

## ORDINANCE NO. 07-06

## AN ORDINANCE TO IMPOSE CIVIL PENALTIES FOR AUTOMATED RED LIGHT SYSTEM VIOLATIONS; AND DECLARING AN EMERGENCY.

Requested by: Councilor Brewer  
Sponsored by: Councilors Brewer, Thomas, Jordan and Martin

(Passed on February 8, 2006)

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**WHEREAS**, the Council of the City of East Cleveland finds and declares that motorists driving the streets and avenues of the City often have a dangerous disregard for the posted traffic signals and signs; and

**WHEREAS**, this disregard has caused legislative concern for the health, safety and welfare of our citizens and those who visit and do business in our City; and

**WHEREAS**, an automated red light and speeding enforcement system can assist the City in enforcing the City's traffic ordinances without further taxing the efforts of police officers whose time is in great demand;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of East Cleveland, Ohio, with at least four fifths (4/5) of all members concurring:

**SECTION 1.** Section 313.011, Civil Penalties for Automated Traffic Control Violation Systems:

(a) Automated Traffic Control Violation System – Civil Violation

- (1) Notwithstanding any other provision of this Chapter 313 Traffic Code Devices, and Chapter 333, DUI: Willful Misconduct; Speed, the City of East Cleveland hereby adopts a civil enforcement system for traffic signal, sign and speeding violations as outlined in this section. Said system imposes monetary liability on the owner of a vehicle for failure of the vehicle operator to comply with traffic control indications and speed limits in the City of East Cleveland in accordance with the provisions of this Section. This section shall be enforceable as an alternative to enforcement of criminal sanctions under Chapters 313 and 333 of the Codified Ordinances, and the Ohio Revised Code.
- (2) The Police Department, assisted by the Service Department and the Department of Law, shall be responsible for administering the Automated Traffic Control Violation System. Specifically, the City shall be empowered to install video and electronic traffic control and speeding detection systems within the City. The Police Department shall also maintain a list of system locations where traffic control and

speeding detection systems are installed, and shall make the determination as to which locations will be utilized.

(3) Any Citation for an Automated Traffic Control Violation System violation pursuant to this section, known as a "Notice of Liability" shall:

- i. Be processed by officials or agents of the Police Department;
- ii. Be forwarded by first-class mail or personal service to the vehicle's registered owner's address as given on the state's motor vehicle registration, and
- iii. Clearly state the manner in which the violation may be appealed.

**(b) Definitions**

- (1) "Automated Traffic Control Violation System" is the equivalent of "Traffic control signal monitoring device" or "Traffic control photographic system." Said system/device is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work alone or in conjunction with an official traffic controller and to automatically produce photographs, video or digital images of each vehicle violating a traffic control signal device or speed limit.
- (2) "In operation" means operating in good working condition.
- (3) "System location" is the approach to an intersection or a street toward which a photographic, video or electronic camera is directed and is in operation. It is the location where the automated camera system is installed to monitor offenses under this Section.
- (4) "Vehicle owner" is the person or entity identified by the Ohio Bureau of Motor Vehicles, or registered with any other State vehicle registration office, as the registered owner of a vehicle.

**(c) Offense**

- (1) The owner of a vehicle shall be liable for a civil monetary penalty imposed pursuant to this section if such vehicle crosses a marked stop line or the intersection plane at a system location when the traffic signal that vehicle's direction is emitting a steady red light.
- (2) The owner of a vehicle shall be liable for a civil monetary 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 this City's Codified Ordinances or by the Ohio Revised Code Section 4511.21.
- (3) It is prima facie evidence that the person registered as owner of the vehicle with the Ohio Bureau of Motor Vehicles (or with any other state or country vehicle registration office) was operating the vehicle at the time of the offense set out in subsection (c)(1) above.
- (4) Notwithstanding subsection (c)(3) above, the owner of the vehicle shall not be responsible for the violation if, within twenty-one days from the date listed on the "Notice of Liability," as set forth in subsection (d)(3) below, the owner furnishes the Hearing Officer:

- i. An affidavit stating the name and address of the person or entity who leased, rented, or otherwise had the care, custody and control of the vehicle at the time of the violation; or
  - ii. A law enforcement incident report/general offense report from any state or local law enforcement agency/record bureau stating that the vehicle involved was reported stolen before the time of the violation.
- (5) An imposition of liability under the Section shall not be deemed a conviction as an operator and shall not be made part of the operating record of who such liability is imposed.
  - (6) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subsection (c)(1) or (c)(2) herein.
  - (7) This Section shall not apply to violations involving vehicle collisions.
- (d) Penalty; Administrative Appeal
- (1) Any violation of subsection (c)(1) herein shall be deemed a non-criminal violation for which a civil penalty of \$95.00 shall be assessed and for which no points authorized by Ohio Revised Code section 4507.021 (Point system for license suspension") shall be assigned to the owner or driver of the vehicle.
  - (2) Any violation of subsection (c)(2) herein shall be deemed a non-criminal violation for which a civil penalty of \$95.00 shall be assessed and for which no points authorized by Ohio Revised Code section 4507.021 (Point system for license suspension") shall be assigned to the owner or driver of the vehicle.
  - (3) The City may establish procedures for the collection of the civil penalties imposed herein, and may enforce the penalties by a civil action in the nature of a debt.
  - (4) A notice of appeal shall be filed with the Hearing Officer within twenty one (21) days from the date listed on the "Notice of Liability." The failure to give notice of appeal or pay the civil penalty within this time period shall constitute a waiver of the right to contest the citation and will be considered an admission. Appeals shall be heard through an administrative process established by the City. A decision in favor of the City may be enforced by means of a civil action or any other means provided by the Ohio Revised Code.

**SECTION 2.** It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of the Council were in meetings open to the public in compliance with all legal requirements.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of four-fifths (4/5) of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by

the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

February 8, 2006

  
PRESIDENT OF COUNCIL

ATTEST:

  
CLERK OF COUNCIL

APPROVED:

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

VETO: YES \_\_\_\_\_ NO \_\_\_\_\_

  
DIRECTOR OF LAW

Councilor Joy A. Jordan  
Councilor Nathaniel Martin  
Councilor Barbara J. Thomas  
Councilor Mildred Brewer  
Councilor Gary Norton, Jr.

YEA	NAY
X	_____
X	_____
X	_____
X	_____
X	_____

## ORDINANCE NO. 08-06

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT WITH NESTOR TRAFFIC SYSTEMS TO INSTITUTE A VIDEO TRAFFIC ENFORCEMENT PROGRAM FOR THE CITY OF EAST CLEVELAND; AND DECLARING AN EMERGENCY.

Requested By: Councilor Brewer

Sponsored By: Councilor Brewer

Cosponsored By: Councilors Thomas, Jordan and Martin

Passed May 16, 2006

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WHEREAS, the City has requested proposals for a video traffic enforcement system which is necessary to preserve the public health, safety, welfare and property; and

WHEREAS, the solicitation of bids for the services required resulted in Nestor Traffic Systems submitting the best bid for the services solicited,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of East Cleveland, Ohio, four-fifths (4/5) concurring:

**SECTION 1.** That the Mayor is hereby authorized to enter into a contract with Nestor Traffic Systems in which in the first year of the service the City will retain 100% of all monies collected on red light traffic citations generated as a result of the video traffic enforcement system, 60% in the second year and subsequent years if no more than 180 citations are issued, and 70% if over 180 citations are issued. For the fixed speed enforcement the City will retain 60% of the monies collected from citations issued when 180 or less citations are issued per year and 70% when over 180 citations are issued.


**SECTION 2.** It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of East Cleveland; such emergency being the financial necessity to commence the action authorized herein as soon as possible, it is necessary that the within Ordinance become effective at the earliest time permitted by law. Whereupon, this Ordinance shall become effective immediately upon its passage, provided it receives the affirmative vote of four or more of the members of this Council.

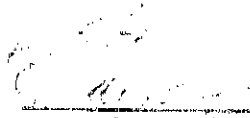
PASSED: May 16, 2006

  
PRESIDENT OF COUNCIL

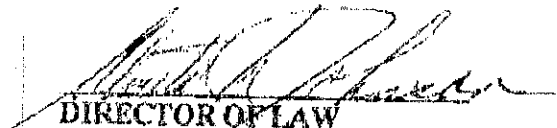
ATTEST:

*Account*  
  
CLERK OF COUNCIL

APPROVED:

  
MAYOR

APPROVED AS TO FORM:

  
DIRECTOR OF LAW

VETO: YES \_\_\_ NO X

- Councilor Joy A. Jordan
- Councilor Nathaniel Martin
- Councilor Barbara J. Thomas
- Councilor Mildred Brewer
- Councilor Gary Norton, Jr.

YEA	NAY
<u>X</u>	_____
<u>X</u>	_____
<u>X</u>	_____
<u>X</u>	_____
<u>X</u>	_____