

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 219-13

AN ORDINANCE

amending Chapter 14 of the City Code as it relates to automated traffic control systems; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 14 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 14-466.1. Automated traffic control systems; violations and penalties.

(a) The purpose of this section is to promote public safety at intersections controlled by automated traffic control signals. A violation of this section will be an infraction and civil in nature with limited sanctions consisting of fines only which are punitive in order to garner compliance with the city's traffic regulations. No points are to be assessed upon a conviction of this ordinance, nor will jail time be a consideration of punishment. This is a strict liability offense and no regard is given as to the offender's state of mind at the time of the violation.

(~~a-b~~) The following definitions apply to this section:

Automated traffic control system means a system consisting of devices with one (1) or more motor vehicle sensors working in conjunction with traffic control signals as defined in section 14-466 to automatically produce photographs, a video tape or other recorded images of motor vehicles approaching and within entering an intersection in violation of this section ~~red traffic signal indications or otherwise violating city traffic control ordinances.~~

Automated traffic control system records means photographs, video tape or other recorded images of motor vehicles approaching and within entering an intersection in violation of this section ~~red traffic signal indications or otherwise violating city traffic control ordinances.~~

Owner means a registered owner or owners of a motor vehicle, or a lessee of a motor vehicle under a lease of six (6) months or more as shown by the records of the state department of revenue ~~or licensing bureau or department of any other state.~~

(~~b-c~~) Any automated traffic control system installed on a street or a highway in the city shall meet applicable requirements established by the State of Missouri.

(~~e-d~~) The following rules apply in all prosecutions for violations of this section ~~14-466~~ that are based on automated traffic control system records:

(1) Upon the filing of information in municipal court, the court clerk shall issue a summons with a court date pursuant to ~~A violation notice shall be mailed by first class mail to the defendant at the defendant's last known address. The violation notice shall comply with Missouri Supreme Court Rule 37. The court clerk shall serve the summons on the owner of the vehicle involved in the alleged violation of this section by sending the summons by first class mail to the owner at the owner's last known address. The court clerk shall mail the summons within sixty (60) days after the alleged violation. The court clerk and shall include the following in the mailing:~~

a. The summons;

~~a-b.~~ A copy of the violation notice;

~~b-c.~~ A ~~color~~ copy of the recorded still image or images of the alleged violation, which forms the basis for the information; and

~~c-d.~~ A copy of the supplemental violation notice described in subsection (c)(2).

(2) The supplemental violation notice shall contain the following information:

a. A statement that the automated traffic control system record will be submitted as evidence in the municipal court trial of the violation of this section ~~14-466~~; and

b. A statement that if, at the time and place of the violation, the motor vehicle was within the intersection pursuant to the following justifications ~~operated by a person other than the owner, or the vehicle or license plate captured by the automated traffic control system record was stolen, the owner may submit information to that effect by affidavit, on a form provided by the city, before the municipal court proceeding, or under oath at the municipal court proceeding. If an owner furnishes satisfactory evidence pursuant to this subsection, the court or the prosecutor may terminate the~~

prosecution of the owner. The justifications for termination of prosecution include:

- i. The traffic control signal was not in a proper position so that it was sufficiently observable by an ordinarily observant person;
 - ii. The operator of the motor vehicle was acting in compliance with the directions of a law enforcement officer or fire department official;
 - iii. The operator of the motor vehicle was yielding the right-of-way to an approaching emergency vehicle;
 - iv. The motor vehicle was part of a funeral procession pursuant to section 194.503, RSMo.;
 - v. The motor vehicle was an authorized emergency vehicle operating in compliance with section 304.022, RSMo.;
 - vi. The motor vehicle or license plates were stolen and the vehicle was being operated without permission of the owner, provided the theft was timely reported to the appropriate law enforcement agency; or
 - vii. Ownership of the vehicle had been transferred prior to the violation.
- (3) A violation notice and summons mailed under this section is presumed to have been received by the owner on the fifth day after the date the violation notice is mailed.
- (4) Liability for a violation of this section is based on ownership of the vehicle without regard to operation except as provided by section 304.120.4, RSMo. If the owner of a vehicle is claiming the exception under section 304.120.4 RSMo., the owner must furnish the name, address, and operator's license number of the person renting or leasing the motor vehicle at the time of the violation within thirty (30) days from the time of receipt of written request for such information. There shall be a rebuttable presumption that the owner of a motor vehicle shown by an automated traffic control system record to have been operated in violation of section 14-466 was the operator of the vehicle at the time and place where the violation was recorded by the automated traffic control system.
- (5) If, at the time and place of the violation, the motor vehicle was operated under one of the justifications contained within paragraph (d)(2)b. above ~~by a person other than the owner, or the vehicle or license plate captured by the automated traffic control system record was stolen~~, the owner may submit information to that effect by affidavit, on a form provided by the city, before

the municipal court proceeding, or under oath at the municipal court proceeding. If an owner furnishes satisfactory evidence pursuant to this subsection, the court or the prosecutor may terminate the prosecution of the owner. The prosecutor may initiate prosecution against a person clearly identified in the evidence as the operator of the motor vehicle at the time of the violation.

(d-e) All automated traffic control systems must be identified by appropriate advance warning signs conspicuously posted not more than three hundred (300) feet from the location of the automated traffic control system location.

(f) Violation. Except as provided in this section, a person commits the infraction of this public safety ordinance when a motor vehicle of which that person is the registered owner is present in an intersection while the traffic control signal for the intersection is emitting a steady red signal for the direction of travel or orientation of that vehicle in or through the intersection, unless the motor vehicle is in the process of making a lawful turn, or unless the motor vehicle entered the intersection while the traffic control signal for the intersection was not emitting a steady red signal for the direction of travel or orientation of that vehicle in or through the intersection and the motor vehicle did not obstruct the passage of other motor vehicles or pedestrians.

(g) Penalty. The penalty for a violation of this infraction shall not exceed two hundred (\$200.00) dollars. The judge of the municipal court shall set the fine amount upon the court's Violations Bureau schedule. Additionally, as operation is not an element in the violation of this section, no report to the Missouri Department of Revenue is authorized as the violation is deemed a non-moving violation. Under no circumstances may a person be imprisoned for a violation of this section; however, nothing in this section shall be construed to restrict the judge's authority for contempt.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2013.

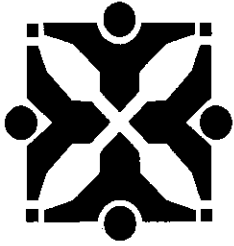
ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor



Source: City Manager

Agenda Item No:

To: City Council

From: City Manager and Staff

Council Meeting Date: August 5, 2013

Re: Proposed Change to Red Light Camera Ordinance

EXECUTIVE SUMMARY:

The proposed change to the City's Red Light Camera (RLC) Ordinance would eliminate the requirement for a clear photo of the driver who ran the red light, and instead permit the issuance of citations for red light violations to the registered owner of the vehicle

DISCUSSION:

Columbia's Red Light Camera (RLC) program began with the installation of RLCs to monitor northbound traffic on Providence Road at Broadway in September, 2009. Since that time, four additional locations have been added which include:

- Northbound Stadium at Worley
- Northbound Forum at Stadium
- Northbound Providence at Stadium
- Southbound Providence at Stadium

The City's contract for installation, maintenance and operation of RLCs is with Gatso, USA for a five year term with an option for renewal (September, 2014). The contract anticipated that a total of sixteen (16) intersection approaches would be constructed in phases; however, our requirement for a facial camera to positively identify the driver resulted in a majority of the violations being rejected during the review process. Since program implementation through the end of FY 2012, the City has issued 4,282 citations for red light running. During that same period, there were 7,873 incidents rejected in large part due to the inability to capture a clear photo of the driver (windshield glare, too dark, weather, etc).

The City's current RLC Ordinance requires a clearly identifiable photo of the driver. This requirement is more strict than most cities who have RLC systems. In 2009, the City took a conservative approach in requiring the driver photo due to pending court cases regarding the authority of municipalities to operate RLCs in cities such as Arnold, Creve Coeur and Florissant, MO. Among the many notable court rulings that affirm the use of red-light cameras in Missouri, three decisions stand out. One is the 2009 federal ruling that found the city of Arnold's red-light safety camera ordinance to be both legal and constitutional (see Kilper et. al. v. City of Arnold, Missouri, et al., 2009). Another, from the Eastern District Missouri Court of Appeals (June, 2013), upheld the city of St. Louis's red-light safety camera program that treated the violation as a civil penalty and issued tickets to vehicle owners. Lastly, the city of Creve Coeur's ordinance and program were found to fulfill all constitutional due process requirements in a significant decision (see Nottebrok v. City of Creve Coeur, Missouri, et al., 2011). Along with these significant cases, judges also struck down five class action lawsuits against red-light cameras in Missouri in 2012.

At the federal level, court rulings from the 5th, 6th, 7th and 9th U.S. Circuit Court of Appeals further validate the legality of red-light safety cameras. In Idris v. the City of Chicago, the 7th U.S. Circuit Court of Appeals upheld the city's practice of issuing red-light running citations to vehicle owners instead of vehicle drivers. In the same 2009 decision, the appeals court ruled that cameras did not violate a person's constitutional due process rights because "no one has a fundamental right to run a red light or avoid being seen by a camera on a public street."

FISCAL IMPACT:

Based on the existing five locations currently being monitored, the City could have generated an additional \$120,000 net revenue if violators had been cited based on the registered owner of the vehicle who ran the red light.

VISION IMPACT:

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

SUGGESTED COUNCIL ACTIONS:

If Council agrees with the proposed change, an affirmative vote would be in order.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Epands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	Yes	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	