for Severability; Providing for Publication and Becoming Effective the Day after the Second Publication Date

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending Chapter 22, "Motor Vehicles and Traffic"; by adding a new Article XII titled "Automated Red Light Enforcement"; providing for the implementation of a Red Light Enforcement Program; imposing a civil penalty of \$75 per violation and a \$25 late payment penalty; providing that the ordinance is cumulative; providing for severability; providing for publication and becoming effective the day after the second publication date.

DISCUSSION:

Adoption of the ordinance is required before the City of Fort Worth can establish and implement an automatic red light camera enforcement program in an effort to improve safety at red light controlled intersections. A separate Mayor and Council Communication seeking authorization to contract with a vendor for the provision of turn-key services related to camera installations, operation, maintenance, program enforcement and administration services will be submitted for City Council consideration.

The Transportation and Public Works Department recommends approval of the attached ordinance due to the following safety concerns:

- 15 percent of all accidents in intersections are due to red light running
- 22 percent of all accidents combined in the United States are caused by drivers running red lights
- Texas ranks fourth highest in red light crash fatalities
- Nationally 180,000 injuries and 900 deaths occur each year as a result of red light violations

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by:

Marc A. Ott (8476)

Originating Department Head:

Robert Goode (7804)

Additional Information Contact:

Randy Burkett (8774)
