

ORDINANCE NO. 2018-28

AN ORDINANCE ADOPTING AND IMPLEMENTING REVISED AUTOMATED TRAFFIC LAWS TO REPEAL AND REPLACE CHAPTER 14, ARTICLE II, SECTION 14-31 OF THE VILLAGE OF STICKNEY CODE OF ORDINANCES AND APPROVING AN AGREEMENT WITH SAFESPEED, LLC

WHEREAS, the Village of Stickney (hereinafter, “Village”), pursuant to P.A. 94-095, which amends the Illinois Vehicle Code, 625 ILCS 5/1-100, et seq., is vested with authority to implement an automated traffic 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(f) and 625 ILCS 5/11208.6, may enact an ordinance providing for an automated traffic law enforcement system to enforce 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 and 65 ILCS 5/1-2.11, *et seq.*, may enact a system of administrative adjudication to adjudicate all matters related to standing, parking, vehicle condition and automated traffic law violations; and

WHEREAS, the Corporate Authorities of the Village are desirous of providing a fair and efficient method of enforcing certain Village regulations through administrative adjudication of vehicular standing and parking violations, violations concerning the condition and use of vehicle equipment, violations regarding the display of municipal wheel tax licenses and 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 hereby finds that enhanced traffic enforcement capabilities at intersections within the Village further the public health, safety and welfare of residents; and

WHEREAS, the Corporate Authorities find that it is in the best interests of the life, safety, health and welfare of the residents to adopt an agreement with SafeSpeed, LLC, (the “Agreement”) a copy of which is attached hereto as “Exhibit A”; and

WHEREAS, the Corporate Authorities 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 Stickney, Cook County, Illinois as follows:

SECTION 1. Recitals

The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth herein.

SECTION 2. Automated Traffic Law Enforcement System – Repeal and Replace Chapter 14, Article II, Section 14-31 of the Village of Stickney Code of Ordinances (the “Village Code”)

Chapter 14, Article II, Section 14-31 is hereby repealed and the following shall be incorporated into and made a part of the Code of Ordinances of the Village of Stickney in place of Section 14-31 as provided herein:

**CHAPTER 14, ARTICLE II
Section 14-31**

This ordinance provides for an automated traffic law enforcement system, which detects motor vehicles which fail to abide by traffic-control signals at intersections under penalty of a fine, and a system of administrative adjudication by which such detected infractions shall be resolved.

It shall be a violation of this Ordinance for anyone to operate a vehicle in disregard of a traffic control device or to turn right on a red light where it is posted “No Turn on Red.”

Automated Traffic Law Enforcement System.

- (a) *Detection.* As used in the Section, “automated traffic law enforcement system” means a device within the Village with one 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 steady or flashing red signal indication in violation of Section 11-306 of the Illinois Vehicle Code, 625 ILCS 5/11-306. The automated traffic law enforcement system shall not be used to enforce speed limit regulations. The recorded images produced by the automated traffic law enforcement system, which consists of either 2 or more photographs or 2 or more electronic images of a video recording showing the motor vehicle, shall capture and display images of the vehicle allegedly violating traffic-control signals, together with the license plate on such vehicle, and shall also show the time, date and location of the violation.

- (b) Signage. Any intersection equipped with an automated traffic law enforcement system must have a sign posted which is visible to approaching traffic indicating that the intersection is being monitored by an automated traffic law enforcement system.
- (c) Notice of Violation. When the automated traffic law enforcement system records a motor vehicle entering an intersection in spite of a steady or flashing red signal indicating a violation of Section 11-306 of the Illinois Vehicle Code, 625 ILCS 5/11-306, this shall be deemed a non-criminal violation for which a civil penalty of one hundred dollars (\$100.00) shall be assessed and for which no points shall be assigned by the Illinois Motor Vehicle Code Point System for License Suspension to the owner or driver of the vehicle. The Village shall issue a written notice of the violation to the registered owner or lessee of the vehicle, which shall be mailed by first class mail within thirty (30) calendar days after the Illinois Secretary of State notifies the Village of the identity of the registered owner or lessee of the vehicle, and in no event later than ninety (90) calendar days following the violation. Each notice of violation associated with an automated traffic law violation shall require a review of the associated recorded image by an officer or retired officer of the Village police department empowered under this ordinance to determine whether a red light offense has occurred or whether one of the defenses enumerated below in subsection (f) is visibly applicable upon inspection. Upon determination that the recorded image captures a violation of one of the foregoing provisions and that no defense applies, the notice of violation shall be served upon the registered vehicle owner in the manner provided for below. The Traffic Compliance Administrator shall retain a copy of all violation notices, recorded images and other correspondence mailed to the alleged violator. Each notice of violation, which shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of the above-noted statutory and local provisions and shall establish prima facie evidence of a violation, subject to rebuttal on the basis of the defenses established in subsection (f), shall include the following:
- (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; and
 - (2) the registration number of the motor vehicle involved in the violation; and
 - (3) the vehicle make, if available and readily discernible; and
 - (4) the violation charged; and
 - (5) the location where the violation occurred; and
 - (6) the date and time of the violation; and
 - (7) a copy of the recorded images; and

- (8) the amount of the civil penalty imposed and the date by which the civil penalty should be paid if liability for the violation is not going to be contested; and
- (9) a statement that the recorded images are evidence of a violation of a red light signal; and
- (10) a warning that failure to either pay the civil penalty or contest liability is an admission of liability and may result in a suspension of the driving privileges of the registered owner or lessee of the vehicle in addition to the specified penalties for failing to contest liability or pay the fine in advance of the hearing. Payment of the civil penalty or contesting of liability must be done in writing within thirty (30) calendar days of the mailing of the notice of violation or by attending the administrative hearing; and
- (11) the date, time and place of the administrative hearing at which the charge may be contested on its merits, a date that shall be no less than fifteen (15) calendar days from the mailing or other service of the first notice of violation; and
- (12) a statement that payment of the indicated fine and of any applicable penalty for late payment shall constitute a final disposition of the violation; and
- (13) the signature of the party reviewing the recorded images and confirming that a violation took place.

(d) Penalty and Final Determination of Violation Liability.

- (1) If the civil penalty of One Hundred Dollars (\$100.00) referred to in paragraph 4 herein is not timely paid or the Notice of Violation referred to in paragraph 4 herein is not contested timely, a One Hundred Dollar (\$100.00) penalty will be assessed in addition to the original One Hundred Dollar (\$100.00) fine by way of "Final Determination of Violation Liability."
- (2) The Village, through its Treasurer, Clerk, Police Department, Law Department, Administrative Adjudication Program, and/or any other designated agent of the Village, may establish procedures for the collection of the civil penalty imposed.

(e) Defenses. The following are the only defenses available for an alleged violator contesting his or her liability for a violation, which shall be weighed by the Hearing Officer and shall only rebut the prima facie case established by the notice of liability insofar as one or more of the following defenses are established by a preponderance of the evidence:

- (1) the motor vehicle or registration plates were stolen before the violation occurred and were not under the control of or in the possession of the owner at the time of the violation, which may be demonstrated through the submission of a certified copy of a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner; or

- (2) the vehicle was an authorized emergency vehicle; or
 - (3) the driver of the vehicle passed through the intersection in spite of a red light either to yield the right-of-way to an emergency vehicle or as part of a funeral procession; or
 - (4) the facts alleged in the Notice of Violation are inconsistent or do not support a finding that a violation occurred; or
 - (5) the operator of the vehicle received a Uniform Traffic citation from a police officer at the time of the violation for the same incident as captured by the automated traffic law enforcement system and either paid such citation or successfully contested said citation; or
 - (6) the vehicle was leased to another and within sixty (60) calendar days after the citation was mailed to lessor, lessor submitted to the municipality the correct name and address of the lessee of the vehicle identified in this Notice of Violation at the time of the alleged violation, together with a copy of the lease agreement, the lessee's driver's license number and any additional information that may be needed; or
 - (7) the respondent was not the registered vehicle owner, lessee or renter of the cited vehicle at the time of violation.
- (f) *Administrative Adjudication.* The Village shall utilize its system of administrative adjudication for vehicular standing and parking violations, violations regarding the display of municipal stickers/licenses, and automated traffic law violations. The administrative adjudication system for all violations of the Village Code subject to administrative adjudication shall be comprised of a "Code Hearing Unit" which shall consist of a Hearing Officer and any other officials deemed necessary, including a Traffic Compliance Administrator and any ordinances identified by the Ordinances of the Village pertaining to such administrative hearing body. Such officers shall be vested with the power, authority and limitations as are hereinafter set forth.
- (g) *Powers of the Hearing Officer.* The Hearing Officer shall have all of the powers granted to Hearing Officers under 65 ILCS 5/1-2.1-4, the provisions of which are incorporated herein by reference, including the power to preside over all administrative hearings as the adjudicator, administer oaths, hear testimony and accept evidence that is relevant to the existence of the Village Code or Vehicle Code violation.
- (h) *Powers of the Traffic Compliance Administrator.* The Traffic Compliance Administrator shall have all of the powers granted by 625 ILCS 5/11-208.3(b)(1), the provisions which are incorporated herein by reference.
- (i) *Establishment of Hearing Unit.* The Village President is hereby authorized to appoint necessary officers to establish the Code Hearing Unit and to otherwise comply with the terms herein.

- (j) Appointment of Traffic Compliance Administrator. The Village President, with the advice and consent of the Village Board of Trustees, shall appoint a Traffic Compliance Administrator, or a designee, who is authorized to adopt, distribute and process parking, compliance and automated traffic law violation notices, collect money paid as fines and penalties for the above noted violations, operate an administrative adjudication system and make certified reports to the Secretary of State regarding a registered vehicle owner's failure to pay fines and penalties in accordance with 625 ILCS 5/6-306.5. The Police Chief or designee shall act as the Traffic Compliance Officer unless or until such position is filled by the President and Board of Trustees.
- (k) Service of Violation Notices. Violation Notices must be mailed to the address of the registered owner or lessee of the cited vehicle as recorded with the Secretary of State within thirty (30) calendar days after the Secretary of State notifies the Village of the identity of the registered vehicle owner, but no later than ninety (90) calendar days after the date of the violation. If the notice of violation is returned as undeliverable, then the notice of violation shall be sent to the last known address recorded in a United States Post Office approved database.
- (l) Adjudicative Hearing. The hearing shall be tape recorded, and the Hearing Officer shall conduct the hearing in accordance with his or her powers and duties, enumerated herein. Alleged violators who appear at the administrative hearing to contest an alleged violation may be represented by legal counsel at their own expense, however, formal rules of evidence shall not apply to the administrative hearing. The Hearing Officer shall enter either a default judgment or a determination of liability or non-liability in accordance with consideration of the facts and testimony, if any, and shall constitute a final determination of liability from which an appeal may be taken.
- (m) Collection of Fines and Penalties. Nothing contained in this Section shall prevent the Village from pursuing all available remedies, allowed by law, to collect fines and payment of penalties owed to Village.
- (n) Notice of Impending Driver's License Suspension. This notice shall be sent via first class United States mail, postage prepaid, to the address recorded with the Secretary of State of any person liable for any fine or penalty due and owing the Village for five (5) or more unpaid automated traffic law violations. If such mailing is returned as undeliverable, then the Village shall send the notice to the last known address recorded in a United States Post Office approved database. If Village subsequently makes a Certified Report to the Secretary of State, 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 supporting documentation, establishing one of the following grounds for challenging the accuracy of the Certified Report: (1) that the person was not the owner or lessee of the subject vehicle or vehicles receiving five (5) or more automated traffic law violations on the date or dates such Violation Notices were issued, or (2) that the

person already paid the fines or penalties for the five (5) or more automated traffic law violations indicated on the Certified Report. Such statement and supporting documentation must be sent to the Administrator by certified mail, return receipt requested, or hand delivered to the Administrator within five (5) days after the person receives notice from the Secretary of State that the person's driver's license will be suspended at the end of a specified period of time unless the Secretary is presented with a notice from the Village certifying that the fines or penalties due and owing have been paid or that the inclusion of the person's name on the Certified Report was in error.

- (o) Procedures for Non-Residents. Where the registered owner or lessee of the cited vehicle is not a resident of the Village but seeks to contest the merits of the alleged violation, such persons may contest the charges using the same available defenses as stated above, and the same procedures – they may attend the administrative hearing or they may submit any and all documentary evidence no later than the hearing date referenced in the notice of liability, together with a written statement reflecting that they are non-residents of the Village.

SECTION 3. Saving Clause

If any section, paragraph, clause or provision of this Ordinance shall be held unconstitutional or inconsistent with any other provision of this Code or deemed otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The Village Board of Trustees hereby declares that it would have passed each provision, section, subsection, subdivision, paragraph, sentence, clause or phrase of the Village of Stickney Code of Ordinances irrespective of the fact that any one or more provision, sections, subsections, subdivisions, paragraphs, sentences, clauses and phrases of Village of Stickney Code be declared unconstitutional, inconsistent, or otherwise invalid or ineffective.

SECTION 4. Authority to Execute Agreement

The Village President is authorized to sign, and the Village Clerk to attest to, whatever documents are necessary and perform all actions necessary to finalize the implementation of the Traffic Enforcement Program subject to approval of said documents by the Village Attorney including but not limited to any and all necessary permits with the Illinois Department of Transportation (IDOT). The Village President is further authorized to sign, and the Village Clerk to attest to, whatever documents are necessary to engage the services of SafeSpeed to perform the services as detailed in the Agreement attached hereto as "Exhibit A."

SECTION 5. Full Force and Effect Clause

This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

SECTION 6: Purpose

The purpose of this Ordinance is adopt and promulgate laws related to automated traffic law enforcement system to enforce 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 to approve the Agreement with SafeSpeed.

SECTION 7.

This Ordinance shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of Stickney.

SECTION 8.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

PASSED AND APPROVED, by the Mayor and Board of Trustees of the Village of Stickney, Cook County, State of Illinois, this 19th day of June, 2018.

AYES: Trustees Hrejsa, Kapolnek, Milenkovic, Savopoulos, Torres and White

NAYS: none

ABSENT: none

ABSTENTION: none

APPROVED by me this 19th day of June, 2018.

Jeff Walik, President

ATTESTED AND FILED in my
office this 20th day of June, 2018.

Audrey McAdams, Village Clerk

EXHIBIT A