

First Reading _____

Bill No. 1232__

Second Reading _____

Ordinance No. 1187__

AN ORDINANCE AMENDING CHAPTER 320. OF THE COOL VALLEY MUNICIPAL CODE RELATING TO THE INFRACTION OF "VIOLATION OF PUBLIC SAFETY ON ROADWAYS" AND THE AUTOMATED TRAFFIC ENFORCEMENT REGULATIONS IN THE CITY OF COOL VALLEY

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF COOL VALLEY, MISSOURI, AS FOLLOWS:

Section One

Chapter 320 of Title III of the Municipal Code of the City of Cool Valley, Missouri is hereby amended by the repeal of Section 320.060, and a new Section 320.060 is hereby enacted in lieu thereof, to read as follows:

TITLE III.	TRAFFIC CODE
CHAPTER 320.	SPEED REGULATIONS
SECTION 320.060	VIOLATION OF PUBLIC SAFETY ON ROADWAYS AND RELATED AUTOMATED SPEED ENFORCEMENT REGULATIONS

A. Definitions.

For purposes of this Section, the following terms and phrases shall be defined as follows:

"Automated Traffic Enforcement System" means a system that consists of camera(s) and vehicle sensor(s) capable of calculating the speed of a moving motor vehicle and producing high resolution color digital recorded Images that show the license plate and number of the motor vehicle.

"Municipal Court" means the municipal court of the City.

"Operator" means any person who operates or drives a motor vehicle and has the same meaning as "Driver."

"Owner" means the owner(s) of a motor vehicle as shown on the motor vehicle registration records of the Missouri Department of Revenue or the analogous department or agency of another state or country.

"Recorded Image" means an image digitally recorded by an Automated Traffic Enforcement System.

"System Location" means the location at which an Automated Traffic Enforcement System has been located.

B. Violation of Public Safety on Roadways

1. Every motor vehicle owner has a duty to ensure that their motor vehicle at all times complies with the prescribed speed limits. It shall be deemed a violation of Public Safety on Roadways for the Owner to permit their motor vehicle to be operated at a rate of speed in excess of the posted speed limit by more than ten miles per hour. Any such violation shall be excused upon submission of a sworn statement that:

- a. The Posting of the speed limit was not in accordance with state or local law;
- b. The Operator of the motor vehicle was acting in compliance with the lawful order or direction of a police officer;
- c. The Operator of the motor vehicle violated the speed limit in order to yield the right-of-way to an immediately approaching authorized emergency vehicle;
- d. The motor vehicle was being operated as an authorized emergency vehicle as defined and in compliance with Section 304.022, RSMo.;
- e. The motor vehicle was a stolen vehicle and being operated by a person other than the Owner and the theft was timely reported to the appropriate law enforcement agency;
- f. The license plate and/or tags depicted in the Recorded Image(s) were stolen and being displayed on a motor vehicle other than the motor vehicle for which they were issued (but this shall not be a justification for the Operator of the motor vehicle) and the theft was timely reported to the appropriate law enforcement agency;
- g. Ownership of the motor vehicle had in fact been transferred prior to the violation (provided state records substantiate this statement);

- h. Any other issues or evidence that the Court deems pertinent.
2. A violation hereunder is based on ownership, without regard to whether the Owner was operating the motor vehicle at the time of the infraction, except that, as provided in Section 304.120.4 RSMo, no liability shall be imposed on the Owner of a motor vehicle when the vehicle is being permissively used by a lessee if the Owner furnishes the name, address, and operator's license number of the person renting or leasing the motor vehicle at the time the violation occurred to the City within 21 days from the time of receipt of written request for such information.

C. Automated Traffic Enforcement System Authorized

An Automated Traffic Enforcement System is hereby authorized to be installed and operated within the City for the purpose of detecting violations of public safety on roadways. Specific System Locations shall be determined from time to time by the Board of Aldermen upon recommendation of the Chief of Police. Recorded Images from a single camera unit shall constitute sufficient basis for a Notice of Violation if alone or in combination they clearly show the speed at which a motor vehicle is moving and the license plate and license number of the motor vehicle. Recorded Images may also be used as evidence of other violations to the extent permitted by applicable law.

D. Enforcement Procedures

1. Except as otherwise provided herein, upon review of Recorded Image(s) showing a violation under this Section, a police officer of the City Police Department shall complete a Notice of Violation in a form approved by the Chief of Police (which form may be completed electronically) and the City shall cause the completed Notice of Violation to be mailed to the Owner at its last known address by first class US Mail, postage prepaid, within 14 days after the date the Recorded Image(s) were taken.
2. Based upon the information obtained from the Recorded Image, the police officer may obtain any additional information about the Owner, which is necessary to complete or mail the Notice of Violation, from the records of the Missouri Department of Revenue or any other legal means; or, if the motor vehicle is registered in another state or country, from the motor vehicle registration records of the department or agency of the other state or country analogous to the Missouri Department of Revenue or any other legal means.
3. If there is more than one Owner of the motor vehicle, a Notice of Violation may be completed and addressed to any or all of them, and each such Owner shall be jointly and severally liable hereunder.

4. The Notice of Violation shall direct the Owner to respond by paying the fine specified in the Notice of Violation by the stated due date, provide a sworn statement of applicability of one of the justifications for exceeding the speed limit set forth in this Section.
5. A copy of the Recorded Image(s) upon which the Notice of Violation is based shall be sent to the Owner with the Notice.
6. The Notice of Violation shall include a request that the name, address and Operator's license number of any person renting or leasing the motor vehicle at the time the violation occurred be furnished to the City within 21 days of receipt of the request.
7. Any sworn statement provided by an Owner shall be examined by the City Prosecuting Attorney or designee. If the City Prosecuting Attorney determines that a statement is insufficient, including but not limited to a determination based upon a comparison of the statement to the Recorded Image(s), then a letter shall be sent to the Owner (any or all of them) at its last known address by first class US Mail, postage prepaid by the City indicating that the statement was insufficient and direct that the owner either pay the fine by a date specified in the letter or await a Notice of Hearing setting a Court date. If the statement timely provides the name, address and Operator's license number of any person renting or leasing the motor vehicle at the time the infraction occurred, then the Notice of Violation shall be withdrawn, a letter to that effect shall be sent to the Owner by the City, and a new Notice of Violation shall be issued to the identified person together with a copy of the identifying statement, which person shall be liable hereunder as if any Owner.
8. In lieu of completing a Notice of Violation, the Police Department may send a warning notice to the Owner if the System Location was established within 7 days of the violation, or if the reviewing officer determines that the Recorded Images are inconclusive or that it is more likely than not that a justification applies to the infraction.

E. Fine

Notwithstanding any other provision of the Cool Valley Municipal Code, the civil fine for the infraction of violation of public safety on roadways shall be \$100.00. In circumstances where the motor vehicle is traveling in excess of 20 miles per hour over the posted speed limit this shall be considered an aggravated infraction and the fine shall be \$200.00. Under no circumstances may a person be imprisoned for a violation of public safety on roadways. Violation of Public Safety on Roadways is a non-moving violation.

F. Warning Signs

An Automated Traffic Enforcement System may be identified by advance warning signs posted at entrances to the City and/or at specific System Locations, if the Board determines that such signs will enhance the efficacy of the System. Absence of such signs shall not provide justification for a violation.

G. Failure to Respond to Notice of Violation

Any person who does not respond to Notices of Violation under this Section by timely payment of fine will be sent a summons to appear at Municipal Court at a subsequent date. Any person who fails to appear as ordered by the summons may have a warrant issued for their arrest for a failure to appear in court. Any person who either fails to appear as required by summons or who submits a false sworn statement shall be subject to prosecution under the general penalty provisions set forth in the Municipal Code.

Section Two

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered by the codification company servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

Section Three

It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of this ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid portion of the ordinance.

Section Four

This Ordinance shall be in full force and effect from and after final passage and approval.
PASSED BY THE BOARD OF ALDERMEN FOR THE CITY OF COOL VALLEY THIS 26TH DAY OF SEPTEMBER, 2012.

Ayes: A. Robinson, M. Johnson, F. Blackwell, D. Johnson
Nays: 0

Absent: 0

Viola J. Murphy
Presiding Officer

Attest:

Deborah Jones-Daniels
Deborah Jones-Daniels, City Clerk

APPROVED THIS 26TH DAY OF SEPTEMBER, 2012.

Viola J. Murphy
Viola Murphy, Mayor

Attest:

Deborah Jones-Daniels
Deborah Jones-Daniels, City Clerk

