

AN ORDINANCE AMENDING ARTICLE IV ENTITLED “AUTOMATED TRAFFIC ENFORCEMENT SYSTEM” OF CHAPTER 3 ENTITLED “CODE HEARING UNIT ADJUDICATION” OF THE CITY CODE OF THE CITY OF ROLLING MEADOWS, COOK COUNTY, ILLINOIS

WHEREAS, the corporate authorities of the City of Rolling Meadows (hereinafter, the “City”), pursuant to Public Act 94-795, as amended by Public Act 96-1016 and codified as 625 ILCS 5/11-208.6, is expressly empowered to implement an automated traffic enforcement system to monitor motorist compliance with traffic control signals; and

WHEREAS, the City, pursuant to Section 11-208.6 of the Illinois Vehicle Code (625 ILCS 5/11-208.6), is authorized to adopt an ordinance providing for an automated traffic law enforcement system to enforce State and local traffic control signal laws and regulations through the use of electronic monitoring devices and, the City is further authorized, pursuant to 625 ILCS 5/208(f), to impose liability on registered vehicle owners of such vehicles violating such State laws and local provisions; and

WHEREAS, the City has previously adopted a system of administrative adjudication to adjudicate violations of regulations related to the standing, parking, equipment and condition of motor vehicles, use and display of municipal wheel tax licenses, and automated traffic law enforcement; and

WHEREAS, the corporate authorities of the City of Rolling Meadows have determined that it is necessary, proper and in the best interest of the City to amend Article IV entitled “Automated Traffic Law Enforcement System” of Chapter 3 entitled “Code Hearing Unit Adjudication” of the City Code of Ordinances in the manner hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Rolling Meadows, Cook County, Illinois, that Article IV entitled “Automated Traffic Law Enforcement System” of Chapter 3 entitled “Code Hearing Unit Adjudication” of the City Code of Ordinances, as amended, is hereby further amended to read as follows.

SECTION 1. Article IV. “Automated Traffic Law Enforcement System.”

Section 3-67 Adopted.

There is hereby adopted an Automated Traffic Law Enforcement System of the City of Rolling Meadows, Cook County, Illinois.

Section 3-68. Detection of Certain Violations/Definitions.

As used in this Section, “automated traffic law enforcement system” means a device(s) located within the City of Rolling Meadows with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of a motor vehicle entering an intersection against a steady red or flashing red signal or failing to come to a complete stop prior to turning right or turning left from a one-way street to a one-way street on a steady or flashing red signal indicating a violation of Section 11-306 of the Illinois Vehicle Code (625 ILCS 5/11-306), or similar provision of Section 106-625 of the City Code of Ordinances of the City of Rolling Meadows. The automated traffic law enforcement system shall not be used to enforce speed limit regulations. The system is designed to obtain a clear recorded image of a violating motor vehicle and its license plate.

As used in this Section, "recorded images" means images recorded by an automated traffic law enforcement system, on either two (2) or more photographs, two (2) or more micrographs, two (2) or more electronic images or a video recording showing the motor vehicle,

capturing and displaying images of the vehicle violating traffic-control signals. The recorded image shall also display the time, date and location of the violation.

As used in this Section “City” shall mean the City of Rolling Meadows, Cook County, Illinois.

As used in this Section “City Code” shall mean the City of Rolling Meadows Code of Ordinances.

As used in this Section “Vehicle Code” shall mean the Illinois Vehicle Code (625 ILCS 5/1-101 et seq.).

Disregarding a traffic control device means failure to stop and remain stopped before an intersection that is controlled by a red signal as provided by Section 11-306 of the Vehicle Code.

Violation means a motor vehicle entering an intersection against a steady red or flashing signal or failing to come to a complete stop prior to turning right on a steady red or flashing signal or failing to come to a complete stop prior to turning left from a one-way street to a one-way street on a steady or a flashing red signal in violation of Section 11-306 of the Vehicle Code or Section 106-625 of the City Code. The foregoing definition notwithstanding, it shall not be considered a violation of the automated traffic law enforcement system in those instances where a motor vehicle comes to a complete stop, as defined by Section 199 of the Vehicle Code, and prior to entering an intersection, as defined as Section 1-132 of the Vehicle Code during the cycle of the red signal indication, even if the motor vehicle stops at a point passed the stop line or crosswalk where a driver is required to stop, as specified in subsection (c) of Section 11-306 of the Vehicle Code or Section 106-625 of the City Code, unless one or more pedestrians or bicyclists are present.

Section 3-69 *Signage/Website Posting.*

(a) Any intersection equipped with an automated traffic law enforcement system shall have a sign posted which is clearly visible to approaching traffic indicating that the intersection is being monitored by an automated traffic law enforcement system.

(b) The location of all intersections equipped with an automated traffic enforcement system shall be posted on the official City website.

Section 3-70 *Violations, Review, Notice, Service.*

When the automated traffic law enforcement system records a motor vehicle entering an intersection in spite of a steady red or flashing red signal indication, in violation of Section 11-306 of the Illinois Vehicle Code, or similar provision of Section 106-625 of the City Code, the duly appointed City of Rolling Meadows official ("City Official") shall, for each alleged violation recorded, issue or direct to be issued a written notice of the violation to the registered owner or lessee of the vehicle as the alleged violator. The notice shall be delivered by first class mail, postage prepaid, within thirty (30) days after the Illinois Secretary of State notifies the City or its designee of the identity of the registered owner or lessee of the vehicle, but in no event later than ninety (90) days after the violation. Prior to service of a notice of violation, the associated recorded image(s) shall be reviewed by a technician employed or contracted by the City and by a City police officer or retired City police officer, who shall inspect the image and determine whether the motor vehicle violated Section 11-306 of the Vehicle Code and/or similar provisions of Section 106-625 of the City Code, and whether one of the defenses enumerated hereinafter is visibly applicable upon inspection of the recorded image. Upon determination that the recorded image captures a violation of one of the foregoing provisions and that no defense

applies, the notice of violation shall be served upon the registered vehicle owner in the manner herein provided. The Traffic Compliance Administrator or other duly appointed official shall retain a copy of all violation notices, recorded images and other correspondence mailed to the alleged violator. Each notice of violation shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of the above-noted Vehicle Code or City Code provisions and shall establish *prima facie* evidence of a violation, subject to rebuttal on the basis of the defenses established in Section 3-71 herein. Each notice of violation shall include the following:

- a) the name and address of the registered owner or lessee of the vehicle, as indicated by the records of the Secretary of State, or, if such information is outdated or unattainable, then the last known address recorded in a United States Post Office approved database;
- b) the make of the motor vehicle, if discernable, and registration number of the motor vehicle involved in the violation;
- c) the violation charged, with specific reference to the section of the City Code, or Vehicle Code, allegedly violated;
- d) the location where the violation occurred;
- e) the date and time of the violation;
- f) a copy of the recorded images;
- g) the amount of the civil penalty and late fee imposed under Section 3-72 herein and the date by which the civil penalty shall be paid if liability for the violation is not going to be contested and a statement that payment of the fine shall operate as a final disposition of the violation;
- h) a statement that the recorded images constitute *prima facie* evidence of a violation of a red light signal violation;

- i) a warning that failure to either pay the civil penalty or request a hearing to contest liability within twenty-one (21) days of the mailing of the notice of violation is an admission of liability and may result in a suspension of the driving privileges of the registered owner or lessee of the vehicle in addition to other specified penalties for failing to appear at the hearing or pay the fine in advance of the hearing; and
- j) a statement that the registered owner or lessee of the vehicle may elect to proceed either by paying the fine stated in the notice of violation, by challenging the charge in court, at a City Administrative Hearing conducted pursuant to Chapter 3, of the City Code of Ordinances or contesting the violation by mail.

Section 3-71 *Defenses Available to Alleged Violator for Violation of a Red Light Signal.*

The following shall be the only defenses available for an alleged violator contesting liability for a violation of a red light signal, which shall be weighed by the Hearing Officer and shall only rebut the *prima facie* case established by the notice of violation insofar as one or more of the following defenses are established by a preponderance of the evidence:

- a) the motor vehicle and/or registration plates were stolen before the violation occurred and were not under the exclusive control of or in the possession of the owner at the time of the red light signal violation, which defense may be demonstrated through the submission of a certified copy of a report concerning the stolen motor vehicle or registration plates filed with a law enforcement agency prior to the time of the alleged violation;
- b) the driver of the vehicle passed through the intersection or turned right without stopping in spite of a red light either to yield the right-of-way to an emergency vehicle, or as part of a funeral procession; and
- c) the driver of the vehicle passed through the intersection or turned right without stopping in spite of a red light at the direction of a police officer acting within the scope of his/her duties; or
- d) the operator of the vehicle received a Uniform Traffic Citation from a police officer, which citation is determined to be a moving violation reportable to the Illinois Secretary of State.

Section 3-72 *Penalty.*

Unless the driver of the motor vehicle in question received a Uniform Traffic Citation from a police officer at the time of the alleged violation, the motor vehicle owner or lessee shall be liable for a civil penalty not exceeding \$100.00 for a proved violation of this Section, plus an additional penalty of not more \$100.00 for failure to pay the original penalty or contest the violation at an administrative hearing in a timely manner, if the motor vehicle is recorded by an automated traffic law enforcement system. Any penalty imposed for a violation of this Section is a civil penalty and is not a violation of a traffic regulation governing the movement of motor vehicles and, except as otherwise provided in this article, shall not be transmitted to the Illinois Secretary of State to be recorded on the driving record of the vehicle owner.

Section 3-73 *Hearing.*

The owner of a vehicle being operated in violation of Section 11-306 of the Vehicle Code or similar provision of Section 106-625 of the City Code may request a hearing no later than the respond-by date on the Notice of Violation (21 days from the date of issuance of the notice), to challenge the evidence or set forth an applicable allowable defense. The Notice of Violation shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of Section 11-306 of the Vehicle Code or similar provision of Section 106-625 of the City Code. The Notice of Violation shall be *prima facie* evidence of a violation, subject to rebuttal on the basis of the defenses established in Section 3-71. No hearing fees or costs shall be assessed to any person exercising his/her right to appear at a hearing and contest the validity of the violation notice.

The vehicle owner's or lessee's failure to appear at the hearing, or failure to contest the violation by mail in a timely manner, shall result in a finding of liability. A finding of liability entered after a hearing or in the event of a failure to appear, or contest the violation by mail in a timely manner, shall result in the hearing officer issuing a "Findings, Decision and Order" letter which will be sent to the owner or lessee of the vehicle. A failure to pay the fine amount by the date specified in that letter will result in a final determination of liability.

Section 3-74 Notice of Determination of Liability.

If the registered owner or lessee of the vehicle fails to pay the fine or contest the Notice of Violation within twenty-one (21) days of the Notice of Violation, a Notice of Determination of Liability will be sent to the owner indicating that a fine in the amount of \$100.00 is due and owing to the City. The notice will also state that the owner can petition the City to set aside the determination of liability before it becomes final. If the owner does not pay the \$100.00 as specified in the notice, or fails to petition the City to set aside the determination, within twenty-one (21) days, a Notice of Final Determination will be sent to the owner indicating that the owner has exhausted all challenge options and the \$100.00 fine is a debt due and owing to the City and must be paid within twenty-six (26) days from the date of the mailing of the notice. The owner will also be notified that the failure to pay the \$100.00 fine within twenty-six (26) days thereafter will result in a late fee of \$100.00 being added to the original fine.

Section 3-75 Final Determination.

A Final Determination of violation liability shall occur following failure to pay the fine, a failure to request a hearing, whether in person or contest by mail by the respond-by date, after a hearing officer's determination of violation liability, failure to file a petition to set aside

determination of liability in a timely manner and the exhaustion of or failure to exhaust any administrative review procedures that may be provided by the City Code or the Illinois Administrative Review Law. Where a person fails to appear at a hearing, to contest the alleged violation in the time and manner specified in a prior mailed notice, the hearing officer's determination shall become final upon a failure to pay the amount owed on the date provided in the "Findings, Decision and Order" letter. Appeal from a Final Determination of Liability may be made to the Circuit Court of Cook County pursuant to the provisions of the Illinois Administrative Review Law.

Section 3-76 Notice of Final Determination.

A Notice of Final Determination shall be sent following the final determination of liability and after the conclusion of the period for judicial review. The Notice of Final Determination shall include the following information:

- a) a statement that the unpaid fine is a debt due and owing to the City of Rolling Meadows; and
- b) a warning that a failure to pay any fine due and owing to the City of Rolling Meadows within fourteen (14) days may result in a petition to the Circuit Court of Cook County to have the unpaid fine rendered as a judgment or may result in the suspension of a owner or lessee's drivers license for failure to pay fines or penalties due and owing for five (5) or more final determinations of liability under this article.

Section 3-77 Contesting by Mail.

Registered owners or lessees of the cited vehicle may contest the violation using the same available defenses set forth in Section 3-71, but rather than attend the administrative hearing, the owner of the violating vehicle may submit any and all documentary evidence to the City's Traffic Compliance Administrator or other duly appointed official no later than the hearing date,

together with a written statement setting forth with specific reason(s) why they believe that the owner is not liable. The Traffic Compliance Administrator or other duly appointed official shall forward all timely-submitted materials to the Hearing Officer for review and determination.

Section 3-78 Petitions to Set Aside Determination.

A Petition to Set Aside Determination of an automated traffic law violation must be filed with or mailed to the appropriate City official within fourteen (14) days of the date of mailing of the Notice of Determination of Liability. The grounds for the petition are limited to:

- a) the person was not the owner or lessee of the cited vehicle on the date the violation notice was issued;
- b) the person already paid the fine for the violation in question; or
- c) excusable failure to appear at or request a new date for a hearing.

Upon receipt of a timely petition to set aside the determination of liability, the Hearing Officer shall review the petition to determine if cause has been shown to set aside the determination. If cause has been shown, the City shall forward the petitioner a new hearing date on which the petitioner must appear to present his case. The City shall notify the petitioner of the hearing officer's decision to grant a hearing or deny the petition within fourteen (14) days of the hearing officer's decision.

Section 3-79 Notice of Impending Driver's License Suspension.

A Notice of Impending Driver's License Suspension shall be sent to any person liable for any fines or penalties that remain due and owing on five (5) or more final determinations of liability for violations of this Chapter. The Notice of Impending Driver's License Suspension shall state that the failure to pay the fine owing within forty-five (45) days of the notice's date may result in the City of Rolling Meadows notifying the Secretary of State of the State of

Illinois that the person is eligible for initiation of suspension proceedings under Section 6-306.5 of the Illinois Vehicle Code (625 ILCS 5/6-306.5).

The Notice of Impending Driver's License Suspension shall be sent by first class mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States post office approved database.

Section 3-80 *Driver's License Suspension.*

The Traffic Compliance Administrator or other duly appointed official, by certified report, may request that the Secretary of State suspend the driving privileges of an owner of a registered vehicle who has failed to pay any fine or penalty due and owing as a result of five (5) final determinations of liability. The report shall be certified and contain the following:

- a) the name, last known address of the owner of the vehicle as recorded with the Secretary of State, or as provided by the lessor of the cited vehicle at the time of lease, or as recorded in a United States post office approved database if any notice sent under this Chapter is returned as undeliverable, and driver's license number of the person who failed to pay the fine(s) or penalty(ies) and the registration number of any vehicle known to be registered to such person in another state;
- b) the name of the City of Rolling Meadows as making the report; and
- c) a statement that a Notice of Impending Driver's License Suspension has been sent to the person named in the report at the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of the lease or, if any notice sent under this Chapter is returned as undeliverable at the last known address recorded at a United States post office approved database; the date on which such notice was sent; and address to which such notice was sent.

The City shall notify the Secretary of State whenever a person named in the certified report has paid the previously recorded fine(s) or penalty(ies) or whenever the City determines that the original report was in error. A certified copy of such notification shall also be given upon request and at no additional charge to the person named therein.

Section 3-81 *Confidentiality.*

Recorded images made by the Automatic Traffic Enforcement System shall be confidential and shall be made available only to the alleged violator, governmental agencies and the City of Rolling Meadows Police Department and Hearing Officer for purposes of adjudicating violations, statistical or other governmental purposes.

SECTION 2. Saving Clause. If any section, paragraph, clause, or provision of this Ordinance shall be held unconstitutional or inconsistent with any other provision of this Code or deemed otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each provision, section, subsection, subdivision, paragraph, sentence, clause or phrase of the City Code of Ordinances of the City of Rolling Meadows irrespective of the fact that any one or more provisions, sections, subsections, subdivisions, paragraphs, sentences, clauses and phrases of the City Code of Ordinances be declared unconstitutional, inconsistent, or otherwise invalid or ineffective.

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SECTION 3. Effective Date. This Ordinance shall be in full force and effect ten (10)

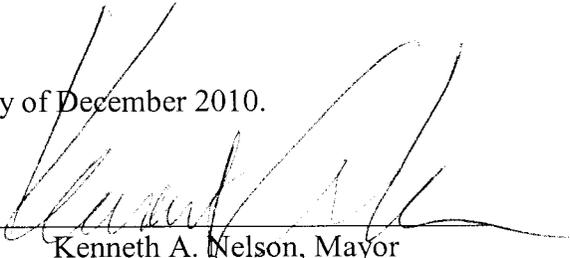
days from and after its passage, approval, and publication in the manner provided by law.

AYES: Pitzafarro, Lusk, Buske, Judd, Adams, D'Astice, Larsen

NAYS: 0

ABSENT: 0

Passed and approved this 14th day of December 2010.



Kenneth A. Nelson, Mayor

ATTEST:



Lisa M. Hinman, City Clerk

Published in pamphlet form this 15th day of December 2010.



Lisa M. Hinman, City Clerk