

1st Reading 5-11-2005
2nd Reading 6-7-2005
3rd Reading 6-21-2005

ORDINANCE NO. 5108

ORDINANCE TO AMEND CHAPTER 21, CODE OF ORDINANCES, CITY OF MEMPHIS, TO ESTABLISH A NEW ARTICLE TO BE KNOWN AS TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM

WHEREAS, pursuant to its inherent "police power" the city has the authority to enact ordinances allowing the use of an photographic traffic control system to enforce its traffic ordinances; and

WHEREAS, this ordinance is enacted to provide for the health, safety, and welfare of the citizens of the city;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that the city implement a system for capturing violation of traffic control signs, signals and devices, as defined in article XI of this chapter 21 of the code of ordinances, with a traffic control photographic system that will use recorded photographic images as prima facie evidence of traffic violation and will authorize the division of police services or an agent of said division to issue civil citations and warning notices for the violations, and in order to so implement said system, chapter 21 of the code of ordinances is hereby amended to add to article II thereof, a new division III containing the following provisions:

DIVISION III. TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM

Section 21-76. Definitions. The following words, terms and phrases, when used herein, shall have ascribed to them the following meanings, except where the context clearly indicates a different meaning.

Citations and Warning Notices shall mean the documents of notice of violation and shall include:

1. The name and address of the registered owner of the vehicle;
2. The registration plate number of the motor vehicle involved in the violation;
3. The violation charged;
4. The location of the violation;
5. The date and time of the violation;
6. A copy of the recorded image;
7. The amount of the civil penalty imposed and the date by which the civil penalty should be paid;
8. A sworn statement signed by an officer or agent of the police services division that based on inspection of recorded images, the subject motor vehicle was being operated in violation of sections 21-371 and/or 21-378 of this chapter; and
9. Information advising the person alleged to be liable for violation of sections 21-371 and/or 21-378 of this chapter (i) of the manner and time in which the liability alleged in the citation may be contested in city court, and (ii) warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

Recorded images means images recorded by a traffic control photographic system

- i. on a photograph, microphotograph, electronic image, videotape, or any other medium; and

- ii at least one image or portion of tape, clearly identifying the registration plate number, or other identifying designation of the license plate, on the motor vehicle.

System location is the approach to an intersection toward which a traffic control photographic system device, including but not limited to a photographic, video, or electronic camera, is directed and is in operation.

Traffic control photographic system is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device.

Vehicle owner is the person identified on records maintained by the Tennessee Department of Safety as the registered owner of a motor vehicle.

Section 21-77. Administration.

- (a) The division of police services or an agent of said division shall administer the traffic control photographic system and shall maintain a list of all system locations where traffic control photographic systems are installed.
- (b) Signs to indicate the use of the traffic control photographic system shall be clearly posted.
- (c) The

Section 21-78. Offense. It shall be unlawful for a vehicle to cross the stop line at a system location, in disregard or disobedience of the traffic control sign, signal or device at such location, or to otherwise violate sections 21-371 or 21-378 of chapter 21 of the code of ordinances.

Section 21-79. Procedure.

- (a) The city shall adopt procedures for the issuance of uniform citations and warning notices hereunder.
- (b) A citation or warning notice so issued, alleging an offense hereunder in violation of sections 21-371 or 21-378 of chapter 21 of the code of ordinances, which is sworn to or affirmed by an official of the division of police services or an agent of said division based on inspection of recorded images produced by the traffic control photographic system, and which includes copies of such recorded images, shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation hereunder. The citation or warning notice shall be forwarded by first-class mail, postmarked not later than ten (10) days after the date of the alleged violation, to the vehicle owner's address as given on the motor vehicle registration records maintained by the Tennessee Department of Safety. Personal delivery to or personal service of process on the owner of the vehicle shall not be required.
- (c) A person who receives a citation or warning notice may:
 - 1. pay the assessed fine and civil penalty, in accordance with instructions on the citation or warning notice, directly to the city court clerk; or
 - 2. elect to contest the citation for the alleged violation.

- (d) Liability hereunder shall be determined based upon preponderance of the evidence. Admission into evidence of a citation or warning notice, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:
1. testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation; and
 2. presents to the court prior to the return date established on the citation and warning notice a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation; or
 3. submits to the court prior to the return date established on the citation and warning notice the owner's sworn notarized statement that the vehicle was in the care, custody or control of another person or entity at the time of the violation and identifying the name and address of the person or entity who leased, rented or otherwise had such possession of the vehicle at the time of the alleged violation.

Section 21-80 Penalty.

- (a) Any offense hereunder shall be deemed a non-criminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed. Failure to pay the civil penalty or appear in court to contest the citation or warning notice on the designated date, shall result in an assessment of court costs of forty-five (\$45.00). The city may establish procedures for the trial of civil violators and may enforce and collect all penalties assessed in the nature of a debt.
- (b) All revenues generated from penalties and assessments associated with the enforcement of this ordinance shall first be applied to all equipment, administrative and associated processing costs. All excess revenues shall then be limited to the payment of costs associated with traffic and safety education programs, and shall not be available for general government operating expenditures.
- (c) A violation for which a civil penalty is imposed hereunder shall not be considered a moving violation and may not be recorded by the division of police services or the Tennessee Department of Safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.

Section 21-81-21-85. Reserved.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS, that the provisions of this ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this ordinance shall continue in full force and effect.

BE IT FURTHER RESOLVED, that this ordinance shall take effect from and after the date it shall have been passed by the city council, signed by the chairman of the council, certified and delivered to the office of the mayor in writing by the comptroller, and become effective as otherwise provided by law.

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THE FOREGOING ORDINANCE

5108 PASSED

1st Reading 5-17-05

2nd Reading 6-7-05

3rd Reading 6-21-05

Approved: [Signature]
Chairman of Council

Date Signed: 7-5-05

Approved: [Signature]
Mayor, City of Memphis

Date Signed: 7-10-2005

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Simpson
Comptroller

Ordinance No: 5493

Ordinance to amend Chapter 21, Code of Ordinances, City of Memphis, to modify Section 21-79 (b) and Section 21-80 (b) of the traffic control photographic system requirements

WHEREAS, the Memphis City Council has a responsibility, along with the Administration, to insure the health, safety and well-being of all citizens; and

WHEREAS, Red Light Cameras were installed at various high accident intersections throughout the city; and

WHEREAS, the revenues from these cameras were designated for use for SkyCops, GPS systems in police cars and neighborhood watch but clarity was needed on the distribution of funds; and

WHEREAS, the Memphis City Council deems it necessary to split the funds equally between neighborhood watch and the capital acquisition of SkyCops and GPS systems.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 21, Article II and Section 21-79 (b) of the Code of Ordinances of the City of Memphis is hereby amended with the following substitution:

21-79. Procedure.

The phrase "not later than ten (10) days after the date of the alleged violation," is hereby replaced with "pursuant to State law,"

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 21, Article II and Section 21-80 (b) of the Code of Ordinances of the City of Memphis is hereby deleted and replaced with the following:

21-80. Penalty

(b) All net revenues generated from penalties and assessments associated with the enforcement of this section shall be apportioned as follows: the first one hundred fifty thousand (\$150,000) collected in a fiscal year shall be allocated to the Memphis Area Neighborhood Watch Program for the funding of an Executive Director position and to provide neighborhoods with mechanisms to assist them in protecting their homes and/or communities; thereafter, fifty percent (50%) shall be used for the purchase and installation of cameras and/or GPS systems in police cars, and/or Skycop or Skywatch systems (the police department will submit a budget and plan outlining their recommended plan and budget for each budget year) and fifty percent (50%) shall be used for maintenance of the Memphis Area Neighborhood Watch Program. Said funds shall be distributed equally on a monthly basis immediately upon receipt from the City Court Clerk Office once the \$150,000 threshold is met. Any traffic control photographic system funds accrued as of the

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passage of this ordinance shall be restricted for distribution equally among Neighborhood Watch and the Memphis Police Department for the uses specified above.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

Harold Collins
Council Member

Edmund Ford, Jr. PhD
Council Chairman

Attest:
Patrice Thomas, Comptroller

THE FOREGOING ORDINANCE
5493 PASSED

1st Reading 1-22-13

2nd Reading 2-5-13

3rd Reading 2-19-13

Approved Edmund Ford, Jr.
Chairman of Council

Date Signed: 3/5/2013

Approved: [Signature]
Mayor, City of Memphis

Date Signed: 3.06.13

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Spruce
Comptroller

Sec. 11-12-13. - Obedience to devices.

The driver of any vehicle, or any pedestrian, shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this title and other traffic ordinances of the city, unless otherwise directed by a police officer, subject to any specific exceptions granted by this title or other ordinances.

(Code 1967, § 23-202; Code 1985, § 21-378)

State Law reference— Similar provisions, T.C.A. § 55-8-109.

Sec. 11-12-6. - Traffic-control signal legend generally.

- A. Whenever traffic is controlled by traffic-control signals exhibiting illuminated and different colored circular lenses or lighted arrows successively one at a time or in combination, only the colors green, yellow and red shall be used, except for special pedestrian signals carrying a word or symbol legend, and such signals shall indicate and apply to drivers of vehicles and pedestrians as follows:
1. Green indication:
 - a. Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn, but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - b. Vehicular traffic facing a green arrow signal, alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movements as are permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians within any adjacent crosswalk and to other traffic lawfully within the intersection.
 - c. Unless otherwise directed by a pedestrian control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.
 2. Steady yellow indication, when shown following the green indication:
 - a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.
 - b. Pedestrians facing a steady yellow indication, unless otherwise directed by a pedestrian control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.
 3. Steady red indication:
 - a. Vehicular traffic facing a steady red signal shall stop at a clearly marked stop line, if any, before entering the crosswalk on the near side of the intersection, or, if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except that a right turn shall be permitted at any time unless otherwise prohibited by a sign; and, provided that, the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and all vehicles lawfully within the intersection in

accordance with the signal indications controlling them, and such turn will not endanger other traffic lawfully using such intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "NO TURN ON RED" sign.

- b. Unless otherwise directed by a pedestrian control signal, no pedestrian facing a steady red indication alone shall enter the roadway.
 - c. A left turn may be permitted by sign during the display of a steady red indication at any intersection where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and all vehicles lawfully in the intersection in accordance with the traffic signal controlling them, and so as not to endanger traffic lawfully using the intersection. Unless signs permitting this left turn during the display of a steady red indication are erected, left turns on red are prohibited.
- B. If an official traffic control signal is erected and maintained on a street, at a location other than an intersection with another street, including, but not limited to, a private road or a driveway entering a public street, or a signal-controlled midblock pedestrian crossing, and if signal indications are provided to control traffic entering or crossing the public street, the provisions of this section shall be applicable, except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or stop line marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made before entering the street from a private road or driveway.
- C. If a private road or driveway enters the intersection of two streets which are under the control of an official traffic-control signal and if signal indications are provided for the control of traffic entering the intersection from such private road or driveway, the provisions of this section shall be applicable, except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or stop line marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made before entering the near side crosswalk or sidewalk, or, if none, the stop shall be made at the street right-of-way. If no signal indications are provided to control traffic on the private road or driveway, the provisions of this title covering vehicles entering and leaving a street via an uncontrolled private road or driveway shall apply.

(Code 1967, § 23-204; Code 1985, § 21-371; Ord. No. 2456, § 1, 6-29-1976; Ord. No. 3586, § 26, 9-2-1986)

State Law reference— Similar provisions, T.C.A. § 55-8-110.

Sec. 11-12-13. - Obedience to devices.

The driver of any vehicle, or any pedestrian, shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this title and other traffic ordinances of the city, unless otherwise directed by a police officer, subject to any specific exceptions granted by this title or other ordinances.

(Code 1967, § 23-202; Code 1985, § 21-378)

State Law reference— Similar provisions, T.C.A. § 55-8-109.