

ORDINANCE NO. 20-002

AN ORDINANCE ADDING AND ENACTING ARTICLE V. ELECTRONIC TRAFFIC ENFORCEMENT, SECTIONS 14-80 THROUGH 14-87, INCLUSIVE, OF THE TOWN OF HOMER CODE OF ORDINANCES TO PROVIDE FOR THE ENFORCEMENT OF CERTAIN TRAFFIC VIOLATIONS BY AUTOMATED MEANS AND PROVIDE FOR CIVIL PENALTIES FOR THOSE CERTAIN TRAFFIC VIOLATIONS ENFORCED BY AUTOMATED MEANS

BE IT ORDAINED by the Mayor and Council of the Town of Homer, Parish of Claiborne, State of Louisiana, in regular session assembled, a proper quorum being there and then present, on the 9th day of March 2020, that:

WHEREAS, the Town of Homer Board of Aldermen find there has been a high incidence of drivers disregarding or “running” red lights and speeding on the streets of Homer, LA.; and

WHEREAS, the Town of Homer Board of Aldermen find a reduction in running of red lights and controlling speed on the streets of Homer, LA through a program utilizing 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 Homer, LA., and

Now therefore, be it ordained that the electronic traffic enforcement procedure is adopted as follows:

ARTICLE A. ELECTRONIC TRAFFIC ENFORCEMENT

Sec. 14-80 Definitions.

For the purpose of sections 14-80 through 14-88, inclusive, the following definitions shall apply:

Town Attorney means the Town Attorney of the Town of Homer, LA.

Department shall mean the Homer Police Department, its successor, or an authorized representative as determined by the Chief of Police.

Chief of Police shall mean the Chief of the department, or his authorized representative.

Hearing officer/adjudicator shall mean a licensed attorney designated by the Mayor who meets the qualifications contained within this chapter.

Mayor means the Mayor of the Town of Homer, LA.

Owner shall mean the owner of a vehicle as shown on the 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.

Photographic vehicle speed enforcement system or system shall mean a system consisting of an electronic system which is capable of producing one or more recorded images depicting the license plate attached to the rear of a vehicle being operated at a speed in excess of the speed limit. The speed measurement component of the system shall be properly calibrated on a regular basis as determined by the Chief of Police and the records of such calibration shall be maintained with the office of the Chief of Police.

Recorded image means an image recorded by the system depicting the rear of a vehicle which is automatically recorded on a photograph or digital image, which also depicts the recorded speed, date, location, and time of the recorded image.

System location means the highway location toward which a photographic vehicle speed enforcement system is directed and in operation or a segment of roadway on which a vehicle speed enforcement system is in operation.

Speed limit shall mean the established regulatory speed limit on the subject roadway.

Violation shall mean the notice of civil violation for speeding for this division.

Sec. 14-81 Imposition of civil violation penalty for violations enforced by a photographic vehicle speed enforcement system.

a. The Homer Town Council finds and determines a vehicle traveling over the speed limit for the vehicle's direction of travel damages the public by endangering vehicle operators, passengers and pedestrians alike, by increasing the number of serious traffic crashes, and causing public safety agencies to respond at the expense of the taxpayers thereby decreasing the efficiency of traffic control and traffic flow efforts.

b. Except as provided in subsections (c) and (d) below, the owner of a vehicle is responsible for a civil violation penalty as shown in the following tables if the vehicle is traveling at a speed in miles per hour (mph) greater than the speed limit as shown when captured by the system in accordance with the vehicle's recorded speed and the corresponding speed limit of the roadway where the notice of civil violation was issued:

MPH OVER SPEED LIMIT	FINE
1 MPH to 10 MPH	\$130.00
11 MPH to 20 MPH	\$140.00
21 MPH to 30 MPH	\$160.00
31 MPH to 100+ MPH	\$190.00

MPH OVER SPEED LIMIT IN SCHOOL ZONE

1 MPH to 10 MPH	\$188.00
11 MPH to 15 MPH	\$212.00
15 MPH to 20 MPH	\$237.00
Over 21 MPH	\$267.00

Following the guidelines as established by DOTD, the following thresholds shall be established:

Posted Speed Limit (Miles Per Hour)	Minimum Speed for Violation to be Issued in a School Zone (Miles Per Hour)	Minimum Speed for Violation To Be Issued (Miles Per Hour)
15	≥21	≥21
20	≥26	≥26
25	≥31	≥31
30	≥36	≥36
35	≥41	≥43
40	≥46	≥48
45	≥51	≥55
50	≥58	≥60
55	≥63	≥65
60		≥70
65		≥75
70		≥80
75		≥85

c. Any photographic vehicle speed enforcement system which is hand-held, mounted in or on a vehicle or in a fixed position shall be deployed at the discretion of the Chief of Police, who shall deploy such systems in his discretion within the Town of Homer, LA.

Sec. 14-82 – Late Payments

a. An owner who fails to pay a civil violation penalty beyond 30 calendar days from the date of mailing the civil notice of violation, inclusive of weekends and legal holidays, shall be subject to a late payment penalty of \$30.00. e.g. (original civil violation + 30 = total civil violation amount including late payment penalty).

Sec. 14-83 – Enforcement; procedures.

a. The department is responsible for the enforcement and administration of this ordinance or the department may enforce and administer this ordinance in part or in whole, through one or more contractors selected in accordance with applicable law. The actions which can be used to enforce the payment of this civil penalty and related fees include, but are not limited to: referring the debt to collection agencies; and/or initiating actions through a court or competent jurisdiction, or any other lawful means, all in accordance with applicable authority, laws and procedure.

b. In order to impose a civil violation penalty under this article, the department shall mail a notice of civil violation to the owner of the vehicle responsible for the civil violation penalty not later than the 30th calendar day inclusive of weekends and legal holidays after the date the department reviews and inspects the recorded images, and an alleged civil violation is determined by the department.

c. A notice of civil 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 violation penalty to be imposed for the violation;
- (5) The date by which the civil violation penalty must be paid;
- (6) A statement the person named in the notice of civil violation may pay the civil violation penalty in lieu of appearing at an administrative adjudication hearing.
- (7) Information informing the person named in the notice of civil violation:
 - a. Of the right to contest the imposition of the civil violation penalty in an administrative adjudication;

- b. Of the manner and time in which to contest the imposition of the civil violation penalty; and
- c. Failure to pay the civil violation penalty or to contest liability within 40 calendar days for the date of mailing the civil notice of violation, inclusive of weekends and legal holidays, is a waiver of the right to appeal.

(8) A statement that a recorded image is evidence in a proceeding for the imposition of a civil violation penalty;

(9) A statement indicating failure to pay the civil violation penalty within the time allowed shall result in the imposition of an additional late penalty as prescribed by subsection 14-82 (a) for each such violation; and

d. A notice of civil violation under this article is presumed to have been received on the tenth calendar day inclusive of weekends and legal holidays after the date the notice of civil violation is mailed.

Sec. 14-84 – Administrative adjudication hearing.

a. A person who receives a notice of civil violation may contest the imposition of the civil violation penalty by a request in writing for an administrative adjudication of the notice of civil violation penalty within 30 calendar days inclusive of weekends and legal holidays after date of mailing of the notice of civil violation and posting a hearing request and cash bond of \$50.00. Upon receipt of a request and cash bond within the prescribed time period within this paragraph, the department shall notify the person requesting such hearing of the date and time of the administrative adjudication hearing.

b. 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 forfeit their cash bond amount noted in Section 14-84 a.

c. Administrative adjudications of violations of section 14-84 shall be conducted by the hearing officer designated by the Mayor. In conducting administrative adjudications of violations, the hearing officer shall have the following functions, powers and duties:

1. To administer oaths, to accept admissions to, and to hear and determine contests of, violations herein.
2. To require the attendance of persons to give testimony at hearings, and to require the production of data and information, to the extent permitted by law.
3. To adjudicate violations for which a notice of civil violation has been issued herein.

4. To compile and maintain accurate records relating to notice of civil violations, violations and/or dispositions of violations and notice of civil violations.
5. Upon request of the department or a person charged with a violation, or his attorney, to prepare or provided transcripts or audio records of hearing conducted by the hearing officer and to furnish such transcripts or audio records to the requesting person at a reasonable cost.
6. To answer within a reasonable period of time relevant and reasonable inquiries made by a person charged with a violation, or his attorney, concerning the violation. The hearing officer shall also furnish within a reasonable period of time to the person charged, on a request, and upon complying with the regulations of the hearing officer, a copy of the original notice of civil violation.
7. The functions and duties in (4), (5), and (6) identified herein may be performed by representatives of the department, as directed by the hearing officer.
8. To prescribe regulations for the presentation and the conduct of hearings which need not necessarily be in strict conformity with the usual rules of evidence and technical rules of procedure, however, the fundamental principles governing a fair and impartial hearing or trial and due process of law must be reasonably and substantially adhered to.

d. Except as provided in subsection (h), failure to pay a civil violation penalty or to contest liability beyond 30 calendar days from the date of mailing of the notice of civil violation inclusive of weekends and legal holidays constitutes a waiver of the right to contest under subsection (a).

e. The civil violation penalty shall not be assessed if after a hearing, the hearing officer enters a finding of no liability.

f. 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 a law enforcement officer or a representative of the department, or by actual testimony by either of them. An Affidavit of a sworn law enforcement officer or representative of the department, or actual testimony by either of them, that alleges a civil violation occurred based on an inspection of the pertinent recorded image is admissible in a proceeding under this article and is prima facie evidence of those facts contained in the affidavit or testified to. Testimony by any person shall be taken under oath or by affirmation, except to the extent such testimony is allowed by affidavit as provided above. The person charged with the ordinance violation may present any relevant evidence and testimony at such hearing.

g. 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. The operator of the vehicle was acting in compliance with the lawful order direction of a law enforcement or public safety officer;
2. The operator of the vehicle violated the speed limit so as to move out of the way of an immediately approaching authorized emergency vehicle;
3. The vehicle was being operated as an authorized emergency vehicle under La. R.S. 32:24, and the operator was acting in compliance with the La. R.S. 32:24;
4. The vehicle was being operated in accordance with La. R.S. 32:300.3 – Funeral Processions; however, the operators are not exempt if they fail to comply with division 2, vehicle speed.
5. The vehicle was being operated by a commissioned law enforcement officer performing authorized/assigned tasks;
6. The vehicle was being operated during a bona fide medical emergency which is documented with adequate and sufficient evidence from a medical care facility, as determined by the department;
7. At the time of the violation, the vehicle was in the care, custody or control of another person:
 - a. 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.
 - b. As set forth in a document, or "Transfer of Liability," 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 "Transfer of Liability."
 - c. The tender of a statement of "Transfer of Liability" 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.

d. 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.

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

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

g. The decision of the hearing officer shall be the final decision by the Town. A person or persons aggrieved by a decision may file petition for judicial review to the 2nd Judicial District Court in Claiborne Parish, LA., within 30 days after the date of entry of the decision.

Sec. 14-85 – Order of hearing officer.

Rules for hearing officer adjudication:

1. The hearing officer at administrative adjudication hearings under this article shall issue an order stating:
 - a. Whether the person charged with the violation is responsible for the violation; and
 - b. The amount of any civil violation penalty, late penalty, and administrative adjudication costs assessed against the person.
2. The orders issued under subsection (1) may be filed with the department. The department shall maintain the hearing officer's orders/determination.

Sec. 14-86 – Effect of liability; exclusion of civil remedy.

- a. The imposition of a civil violation penalty under this article shall not be considered a criminal conviction.
- b. A civil violation penalty may not be imposed under this article upon the owner of a vehicle if the operator of the vehicle was arrested or was issued a speeding citation and notice to appear by a law enforcement or public safety officer as a violation of any of the provisions of Subpart A, Part

IV, Chapter 1 of Title 32 of the Louisiana Revised Statutes if such violation was captured by the system.

c. Upon receipt of all documents supplied to the contractor or, the Town Attorney may enforce collection of all unpaid fines, fees, penalties, late payment penalties and administrative adjudication fees in a court of competent jurisdiction for vehicles registered with the Louisiana Department of Motor Vehicles. The Town Attorney may bring suit in the name of the Town of Homer, LA or may retain outside counsel to bring suit, in accordance with applicable laws, in the name of the Town of Homer, LA.

d. The Chief of Police or contractor, as applicable, shall supply to the Town Attorney, or outside counsel bringing suit, all materials and/or testimony necessary to support enforcement.

e. Defendants in enforcement suits authorized by this section have, until rendition of final judgment, the option of settlement by payment of all outstanding fines, fees, penalties, late payment penalties and administrative adjudication fees, as well as court costs and filing fees incurred (whether prepaid or otherwise) in enforcement. No defendant in such suit shall be required to pay attorney's fees in connection with such settlement.

f. Any money judgment obtained in a suit to enforce fines levied for violation of this division shall be recorded in the mortgage records of the Parish of Claiborne, and/or any other parish, as a judicial mortgage against the property of the defendant.

Sec. 14-87 – Enforcement of Failure to Comply with order to pay fines issued by the Photographic Vehicle Speed Enforcement Program.

- a. Should a violator not respond to the order to pay the fine, upon second notice the Homer, LA Mayor's Court shall issue a Failure to Comply Attachment and be issued a subpoena to appear in Mayor's Court. If violator fails to appear in Mayor's Court, a warrant for their arrest will be issued for contempt of said court date.

Collections Fees and Costs

In the event a fine or penalty is assessed pursuant to any provision of this Code, a default in the payment of a fine, penalty or any installment of a fine or penalty may be collected by any means authorized for the collection of monetary judgments. The Township and Township Attorney, Comptroller or designees, may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine or penalty imposed by the Code, or any installment of a fine or penalty. The Township shall add a 35% cost of collections to any outstanding balance that requires the City to retain the services of a collection agency. This 35% cost includes any default in a fine, penalty or any installment of a fine or penalty that was previously referred to an attorney or private agency and the payment of which remains outstanding.

This ordinance will be effective June 22, 2020 upon publication once in the official journal of the Town of Homer, LA.

This ordinance was adopted at a regular meeting, which a quorum was present, after due notice, on this 8th day of June, 2020.

Yeas: 4- (Linda Hardaway, Johnny West, Keldron Johnston, Patricia Jenkins)

Nays: 0

Abstain: 0

Absent: 0


Sheriela Wright

Town Clerk



Mayor