

ORDINANCE NO. 2021-

AMENDING SECTION 16 ARTICLE A OF THE CODE OF ORDINANCES RELATIVE TO MOTOR VEHICLES AND TRAFFIC ENFORCEMENT

BE IT ORDAINED by the Town Council of the Town of Livonia, Louisiana, that Section 16 Article A of the Code of Ordinances of the Town of Livonia, Louisiana, hereby amends current traffic enforcement ordinances; electronic enforcement, speed limit enforcement, traffic signal enforcement, and traffic signage enforcement sections to read as follows:

ARTICLE A.1

An ordinance as amended of the Town of Livonia Council Members hereby adopt and authorize the Town of Livonia Police Chief to administer

Electronic/Photographic Enforcement, Speed Limit Enforcement, and Traffic Signage Enforcement and to provide for the enforcement of certain traffic signal, traffic signage, and speed violations by automated/photographic means and provide for civil penalties for traffic violations enforced by automated/photographic means.

WHEREAS, the Town of Livonia Council Members finds there has been a high incidence of drivers violating the speed limit, traffic signal, and traffic sign laws, within the Town of Livonia; and

WHEREAS, the Town of Livonia Council Members finds that violating these traffic laws endangers motor vehicle operators and pedestrians alike; and,

WHEREAS, the Livonia Town Council Members finds a reduction in violations of the speed limit, traffic signal, and traffic signs through a program utilizing electronic measurement and photographic evidence and enforcement through the imposition of civil penalties will help promote and protect the health, safety, and welfare of the citizens of the Town of Livonia and,

WHEREAS, the Town of Livonia, operating under the powers granted to it by the Lawrason Act. has the power and authority to establish a program of enforcement of posted speed limit, traffic signals, and traffic signage laws by the use of electronic measurement and photographic evidence and the imposition of civil penalties.

IT IS HEREBY ORDAINED BY THE COUNCIL MEMBERS OF THE TOWN OF LIVONIA

The current Municipal Code relative to MOTOR VEHICLES AND TRAFFIC is hereby amended by adding thereto.

ELECTRONIC ENFORCEMENT,

Section 16.9, SPEED LIMIT ENFORCEMENT,

Section 16.10, TRAFFIC SIGNAL and TRAFFIC SIGNAGE ENFORCEMENT to read as follows:

SECTION 16.9 -SPEED LIMIT ENFORCEMENT

Sec. 16.9A: Definitions.

The following definitions shall apply: (1) Owner shall mean the owner of a motor vehicle as shown on the motor vehicle registration records of the Louisiana Department of Public Safety, Office of Motor Vehicles, or the analogous department or agency of another state or country.

(2) *Electronic/Photographic Speed Limit Enforcement System or System* shall mean a system that:

- a) Consists of a system for electronically measuring the speed of a motor vehicle; either in an Officer operated mode or unmanned mode; and
- b) Includes a still camera system *and/or* full-motion video camera system. The full-motion video camera system shall be capable of recording 30 frames per second or greater; and
- c) Clearly capture the license plate of the subject vehicle.

Sec. 16.9B: Imposition of civil penalty for violations enforced by

Electronic/Photographic Speed Limit Enforcement System.

The Town of Livonia Council Members finds and determines that vehicles traveling in excess of the posted speed limits damage the public safety by endangering motor vehicle operators and pedestrians alike, by decreasing the efficiency of traffic control and traffic flow efforts, and by increasing the number of serious traffic crashes to which public safety agencies must respond at the expense of the taxpayers.

- a) Except as provided in (b) and (c) below, the Owner of a motor vehicle is liable for a civil penalty of \$50.00 if the motor vehicle proceeds at a rate of speed of 1-10 miles per hour in excess of the posted limit or limit set by law, and shall increase in increments of \$15.00 for every 5 miles per hour over the prescribed limit as indicated in the chart below.
- b) For a violation occurring in a roadway when a School Zone is in operation the civil penalty shall be double the amount as set in Sec.50.101.A.a) above.
- c) An Owner who fails to timely pay a civil penalty shall be subject to an additional late payment penalty of \$50.00 in addition to the original violation penalty.
- d) At the time of the violation, the vehicle was in the care, custody, or control of another person:
 - 1. As set forth in the owner's written statement identifying the name and correct mailing address of the person or entity who had the care, custody, and control of the vehicle at the time of the violation.
 - 2. As set forth in a document, or "Nomination," signed and dated by the person, or a representative of the entity, who had the care, custody, and control of the vehicle at the time of the violation, indicating his/her responsibility for the violation and listing his/her name and mailing address. Responsibility for the violation shall in such a case be transferred to the person identified in the " Nomination."

3. The tender of a statement of "Nomination" shall be for the sole purpose of identifying the person who is assuming responsibility for the violation identified in the notice of civil violation, but all defenses that may be asserted by the person alleged to be responsible are reserved and are not waived by the tender of such document.
4. As set forth in a lease, rental contract, or other agreement listing the name and mailing address of the person or entity who had the care, custody, or control of the leased or rented vehicle at the time of the violation. Responsibility for the violation shall in such a case be transferred to the lessee.

Section 16.10A: Photographic Traffic Signal and Signage Enforcement System means a system that:

- a) Consists of a still camera system and/or a full-motion video camera system capable of recording 30 frames per second or greater which is installed to work in conjunction with an electrically operated traffic control signal.
- b) Is capable of producing at least three separate Recorded Images 1} An image of the vehicle prior to entering the intersection on a red signal (Scene A); 2) An image of the vehicle in or through the intersection when the red signal is visible or proceeding into an intersection controlled by a STOP SIGN or FLASHING OR CONTINUOUS RED LIGHT without executing a complete stop at the designated "stop bar" (Scene B); and 3) An image of the vehicle showing the license plate;
- c) All images must be synchronized to a single time source and provide the elapsed time between the first and second photographs or digital images specified in paragraph
- d) Is capable of producing at least three (3) recorded images:
 - 1) Depicting the vehicle prior to entering the intersection on a red signal (Scene A)
 - 2) An image of the vehicle in or through the intersection with the red signal visible;(Scene B)
 - 3) An image of the vehicle showing the license plate;
- e) All images must be synchronized to a single time source and provide the elapsed time between the first image (Scene A), and second (Scene B) or digital images specified in (b) above.

For purposes of Division 2 the following definitions shall apply:

- 1) Recorded *Image* means an image recorded by a photographic traffic monitoring system depicting the motor vehicle and is automatically recorded as a photograph or digital image.
- 2) System *Location* means the approach to an intersection where an Electronic/Photographic Speed Limit and/or Red Light and/or Traffic Signage Enforcement System is directed and in operation.
- 3) *Intersection* shall mean a location or area where two (2) or more streets intersect.
- 4) Traffic *Control Signal* shall mean a traffic control device displaying alternating red, amber, and green lights directing traffic when to stop at or proceed through an intersection.
- 5) Traffic Signage shall mean a visible Stop Sign

Sec. 16.10B: Imposition of civil penalty for violations enforced by

Electronic/Photographic Traffic Signal (Red light) and Traffic Signage (Stop Sign and/or Steady or Flashing Red light) Enforcement System.

a) The Town of Livonia Council Members finds and determines vehicles disobeying traffic control signals (Traffic Lights) and Traffic control signs (Stop Signs) damage the public by endangering motor vehicle operators and pedestrians alike, by decreasing the efficiency of traffic control and traffic flow efforts, and by increasing the number of serious traffic crashes to which public safety agencies must respond at the expense of the taxpayer.

b) Except as provided in (c) and (d) below, the Owner of a motor vehicle is liable for a civil penalty of \$100.00 if the vehicle's front tire proceeds past the trailing edge of an installed stop bar of a signalized approach when the Traffic Control Signal for the vehicle's direction of travel is emitting a steady RED indication or if the vehicle's front tire proceeds past the trailing edge of an installed stop bar without executing a COMPLETE STOP prior to the indicated stop bar at an intersection approach controlled by a STOP SIGN or FLASHING RED LIGHT.

c) An Owner who fails to timely pay a civil penalty shall be subject to an additional late payment penalty of \$50.00 in addition to the original violation penalty.

d) At the time of the violation, the vehicle was in the care, custody, or control of another person:

1. As set forth in the owner's written statement identifying the name and correct mailing address of the person or entity who had the care, custody, and control of the vehicle at the time of the violation.
2. As set forth in a document, or "Nomination," signed and dated by the person, or a representative of the entity, who had the care, custody, and control of the vehicle at the time of the violation, indicating his/her responsibility for the violation and listing his/her name and mailing address. Responsibility for the violation shall in such a case be transferred to the person identified in the "Nomination."
3. The tender of a statement of "Nomination" shall be for the sole purpose of identifying the person who is assuming responsibility for the violation identified in the notice of civil violation, but all defenses that may be asserted by the person alleged to be responsible are reserved and are not waived by the tender of such document.
4. As set forth in a lease, rental contract, or other agreement listing the name and mailing address of the person or entity who had the care, custody, or control of the leased or rented vehicle at the time of the violation. Responsibility for the violation shall in such a case be transferred to the lessee.

Sec.16.10C: Enforcement; procedures.

a) The Livonia Police Department is responsible for the enforcement and administration of this ordinance. The Livonia Police Department may utilize a contractor to assist with the gathering of photographic and electronic evidence of violations for the Livonia Police Department to be used as

evidence in order for a Livonia Police Officer to determine if a violation notice is to be issued. The Livonia Police Department may set minimum parameters for the Contractor to apply to potential violations that are transmitted for Police examination and final disposition as an issued notice or rejected notice. The decision to issue or not issue the notice of violation rests entirely with the Livonia Police Department

If the Livonia Police Department uses a contractor for any portion of the enforcement or administration of this ordinance, then the contractor shall meet the following minimum criteria :

(l) The contractor selected by the Livonia Police Department must be able to demonstrate 5 years of continuous operations of similar digital photo enforcement programs in municipalities in the United States;

(2) must have 3 years of audited financials that show sufficient financial resources to provide the contractual equipment and services; and

b) The actions which can be used to enforce the payment of this civil penalty and related fees may consist of but not be limited to immobilization of vehicles (booting), reporting the debt to collection agencies/credit reporting agencies, initiating actions through the small claims court, and/or submitting required documentation to LA DEPARTMENT OF MOTOR VEHICLES that would lead to Vehicle Registration holds or other authorized process leading to the enforcement of payment of the civil penalty arising from violations governed by this ordinance. Any STATE, LOCAL, or JUDICIAL action that renders any of the payment enforcement of this paragraph void or otherwise unenforceable shall apply only to those payment enforcement measures included in the action. Other delinquent collection remedies noted in this paragraph will retain full authority of enforcement.

c) In order to impose a civil penalty under this article, the Livonia Police Department shall mail, or direct a contractor to mail, via First Class USP mail, a Notice of Violation that was issued by a Law Enforcement Officer to the Owner of the motor vehicle identified in the Notice of Violation not later than the 30th calendar day, inclusive of legal holidays and weekends, after the date the violation is alleged to have occurred.

d) A Notice of Violation issued under this article shall contain the following:

(1) A description of the violation alleged;

(2) The date, time, and location of the violation;

(3) A copy of a recorded image of the vehicle involved in the violation;

(4) The amount of the civil penalty to be imposed for the violation;

(5) The date by which the civil penalty must be paid;

(6) A statement the person named in the notice of violation may pay the civil penalty in lieu of appearing at an administrative adjudication hearing.

(7) Information informing the person named in the notice of violation:

a). Of the right to contest the imposition of the civil penalty in an administrative adjudication hearing or Mayor's Court

- b.) Of the manner and time in which to contest the imposition of the civil penalty;
- c.) Failure to pay the civil penalty or to contest liability is a waiver of the right to appeal under Section 9J.:KB.
- (8) A statement that a recorded image is evidence in a proceeding for the imposition of a civil penalty;
- (9) A statement indicating failure to pay the civil penalty within the time allowed shall result in the imposition of an additional late penalty of \$50.00 for each violation; and
- (10) Any other information deemed necessary by the Department.
- (e) A notice of violation under this article is presumed to have been received on the tenth 10'h calendar day inclusive of weekends and legal holidays after the date the notice of violation is mailed.
- (f) Once a portion of any roadway has been equipped with any Photo Enforcement System, the Livonia Police Department shall begin issuing warning notices of the alleged violations as part of an education/ public notification effort for thirty (30) days. After this warning period, the Livonia Police Department shall begin issuing the civil citations. No additional warning periods shall be issued by the Livonia Police Department.

Sec. 16.10D: Administrative adjudication hearing.

- (a) A person who receives a notice of violation may contest the imposition of the civil penalty by a request in writing for an administrative adjudication of the civil penalty within thirty (30) calendar days inclusive of weekends and legal holidays after receipt of the notice of violation. Upon receipt of a timely request, the Livonia Police Department shall notify the person of the date and time of the administrative adjudication hearing.
- (b) Failure to pay a civil penalty or to contest liability in a timely manner is a waiver of the right to appeal under Section: 9J.1C.B(h)
- (c) The civil penalty shall not be assessed if, after a hearing, the hearing officer enters a finding of no liability.
- (d) In an administrative adjudication hearing, the issues must be proved at the hearing by a preponderance of the evidence. The reliability of the System used to produce the recorded image of the violation may be attested to in an administrative adjudication hearing by affidavit of an officer or the Department.

An affidavit from a sworn law enforcement officer or from the Department that alleges a violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article and is evidence of the facts contained in the affidavit.

- (e) A person who is found liable after an administrative adjudication hearing or who requests an administrative adjudication hearing and thereafter fails to appear at the time and place of the hearing shall be adjudicated in violation of this ordinance and subject to the original fine, applicable late fees, PLUS a \$30 Administrative Adjudication Fee. A person found NOT LIABLE after an administrative adjudication hearing SHALL NOT be charged the original fine, late fee, or administrative adjudication fee.

(f) It shall be an affirmative defense to the imposition of civil liability under this article to be proven by a preponderance of the evidence, that:

- 1) A traffic control sign stating the posted limit or an ordinance establishing a speed limit was not in proper position and sufficiently legible to an ordinarily observant person;
- 2) The operator of the motor vehicle was acting in compliance with the lawful order or direction of a law enforcement or public safety officer;
- 3) The operator of the motor vehicle violated the instructions of the traffic control sign so as to yield the right-of-way to an immediately approaching authorized emergency vehicle;
- 4) The motor vehicle was being operated as an authorized emergency vehicle under La. R.S. 32:24, and the operator was acting in compliance with La R.S.32:24;
- 5) The motor vehicle was being operated by a person other than the Owner of the vehicle without the effective consent of the Owner;
- 6) The license plate depicted in the recorded image of the violation was a stolen plate and being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued;
- 7) The presence of ice, snow, unusual amounts of rain, or other unusually hazardous road conditions existed that would make compliance with this article more dangerous under the circumstances than noncompliance;
- 8) The person who received the notice of violation was not the Owner of the motor vehicle at the time of the violation; or
- 9) At the time of the violation the motor vehicle was a stolen vehicle or the license plate displayed on the motor vehicle was a stolen plate, which must include proof acceptable to the hearing officer that the theft of the vehicle or license plate had been timely reported to the appropriate law enforcement agency.

(g) Notwithstanding anything in this article to the contrary, a person who fails to pay the amount of a civil penalty or to contest liability in a timely manner is entitled to an administrative adjudication hearing on the violation if:

- 1) The person files an affidavit with the hearing officer stating the date on which the person received the notice of violation mailed to the person; and
- 2) The person files a request for an administrative hearing within thirty (30) days from the date of receipt of the notice of violation, as stated in the affidavit.

(h) The decision of the hearing officer shall be the final decision by Livonia Town Government. A person or persons aggrieved by a decision may file a petition for judicial review to the Magistrate Court of the Town of Livonia, within thirty (30) days after the date of entry of the decision.

Sec. 16.10E: Order of Hearing Officer.

(a) The Hearing Officer at any administrative adjudication hearing under this article shall issue an order stating:

- (1) Whether the person charged with the violation is liable for the violation;
 - (2) The amount of any civil penalty, late penalty, and administrative adjudication cost assessed against the person.
- (b) The orders issued under Subsection (a) may be filed with the office of the hearing examiner. The hearing examiner shall keep the orders in a separate index and file. The orders may be recorded using microfilm, microfiche, or other physical or electronic data processing techniques.

Sec.16.10F: Effect of liability; exclusion of civil remedy.

- (a) The imposition of a civil penalty under this article shall not be considered a criminal conviction.
- (b) A civil penalty may not be imposed under this article upon the owner of a motor vehicle if the operator of the vehicle was arrested or was issued a citation and notice to appear by a law or public safety officer as a violation of the motor vehicle laws of Louisiana or the Town of Livonia if such violation was captured by the System.
- (c) The Town of Livonia Attorney is authorized to file suit to enforce collection of unpaid fines and/or related fees and penalties imposed hereunder by lawful means to secure such payments.

Sec. 16.10G: General Fund – Photo Enforcement Fines.

The penalties, fines, and fees collected from the imposition of civil Liability under this article shall be deposited into the General Fund listed as Photo Enforcment Fines.

Civil fine proceeds deposited into this General Fund – Photo Enforcement Fines shall be expended first for the costs of the System (payment to the vendor/operator of the System, public relations, and general implementation of the program).

SECTION 2. If any provision of this ordinance is held to be invalid or otherwise unenforceable by the final judgment of a court of competent jurisdiction such invalidity shall not affect the validity of any of the remaining provisions of this ordinance that may be given effect without the invalid provision, and to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION3.All ordinances or parts of ordinances of the Town of Livonia in conflict with this ordinance and all Sections in the Livonia Municipal Code in conflict with this ordinance are hereby repealed.

Speed Enforcement Civil Fines Chart:

1-10 in excess of posted speed	11-15 in excess of posted speed	16-20 in excess of posted speed	More than 20 MPH In excess of posted speed
\$50.00*	\$65.00*	\$80.00*	\$100.00*

* Note that violations occurring in operational school zones shall be double the amounts shown. Late payment fees may be assessed in addition to Civil Fines.

Said amended Ordinance having been introduced on April 12, 2021, by Greg Jarreau, notice of public hearing have been published, said public hearing having been held, the title having been read and the Ordinance considered, a motion was made by _____ and seconded by _____, to adopt the Ordinance. A record vote was taken and the following results were had:

YEAS:

NAYS:

ABSENT:

ABSTAIN:

Whereupon, the Ordinance was declared adopted on this ____ day of _____, 2021.

ATTEST and delivered to the Mayor

Donna Bergeron, MMC
Town Clerk, Livonia, Louisiana

APPROVED and delivered to the Clerk

Rhett Pourciau, MAYOR
Town of Livonia, Louisiana

Published in official journal _____.