

080382

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

District - *au*

Resolution or Ordinance (Blue)
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager *both*

DATE : May 28, 2008
B of T: June 19, 2008

SUBJECT: An Ordinance Amending Title VII of the Lombard Village Code in
Regard to an Automated Traffic Law Enforcement System

SUBMITTED BY: Raymond J. Byrne, Chief of Police

BACKGROUND/POLICY IMPLICATIONS:

This ordinance adds a new chapter to the Village Code (Chapter 74) which establishes an automated traffic law enforcement system (red light photo enforcement) as allowed by Illinois law. It also amends Chapter 73 of the Village Code to add violations of the red light photo enforcement program as violations which can be adjudicated as part of the Village's Administrative Hearing Process. The ordinance was drafted by Village Attorney George Wagner of Klein, Thorpe & Jenkins. A waiver of first reading is requested due to the Village Board's anticipated summer schedule of meetings.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director

Village Manager

David A. Hulseberg

Date

6/13/08

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda distribution.



LOMBARD POLICE DEPARTMENT



Date: May 28, 2008

To: David A. Hulseberg
Village Manager

From: Raymond J. Byrne
Chief of Police

Re: Automated Traffic Law Enforcement System

As you know, the police department has been evaluating the potential benefits of a red light photo enforcement system for several months. This program was also introduced to the Village Board during our budget process and received a favorable recommendation. We have reached a point in the process where we are ready to actually begin implementation of the program.

In order to proceed, the Village Board will need to take action on three (3) different items. First, the Board will have to approve an ordinance that adds a new chapter to the Village Code. A new chapter 74 is proposed to add an Automated Traffic Law Enforcement System. The proposed ordinance also modifies chapter 73 (Administrative Adjudication) to allow for violations of the red light photo enforcement program to be heard as part of the Village's Administrative Hearing process.

Second, the Village Board will need to approve a Violation Processing Service Agreement and Automated Traffic Law Enforcement System Agreement with RedSpeed Illinois, LLC (RedSpeed). The police department is recommending approval of these two agreements which essentially authorize RedSpeed to install and operate the red light photo enforcement system, as well as issue notices of violations and process all payments of fines. The Agreement specifies how ticket revenues will be shared between RedSpeed and the Village. After a violator pays the fine, RedSpeed will deduct their costs and remit the balance to the Village. Even in the unlikely event of a deficit at the end of a month, the Agreement also specifies that the Village will not owe RedSpeed any monies. The practical effect is that there are no costs to the Village.

The police department interviewed several vendors of red light photo enforcement systems and felt that RedSpeed was a reputable company. They appeared to have a very

well established system in place to document violations. Violators can review their infractions through RedSpeed's website, and RedSpeed handles all of the violation notices and fine payments. They also afford the convenient advantage of being a Lombard based company in the event of any problems or issues.

Finally, the Village Board will be required to authorize a standard Indemnification Agreement with the State of Illinois. This agreement is required by the State for any governmental agencies that wish to operate red light photo enforcement systems on facilities that are managed by the Illinois Department of Transportation (IDOT). The police department's approach to red light photo enforcement has always been orientated towards improving traffic safety. As a result, intersection crash data will be utilized to select the location of intersections to have cameras installed. Since we anticipate that intersections involving state routes will be included, approval of the Indemnification Agreement is required. I would respectfully request that all three of these items be placed on the Village Board's agenda for June 19, 2008.

Pending approval of these items by the Village Board, the next step will be to set up a business meeting with appropriate representatives of the Village and RedSpeed. Potential intersections would be identified and the approval process for IDOT permits would begin. Additionally, RedSpeed's marketing director would begin working with the Village to initiate a public education campaign about red light photo enforcement and traffic safety. We currently envision that this will entail press releases, signage, website information and information on TV 6. If you should have any questions, or would like additional information, please do not hesitate to contact me.

**AN ORDINANCE AMENDING TITLE VII
OF THE LOMBARD VILLAGE CODE IN REGARD TO
AN AUTOMATED TRAFFIC LAW ENFORCEMENT SYSTEM**

WHEREAS, the Village of Lombard (hereinafter, the "Village"), pursuant to P.A. 94-0795, which amends the Illinois Vehicle Code, 625 ILCS 5/1-100, *et seq.*, is vested with authority to implement an automated traffic law enforcement system in order to monitor motorist compliance with traffic control signals at intersections and to devise a system of administrative adjudication to enforce the same; and

WHEREAS, the Village, pursuant to 625 ILCS 5/11-208.6, may enact an ordinance providing for an automated traffic law enforcement system to enforce certain State and local traffic control signal laws and regulations through the use of electronic monitoring devices and by imposing liability on registered vehicle owners violating such State laws and local provisions; and

WHEREAS, the Village, pursuant to 625 ILCS 5/11-208.3 may enact a system of administrative adjudication to adjudicate violations of regulations related to automated traffic law violations; and

WHEREAS, the Village, pursuant to 625 ILCS 5/11-208(a)(2), may regulate traffic through the use of traffic control signals; and

WHEREAS, the Village pursuant to 625 ILCS 5/11-208(a)(15), may adopt traffic regulations as authorized by the Illinois Vehicle Code; and

WHEREAS, the Village President and Board of Trustees of the Village believe that instituting a system of administrative adjudication to adjudicate contested matters with respect to the automated traffic law enforcement system will facilitate prompt and just resolution of disputes;

NOW, THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of Lombard, County of DuPage, Illinois, as follows:

Section 1: That Title 7, Chapter 73, Section 73.01 of the Lombard Village Code is amended, as follows:

1. A new Subsection (D) shall be inserted, to be and read as follows:
- (D) Violations of Chapter 74 of this Code.

2. The following shall be inserted as the last sentence:

AUTOMATED TRAFFIC LAW VIOLATION means a motor vehicle entering an intersection against a red signal indication in violation of Section 11-306 of the Illinois Vehicle Code, or similar Village Code, as described in Section 11-208.6 of the Illinois Vehicle Code.

AUTOMATED TRAFFIC LAW ENFORCEMENT SYSTEM means a device with one (1) or more motor vehicle sensors working in conjunction with a red light signal to produce Recorded Images of motor vehicles entering an intersection against a red light signal in violation of Section 11-306 of the Illinois Vehicle Code or a similar provision of this Code.

ADMINISTRATOR means the person appointed as the Village's Traffic Control Administrator pursuant to Chapter 73 of this Code, who shall have the following additional powers: to adopt, distribute and process automated traffic law violation notices and other notices required by this Chapter, collect money paid as fines and penalties, operate the automated traffic law enforcement system, and make certified reports to the Secretary of State as required by this Chapter.

As used in this Chapter, words or terms shall have the following meanings unless the context or usage clearly indicates that another meaning is intended:

Section 74.03 DEFINITIONS

It has been determined to be in the best interests of the Village of Lombard to establish automated traffic law enforcement systems and to provide for administrative adjudication of Automated Traffic Law Violations as specified in this Chapter. Establishing automated traffic law enforcement systems at specified intersections in the Village at which traffic is controlled by signals exhibiting different colored lights or color lighted arrows will benefit the public health, safety and welfare by deterring drivers from entering those intersections in violation of red light signals, thereby decreasing the potential for personal injury and property damage due to vehicle collisions caused by red light violations.

Section 74.02 PURPOSE

This Chapter is adopted pursuant to the Illinois Vehicle Code, as recently amended by Public Act 94-0795, which authorizes municipalities in the counties of Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair and Will to provide by ordinance for "automated traffic law enforcement systems", as that term is defined in Section 11-208.6 of the Illinois Vehicle Code.

Section 74.01 ADOPTION OF THE AMENDED ILLINOIS VEHICLE CODE

CHAPTER 74: AUTOMATED TRAFFIC LAW ENFORCEMENT SYSTEM

74 thereto, which shall read in its entirety as follows:

Section 2: That Title 7 of the Lombard Village Code is amended by adding a new Chapter

. This Chapter 73 applies to violations of Chapter 74 to the extent not in conflict with Chapter 74.

CERTIFIED REPORT means a report concerning five (5) or more unpaid fines or penalties for Automated Traffic Law Violations made by the Village to the Secretary in accordance with Section 6-306.5 of the Illinois Vehicle Code.

HEARING means an administrative hearing conducted pursuant to Chapter 73 of this Code, which is hereby adopted to the extent that it does not conflict with the provisions of this Chapter.

HEARING OFFICER means the person appointed as such pursuant to Chapter 73 of this Code.

ILLINOIS VEHICLE CODE means, 625 ILCS 5/1-100, *et seq.*

RECORDED IMAGES means images showing the time, date and location of an Automated Traffic Law Violation recorded by an Automated Traffic Law Enforcement System on: (i) two (2) or more photographs, (ii) two (2) or more microphotographs, (iii) two (2) or more electronic images or (iv) a video recording showing the motor vehicle and, on at least one (1) image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

SECRETARY means the Illinois Secretary of State.

SUSPENSION NOTICE means a notice of impending driver's license suspension issued pursuant to Section 11-208.3 of the Illinois Vehicle Code and this Chapter.

SYSTEM means, individually, an Automated Traffic Law Enforcement System or, collectively, Automated Traffic Law Enforcement Systems established in the Village pursuant to this Chapter.

VIOLATION NOTICE means an Automated Traffic Law Violation notice issued pursuant to Sections 11-208.3 and 11-208.6 of the Illinois Vehicle Code and the provisions of this Chapter.

Section 74.04 DETERMINATION PRIOR TO VIOLATION NOTICE

Before a Violation Notice may be issued for any Automated Traffic Law Violation, a determination must be made by a technician employed or contracted by the Village that based upon inspection of Recorded Images generated by the System, the motor vehicle was being operated so as to commit an Automated Traffic Law Violation. If the technician determines that the vehicle entered the intersection as part of a funeral procession or in order to yield the right-of-way to an emergency vehicle, a Violation Notice shall not be issued.

Section 74.05 VIOLATION NOTICE

A Violation Notice shall be served by mail to the address of the registered owner of a vehicle cited for an Automated Traffic Law Violation as recorded with the Secretary within thirty (30) days after the Secretary notifies the Village of the identity of the owner of the vehicle, but in no event later than ninety (90) days after the violation. The original or a facsimile of a Violation Notice or, in the case of a Violation Notice produced by a computerized device, a printed record generated by the device showing the facts entered on the Violation Notice, shall be retained by the Village for a period of 180 days after the date of the violation. iManage:207182_2

13. a statement explaining how an administrative hearing may be requested.
12. a statement that the person may elect to proceed by paying the fine or challenging the charge in court; by mail or by administrative hearing; and
11. a statement that the recorded images constitute *prima facie* evidence of a violation;
10. a statement that the failure to pay by the date specified or to contest liability in a timely manner is an admission of liability, which will result in a final determination of liability and may result in the suspension of driving privileges for the registered owner of the vehicle;
9. the amount of the late fee;
8. a statement that a failure to pay the civil penalty by the date noted may result in an additional late fee being assessed against the owner or lessee;
7. the amount of the civil penalty and the date by which the penalty should be paid (21 days from the date of issuance), if a hearing is not requested, and a statement that the payment of the fine shall operate as a final disposition of the violation;
6. a copy of the recorded images;
5. the date and time of the violation;
4. the location where the violation occurred;
3. the violation charged;
2. the make (only if discernable) and registration number of the motor vehicle involved in the violation;
1. the name and address of the registered owner or lessee of the vehicle, as indicated by the records of the Secretary of State, or, if such information is outdated or unattainable, then the last known address recorded in a United States Post Office approved database;

C. The Notice of Violation shall include the following information:

- B. The Village shall only be required to notify a lessee if the leasing company/lessor provides the lessee's name by an affidavit and a copy of the lease within 60 days of the Notice's issuance. If the driver information is not provided within 60 days, the leasing company/lessor may be found liable.
- record shall be admissible in any subsequent administrative or legal proceedings.
- of the facts shown on the Violation Notice. The Violation Notice, copy or computer generated signed and served in accordance with this Chapter, a copy of the Violation Notice or the computer generated record shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the Violation Notice. The Violation Notice, copy or computer generated record shall be admissible in any subsequent administrative or legal proceedings.

Section 74.06 SERVICE OF NOTICES

All notices shall be sent by first class United States mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary, and, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database or, if to the lessee of the cited vehicle, at the last address known to the lessor of the cited vehicle at the time of the lease, and, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office database. Service of such Notices shall be deemed complete as of the date of deposit in the United States mail.

Section 74.07 ADMINISTRATIVE HEARINGS

The owner of a vehicle cited in a Violation Notice may request a hearing by the respondent by date on the Notice of Violation (21 days from the date of issuance), to challenge the evidence or set forth an applicable defense. The lessee of a vehicle cited in a Violation Notice likewise shall be afforded the opportunity for a hearing pursuant to Chapter 73 of this Code.

Section 74.08 DEFENSES.

The following may be considered defenses by the Hearing Officer for an Automated Traffic Law Violation:

1. that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred, and not under the control of or in the possession of the owner at the time of the violation;

2. that the driver of the vehicle passed through the intersection when the light was red either (i) in order to yield the right-of-way to an emergency vehicle; or (ii) as part of a funeral procession.

To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

Section 74.09 DETERMINATIONS OF LIABILITY

A final determination of Automated Traffic Law Violation liability shall occur following failure to pay the fine or penalty after a hearing officer's determination of violation liability. Where a person fails to appear at a hearing to contest the alleged violation in the time and manner specified in a prior mailed notice, the hearing officer's determination of violation liability shall become final: (a) upon denial of a timely petition to set aside that determination, or (b) upon expiration of the period for filing such a petition without a filing having been made.

Section 74.10 NOTICE OF DETERMINATION OF LIABILITY.

If the registered owner fails to pay or contest the Notice of Violation within twenty-one (21) days, a Notice of Determination of Liability will be sent to the owner indicating that a fine in the amount of \$100.00 is due to the Village. The notice will also state that the owner can petition

A. If the Administrator provides a Suspension Notice to a vehicle owner and subsequently makes a Certified Report to the Secretary, the subject vehicle owner may challenge the accuracy of the Certified Report in writing. To do so, the vehicle owner must submit to the Administrator a written statement under oath, together with any supporting documentation, establishing one of the following grounds for challenging the accuracy of the Certified Report: (1) that the person was not

Section 74.14 CHALLENGING CERTIFIED REPORTS

A Suspension Notice, in the form set forth in Section 73.05(D) of this Code, shall be sent to the person liable for any fine or penalty that remains due and owing on five (5) or more unpaid Automated Traffic Law Violations. The Suspension Notice shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database. Service of a Suspension Notice shall be deemed complete as of the date of deposit in the United States mail.

Section 74.13 SUSPENSION NOTICE

A person owing an unpaid fine or penalty for an Automated Traffic Law Violation penalty may file a petition to set aside a final determination of such liability as provided in Section 73.06 of this Code.

Section 74.12 ADMINISTRATIVE REVIEW

3. A warning that a failure to pay the fine and penalty may result in the suspension of the person's driver's license for failure to pay fines or penalties for five (5) or more Violations.

2. A warning that a failure to pay the fine and penalty due and owing the Village within fourteen (14) days may result in the Village's filing a complaint in the Circuit Court to have the unpaid fine or penalty rendered a judgment in accordance with Section 11-208.3(f) of the Illinois Vehicle Code.

1. A statement that the unpaid fine and any penalty assessed is a debt due and owing the Village.

A Notice of Final Determination of Liability shall be sent following the final determination of automated traffic law violation liability and the conclusion of any judicial review proceedings, and shall contain, but not be limited to, the following information:

Section 74.11 NOTICE OF FINAL DETERMINATION OF LIABILITY

the Village to set aside the determination of liability before it becomes final. If the owner does not pay the \$100.00 as specified in the notice or petition the Village to set aside the determination within twenty-one (21) days, a Notice of Final Determination of Liability, as described in Section 74.11, will be mailed to the owner indicating, in addition, that the owner has exhausted all challenge options and the \$100.00 fine is a debt due and owing to the Village and must be paid within fourteen (14) days. The owner will also be notified that the failure to pay the \$100.00 fine within fourteen (14) days will result in a late fee of \$100.00 added to the original fine.

Passed on first reading this _____ day of _____, 2008.
First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

portions of this Ordinance shall continue in full force and effect to the extent possible.
is held to be invalid, then that portion shall be stricken from this Ordinance and the remaining
date of its passage, approval and publication as provided by law. If any portion of this Ordinance
SECTION 4: This Ordinance shall be in full force and effect ten days from and after the

hereby expressly repealed only to the extent of such conflict or inconsistency.
SECTION 3: All prior ordinances and resolutions in conflict or inconsistent herewith are

The owner (or lessee) of a motor vehicle is subject to a penalty of one hundred dollars
(\$100.00) per Automated Traffic Law Violation. In the event that such penalty is not paid within
fourteen (14) days after service of a Violation Notice, an additional one hundred dollar (\$100.00)
late payment penalty shall be imposed. A penalty shall not apply if the driver of the motor vehicle
received a Uniform Traffic Citation from a police officer at the time of the violation

74.16 PENALTIES.

Non-residents of the Village who receive Violation Notices may contest the merits of the
alleged Automated Traffic Law Violation without attending a hearing by sending a notarized
statement, together with any supporting documentation, to the Administrator via certified mail,
return receipt requested, within fourteen (14) days after service of the Violation Notice. Such a
statement shall set forth the reasons why a finding of liability should not be entered. The hearing
officer shall make an adjudication based upon the facts set forth in the notarized statement of facts
and the facts contained in the Violation Notice.

Section 74.15 NON-APPEARANCE PROCEDURES

given upon request and at no additional charge to the person named therein.
determines that the original report was in error. A certified copy of such notification shall also be
Certified Report has paid the previously recorded fine or penalty or whenever the Village
B. The Administrator shall notify the Secretary of State whenever a person named in the

error.
owing have been paid or that the inclusion of the person's name on the Certified Report was in
Secretary is presented with a notice from the Village certifying that the fines or penalties due and
person's driver's license will be suspended at the end of a specified period of time unless the
Administrator within five (5) days after the person receives notice from the Secretary that the
the Administrator by certified mail, return receipt requested, or hand-delivered to the
indicated on the Certified Report. Such statement and supporting documentation must be sent to
already paid the fines or penalties for the five (5) or more Automated Traffic Law Violations
Law Violations on the date or dates such Violation Notices were issued, or (2) that the person
the owner or lessee of the subject vehicle or vehicles receiving five (5) or more Automated Traffic

Passed on second reading this _____ day of _____, 2008, pursuant to a roll call vote as follows:

AYES: _____
NAYS: _____
ABSENT: _____

APPROVED by me this _____ day of _____, 2008.

William J. Mueller
Village President

ATTEST:

Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this _____ day of _____, 2008.

Brigitte O'Brien
Village Clerk