

AN ORDINANCE

NO. _____

An Ordinance To Amend The Code Of The Township Of Lower Merion, Chapter 145 Thereof, Entitled Vehicles And Traffic, By The Addition Of A New Article XIII, Automated Red Light Enforcement, To Provide For The Adoption Of An Automated Red Light Enforcement System At Designated Intersections In The Township, To Provide A Civil Penalty And The Use Thereof For Traffic Signal Violations At Those Intersections If Recorded On A Camera, To Provide For Limited Use Of Camera Recordings, To Provide Reporting Obligations Concerning Violations And The Collection Of Fines On The Part Of The Township, To Provide For Notice Of Violation To The Vehicle Owner, To Provide Defenses For Violations And A Procedure For A Hearing And Appeals Therefrom.

The Board of Commissioners of the Township of Lower Merion, does hereby ordain as follows:

Section 1. The Code of the Township of Lower Merion, Chapter 145, entitled Vehicles and Traffic, Articles XIII and XIV, previously Reserved, shall be revised in their entirety by the addition of a new Article XIII, Automated Red Light Enforcement, to provide as follows:

Chapter 145. Vehicles And Traffic

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Article XIII. Automated Red Light Enforcement

145-85 Definitions

AUTOMATED RED LIGHT ENFORCEMENT SYSTEM - Shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal which automatically produces one or more photographs or video recordings of a vehicle at the time the vehicle is used or operated in a manner that is a violation of the Motor Vehicle Code or as otherwise defined under the Motor Vehicle Code.

DESIGNEE. - Shall include a person, business entity or governmental entity, including the Pennsylvania Department of Transportation.

MOTOR VEHICLE CODE. Shall mean Title 75 of the Pennsylvania Consolidated Statutes.

PHOTOGRAPH. Shall mean any visual image produced by an automated red light enforcement system.

SYSTEM ADMINISTRATOR. Shall mean the Lower Merion Township Police Department or its designee.

§ 145-86 Steady Red Light Traffic Signal Violation

An individual whose vehicle is recorded by an automated red light enforcement system in violation of the prohibition of § 3112(a)(3) of the Motor Vehicle Code (relating to obedience to the steady red light indication of traffic control signals) at such intersections of Lower Merion Township designated and identified pursuant to this Article shall be liable for civil penalties as set forth herein.

§ 145-87 Intersections At Which This Article Applies

Automated red light enforcement systems approved by the Pennsylvania Department of Transportation may be used to enforce this Article only at the following intersections and as this list may be amended from time to time by Article, subject to the designation of such intersections by agreement of the System Administrator and the Pennsylvania Secretary of Transportation:

- A. Lancaster Avenue and Remington Road, Wynnewood

§ 145-88 Penalties

- A. The penalty for violating this Article shall be a fine of \$100.00.
- B. A fine is not authorized for a violation of this Article if any of the following apply:
 - 1. The intersection is being manually controlled; or
 - 2. The signal is in the mode described in §3114 of the Motor Vehicle Code (relating to flashing signals).
- C. A fine is not authorized during any of the following, but a warning may be sent to the violator:
 - 1. the first 60 days of operation of the automated red light enforcement systems at the initial intersections.
 - 2. the first 30 days for each additional intersection selected for the automated red light enforcement system.
- D. A penalty imposed under this section shall not be deemed a criminal conviction. It shall not be made part of the operating record under §1535 of the Motor Vehicle Code (relating to the schedule of convictions and points) of the individual upon whom the penalty is imposed, nor may the imposition of the penalty be subject to merit rating for insurance purposes.
- E. No surcharge points may be imposed in the provision of motor vehicle insurance coverage. Fines collected under this Article shall not be subject to 42 Pa.C.S. §3571 (relating to Commonwealth portion of fines, etc.) or §3573 (relating to municipal corporation portion of fines, etc.).

§ 145-89 Limitations

- A. No automated red light enforcement system shall be utilized in such a manner as to take a frontal view recorded image of the vehicle as evidence of having committed a violation.
- B. Notwithstanding any other provision of law, camera equipment deployed as part of the automated red light enforcement system as provided for by this Article must be incapable of automated or user-controlled remote intersection surveillance by means of recorded video images. Recorded images collected as part of the automated red light enforcement system may only record traffic violations and may not be used for any other surveillance purposes. The restrictions set forth under this paragraph shall not be deemed to preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonably described and is requested solely in connection with a criminal law enforcement action.
- C. Notwithstanding any other provision of law, information prepared under this Article and information relating to violations under this Article which is kept by the Township, its authorized agents, or employees, including recorded images, written records, reports or facsimiles, names, and addresses, shall be for the exclusive use of the Township, its authorized agents, its employees, and law enforcement officials for the purpose of discharging their duties under this Article. The information shall not be deemed a public record under the act of February J 4, 2008 (P.L. 6 No. 3), known as the Right-to-Know Law. The information shall not be discoverable by court order or otherwise, nor shall it be offered in evidence in any action or proceeding which is not directly related to a violation of this Article or any ordinance or resolution of the Township. The restrictions set forth under this paragraph shall not be deemed to preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonably described and is requested solely in connection with a criminal law enforcement action.
- D. Recorded images obtained through the automated red light enforcement systems deployed to promote traffic safety in the Township shall be destroyed within 30 days following the final disposition of any recorded event. The System Administrator shall file notice with the Department of State that the records have been destroyed in accordance with this paragraph.
- E. Notwithstanding any other provision of law, registered vehicle owner information obtained as a result of the operation of an automated red light enforcement system under this Article shall not be the property of the manufacturer or vendor of the automated red light enforcement system and may not be used for any purpose other than prescribed in this Article.

§ 145-90 Defenses to Liability

- A. It shall be a defense to a violation under this Article that the person receiving the notice of violation was not operating the vehicle at the time of the offense. The owner may be required to submit evidence that the owner was not the driver at the time of the alleged violation. The Township may not require the owner of the vehicle to disclose the identity of the operator of the vehicle at the time of the violation.

- B. If an owner receives a notice of violation under this Article of a time period during which the vehicle was reported to a police department of any state or municipality as having been stolen, it shall be a defense to a violation under this Article that the vehicle has been reported to a police department as stolen prior to the time the violation occurred and not been recovered prior to that time.
- C. It shall be a defense to a violation under this Article that the person receiving the notice of violation was not the owner or lessor of the vehicle at the time of the offense.
- D. No owner shall be found liable pursuant to this Article if he or she is convicted of a violation pursuant to the Motor Vehicle Code for the same violation.

§ 145-91 Duties of Lower Merion Township

- A. The Township may not use an automated red light enforcement system unless an appropriate sign is posted in a conspicuous place before the area where the automated red light enforcement device is to be used, notifying the public that an automated red light enforcement device is immediately ahead.
- B. The Lower Merion Township Police Department or its designee shall serve as the System Administrator to supervise and coordinate the administration of notices of violations issued under this Article.
- C. The following requirements apply to notices issued by the System Administrator:
 - 1. The System Administrator shall prepare a notice of violation to the registered owner of a vehicle identified in a recorded image produced by an automated red light enforcement system as evidence of a violation of §3111(a)(3) of the Motor Vehicle Code. The notice of violation must be issued by a police officer employed by the Lower Merion Township Police Department. The notice of violation must include a written statement that the automated red light enforcement system was operating correctly at the time of the alleged violation. The notice of violation must have attached to it all of the following:
 - a) A copy of the recorded image showing the vehicle.
 - b) The registration number and state of issuance of the vehicle registration.
 - c) The date, time, and place of the alleged violation.
 - d) Notice that the violation was charged under §3112(a)(3) of the Motor Vehicle Code.
 - e) Instructions for the return of the notice of violation.
 - 2. The notice shall contain the following statement: "This notice shall be returned personally, by mail or by agent duly authorized in writing, within 30 days of issuance. A hearing may be obtained upon the written request of the registered owner."

- F. The notice of violation must be signed by a Township police officer verifying that he or she has inspected the recorded images evidencing the violation and that he or she has reason to believe the information contained in the notice of violation is true and correct.
- G. Notices of violation must be sent by first-class mail. A manual or automatic record of mailing prepared by the System Administrator in the normal course of business shall be prima facie evidence of mailing and shall be admissible in any judicial or administrative proceeding as to the facts contained therein.

§ 145-92 System Administrator

- A. The System Administrator may hire and designate personnel as necessary or contract for services to implement this Article.
- B. The System Administrator shall process fines issued under this section.
- C. The System Administrator shall submit an annual report to the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives. The report shall be considered a public record under the Right-to-Know Law and include for the prior year:
 - 1. The number of violations and fines issued.
 - 2. A compilation of fines paid and outstanding.
 - 3. The amount of money paid to a vendor or manufacturer under this Article.

§ 145-93 Notice to Owner

In the case of a violation involving a motor vehicle registered under the laws of this Commonwealth the notice of violation must be mailed within 30 days of the commission of the violation or within 30 days after the discovery of the identity of the registered owner, whichever is later, to the address of the registered owner as listed in the records of the Department of Transportation. In the case of motor vehicles registered in jurisdictions other than this Commonwealth, the notice of violation must be mailed within 30 days after the discovery of the identity of the registered owner to the address of the registered owner as listed in the records of the official in the jurisdiction having charge of the registration of the vehicle. A notice of violation under this section must be provided to an owner within 90 days of the commission of the offense.

§ 145-94 Mailing of Notice and Records

Notices of violation must be sent by first-class mail. A manual or automatic record of mailing prepared by the System Administrator in the normal course of business shall be prima facie evidence of mailing and shall be admissible in any judicial or administrative proceeding as to the facts contained therein.

§ 145-95 Payment of Fine

- A. An owner to whom a notice of violation has been issued may admit responsibility for the violation and pay the fine provided in the notice.
- B. Payment must be made personally, through an authorized agent, electronically, or by mailing both payment and the notice of violation to the System Administrator. Payment by mail must be made only by money order, credit card, or check made payable to the System Administrator. The System Administrator shall remit the fine, less the System Administrator's operation and maintenance costs necessitated under this section, to the Department of Transportation for deposit into a restricted receipts account in the Motor License Fund. The Department of Transportation shall use fines deposited in the fund under this paragraph for a Transportation Enhancements Grant Program.

§ 145-96 Request for a Hearing

- A. An owner to whom a notice of violation has been issued may, within 30 days of the mailing of the notice, request a hearing to contest the liability alleged in the notice. A hearing request must be made by appearing before the System Administrator during regular office hours, either personally or by an authorized agent, or by mailing a request in writing.
- B. Upon receipt of a hearing request, the System Administrator shall, in a timely manner, schedule the matter before a Hearing Officer. Written notice of the date, time, and place of the hearing must be sent by first-class mail to the owner.

§ 145-97 Hearings

- A. The hearing shall be informal, the rules of evidence shall not apply, and the decision of the Hearing Officer shall be final, subject to the right of the owner to appeal to the magisterial district judge.
- B. If the owner requests in writing that the decision of the hearing officer be appealed to the magisterial district judge, the System Administrator shall file the notice of violation and supporting documents with the magisterial district judge, who shall hear and decide the matter de novo.

§ 145-98 Compensation to Manufacturer of Vendor

The compensation paid to the manufacturer or vendor of the automated red light enforcement system may not be based upon the number of traffic citations issued or a portion or percentage of the fines generated by the citations. The compensation paid to the manufacturer or vendor of the equipment shall be based upon the value of the equipment and the services provided or rendered in support of the automated red light enforcement system.

§ 145-99 Duration of Yellow Light Change Interval

The duration of the yellow light change interval at intersections where automated red light enforcement systems are in use shall conform to the yellow light change interval duration

