

VILLAGE OF STREAMWOOD

ORDINANCE NO. 2008 - _____

AN ORDINANCE AMENDING TITLE 5 ENTITLED
"MOTOR VEHICLES AND TRAFFIC" BY ADDING
THERE TO CHAPTER 8 ENTITLED "AUTOMATED TRAFFIC
ENFORCEMENT SYSTEM" OF THE VILLAGE CODE OF THE
VILLAGE OF STREAMWOOD, COOK COUNTY, ILLINOIS

ADOPTED BY THE BOARD OF TRUSTEES
OF THE VILLAGE OF STREAMWOOD
THIS _____ DAY OF _____, 2008

Published in pamphlet form by authority of the Board of Trustees
of the Village of Streamwood, Cook County, Illinois
this _____ day of _____, 2008.

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**AN ORDINANCE AMENDING TITLE 5 ENTITLED
"MOTOR VEHICLES AND TRAFFIC" BY ADDING
THERETO CHAPTER 8 ENTITLED "AUTOMATED TRAFFIC
ENFORCEMENT SYSTEM" OF THE VILLAGE CODE OF THE
VILLAGE OF STREAMWOOD, COOK COUNTY, ILLINOIS**

WHEREAS, the Village of Streamwood (hereinafter, the "Village"), is a home rule unit of government pursuant to the provisions of Article VII, Section 6 of the Constitution of the State of Illinois; and

WHEREAS, the Village, as a home rule unit, may exercise power and perform any function pertaining to its government and affairs, including, but not limited to, the power to legislate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the Village of Streamwood (hereinafter, the "Village"), pursuant to Public Act 94-795 is expressly empowered to implement an automated traffic enforcement system to monitor motorist compliance with traffic control signals; and

WHEREAS, the Village, pursuant to Section 11-208.6 of the Illinois Vehicle Code (625 ILCS 5/11-208.6), is authorized to adopt 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, the Village is further authorized, pursuant to 625 ILCS 5/208(f), to impose liability on registered

vehicle owners of such vehicles violating such State laws and local provisions; and

WHEREAS, the corporate authorities of the Village have determined that it is in the best interests of the Village to adopt 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

WHEREAS, the Village has previously adopted, pursuant to Home Rule power and pursuant to Division 2.1 of Article I of the Illinois Municipal Code (65 ILCS 5/1-2.1-1 et seq.), a system of administrative adjudication to adjudicate municipal code violations; and

WHEREAS, the corporate authorities of the Village believe that incorporating into its system of administrative adjudication the adjudication of contested matters with respect to the automated traffic law enforcement system in addition to other violations adjudicated administratively will facilitate prompt and just resolution of disputes.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Streamwood, Cook County, Illinois, that Title 5 entitled "Motor Vehicles and Traffic" is amended by adding thereto Chapter 8 entitled "Automated Traffic Enforcement System" to read as follows.

SECTION 1. Chapter 8. "Automated Traffic Law Enforcement System."

5-8-1 There is hereby adopted an Automated Traffic Law Enforcement System of the Village of Streamwood, Cook County, Illinois.

5-8-2 *Detection of Certain Violations/Definitions.*

As used in this Section, "automated traffic law enforcement system" means a device(s) located within the Village of Streamwood with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of a motor vehicle entering an intersection against a steady red or flashing red signal indicating a 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 system is designed to obtain a clear recorded image of a violating motor vehicle and its license plate. As used in this Section, "recorded images" means images recorded by an automated traffic law enforcement system, on either two (2) or more photographs, two (2) or more micrographs, two (2) or more electronic images or a video recording showing the motor vehicle, capturing and displaying images of the vehicle violating traffic-control signals, together with at least one (1) clearly recorded image identifying the vehicle's license plate. The recorded image shall also display the time, date and location of the violation.

As used in this Section "Village" shall mean the Village of Streamwood, Cook County, Illinois.

5-8-3 *Signage.*

Any intersection equipped with an automated traffic law enforcement system shall have a sign posted which is clearly visible to approaching traffic indicating that the intersection is being monitored by an automated traffic law enforcement system.

5-8-4 *Violations, Review, Notice, Service.*

When the automated traffic law enforcement system records a motor vehicle entering an intersection in spite of a steady red or flashing red signal indication, in violation of Section 11-306 of the Illinois Vehicle Code, or similar provisions of Section 5-1-1 of the Village Code of Ordinances of the Village of Streamwood, the duly appointed Village official shall, for each violation recorded, issue a written notice of the violation to the registered owner or lessee of the vehicle as the alleged violator. The notice shall be delivered by first class mail, postage prepaid, within thirty (30) days after the Illinois Secretary of State notifies the Village of the identity of the registered owner or lessee of the vehicle, but in no event later than ninety (90) days after the violation. Prior to service of a notice of violation, the associated recorded image shall be reviewed by a technician employed or contracted by the Village, who shall inspect the image and determine whether the motor vehicle violated Section 11-306 of the Illinois Vehicle Code and/or similar provisions of Section 5-1-1 of the Village Code of Ordinances of the Village of Streamwood, and whether one of the defenses enumerated hereinafter is visibly applicable upon

inspection of the recorded image. 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 herein provided. The Traffic Compliance Administrator or other duly appointed official shall retain a copy of all violation notices, recorded images and other correspondence mailed to the alleged violator. Each notice of violation 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 ordinance provisions and shall establish *prima facie* evidence of a violation, subject to rebuttal on the basis of the defenses established in Section 5-8-5 herein. Each notice of violation shall include the following:

- a) 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;
- b) the registration number of the motor vehicle involved in the violation;
- c) the violation charged, with specific reference to that section of the Village Code of Ordinances of the Village of Streamwood, or Illinois Vehicle Code, allegedly violated;
- d) the location where the violation occurred;
- e) the date and time of the violation;
- f) a copy of the recorded images;
- g) the amount of the civil penalty imposed under Section 5-8-7 herein and the date by which the civil penalty shall be paid if liability for the violation is not going to be contested;

- h) a statement that the recorded images are evidence of a violation of a red light signal violation or expired registration;
- i) a warning that failure to either pay the civil penalty or request a hearing to contest liability within twenty-one (21) days of the mailing of the notice of violation 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 other specified penalties for failing to appear at the hearing or pay the fine in advance of the hearing;
- j) a statement that the registered owner or lessee of the vehicle may elect to proceed either by paying the fine stated in the notice of violation or by challenging the charge in an administrative hearing; and
- k) 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) nor more than thirty (30) days from the mailing or other service of the notice of violation.

5-8-5 *Defenses Available to Alleged Violator for Violation of a Red Light Signal.*

The following shall be the only defenses available for an alleged violator contesting liability for a violation of a red light signal, which shall be weighed by the Hearing Officer and shall only rebut the *prima facie* case established by the notice of violation insofar as one or more of the following defenses are established by a preponderance of the evidence:

- a) the motor vehicle and/or registration plates were stolen before the violation occurred and were not under the exclusive control of or in the possession of the owner at the time of the red light signal violation, which defense may be demonstrated through the submission of a certified copy of a report concerning the stolen motor vehicle or registration plates filed with a law enforcement agency prior to the time of the alleged violation;

- b) 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; and
- c) the driver of the vehicle passed through the intersection in spite of a red light at the direction of a police officer acting within the scope of his duties; or
- d) the operator of the vehicle received a Uniform Traffic Violation from a police officer, which citation is determined to be a moving violation reportable to the Illinois Secretary of State.

5-8-6 *Penalty.*

Unless the driver of the motor vehicle in question received a Uniform Traffic Citation from a police officer at the time of the alleged violation, the motor vehicle owner is subject to a civil penalty not exceeding \$100.00 for a proved violation of this Section, plus an additional penalty of not more \$100.00 for failure to pay the original penalty or contest the violation at an administrative hearing in a timely manner, if the motor vehicle is recorded by an automated traffic law enforcement system. Any penalty imposed for a violation of this Section is a civil penalty and is not a violation of a traffic regulation governing the movement of motor vehicles and shall not be transmitted to the Illinois Secretary of State to be recorded on the driving record of the vehicle owner.

5-8-7 *Hearing.*

(A) All contested hearings, whether in person or contested by mail, shall be heard and adjudicated by the Village's duly appointed Administrative Hearing Officer, appointed pursuant to Title 1, Chapter 17, of the Village Code of the Village of Streamwood, who shall, after hearing and/or review of evidence

submitted, enter a finding of liable or not liable as to the offense charged. The provisions, procedures and penalties provided in this Chapter 8 shall apply exclusively to the adjudication of alleged automated red light enforcement violations.

(B) The owner of a vehicle being operated in violation of Section 11-306 of the Illinois Vehicle Code or similar provisions of Section 6-8-1 of the Village Code of Ordinances of the Village of Streamwood may request a hearing no later than the respond-by date on the Notice of Violation (21 days from the date of issuance of the notice), to challenge the evidence or set forth an applicable allowable defense. The Notice of Violation shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of Section 11-306 of the Illinois Vehicle Code or similar provisions of Section 5-1-1 of the Village Code of Ordinances of the Village of Streamwood. The Notice of Violation shall be *prima facie* evidence of a violation, subject to rebuttal on the basis of the defenses established in Section 5-8-5.

(C) The owner's failure to appear at the hearing shall result in a finding of liability. In the event of a failure to appear, a "Findings, Decision and Order" letter will be sent to the owner. The owner's failure to pay the fine amount by the date specified in that letter will result in a final determination of liability.

5-8-8 *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 of Streamwood. The notice will also state that the owner can petition 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 will be sent to the owner indicating 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.

5-8-9 *Final Determination.*

A Final Determination of violation liability shall occur following failure to pay the fine, a failure to request a hearing by the respond-by date, after a hearing officer's determination of violation liability, failure to file a petition to set aside determination of liability in a timely manner and the exhaustion of or failure to exhaust any administrative review procedures provided by the Village Code of the Village of Streamwood or the Illinois Administrative Review Law (735 ILCS 5/3-101 *et seq.*). 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 shall become final upon a failure to pay the amount owed on the date provided in the "Findings, Decision and Order" letter. Appeal from a Final Determination of Liability may be made to the Circuit Court of Cook County pursuant to the provisions of the Illinois Administrative Review Act.

5-8-10 Notice of Final Determination.

A Notice of Final Determination shall be sent following the final determination of liability and after the conclusion of the period for judicial review. The Notice of Final Determination shall include the following information:

- a) a statement that the unpaid fine is a debt due and owing to the Village of Streamwood; and
- b) a warning that a failure to pay any fine due and owing to the Village of Streamwood after a judgment has been entered may result in the suspension of the person's driver's license for failure to pay fines or penalties for five (5) or more final determinations of liability under this Chapter.

5-8-11 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 person may contest the charges using the same available defenses set forth in Section 5-8-5, but rather than attend the administrative hearing, the non-resident may submit any and all documentary evidence to the Ordinance Enforcement Administrator or other duly appointed official no later than the hearing date, together with a written statement setting forth with specific reason(s) why they believe that the owner is not liable and that they are Non-Residents of the

Village of Streamwood. The Ordinance Enforcement Administrator or other duly appointed official shall forward all timely-submitted materials to the Hearing Officer for review and determination.

5-8-12 Petitions to Set Aside Determination.

A Petition to Set Aside Determination of an automated traffic law violation must be filed with or mailed to the Ordinance Enforcement Administrator or other duly authorized Village Official within fourteen (14) days of the date of mailing of the Notice of Determination of Liability. The grounds for the petition are limited to:

- 1) the person was not the owner or lessee of the cited vehicle on the date the violation notice was issued; or
- 2) the person already paid the fine for the violation in question; or
- 3) excusable failure to appear at or request a new date for a hearing.

Upon receipt of a timely petition to set aside the determination of liability, the Hearing Officer shall review the petition to determine if cause has been shown to set aside the determination. If cause has been shown, the Village shall forward the petitioner a new hearing date on which the petitioner must appear to present his case. The Village shall notify the petitioner of the hearing officer's decision to grant a hearing or deny the petition within fourteen (14) days of the hearing officer's decision.

5-8-13 Notice of Impending Driver's License Suspension.

A Notice of Impending Driver's License Suspension shall be sent to any person liable for any fine or penalty that remains due and owing on five (5) or more final determinations of liability for violations of this Chapter. The Notice of Impending Driver's License Suspension shall state that the failure to pay the fine owing within forty-five (45) days of the notice's date will result in the Village of Streamwood notifying the Secretary of State of the State of Illinois that the person is eligible for initiation of suspension proceedings under Section 6-306.5 of the Illinois Vehicle Code (625 ILCS 5/6-306.5).

The Notice of Impending Driver's License Suspension shall be sent by first class mail, postage prepaid, to the address recorded with the Secretary of State 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.

5-8-14 Driver's License Suspension.

The Ordinance Enforcement Administrator, who shall be appointed by the Chief of Police of the Village of Streamwood, or other duly appointed official, by certified report, may request that the Secretary of State suspend the driving privileges of an owner of a registered vehicle who has failed to pay any fine or penalty due and owing as a result of five (5) final determinations of liability. The report shall be certified and contain the following:

- a) the name, last known address of the owner of the vehicle as recorded with the Secretary of State,

or as provided by the lessor of the cited vehicle at the time of lease, or as recorded in a United States post office approved database if any notice sent under this Chapter is returned as undeliverable, and driver's license number of the person who failed to pay the fine(s) or penalty(ies) and the registration number of any vehicle known to be registered to such person in another state;

- b) the name of the Village of Streamwood as making the report; and
- c) a statement that a Notice of Impending Driver's License Suspension has been sent to the person named in the report at the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of the lease or, if any notice sent under this Chapter is returned as undeliverable at the last known address recorded at a United States post office approved database; the date on which such notice was sent; and address to which such notice was sent.

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

5-8-15 *Confidentiality.*

Recorded images made by the Automatic Traffic Enforcement System shall be confidential and shall be made available only to the alleged violator, governmental agencies and the Village of Streamwood Police Department for purposes of adjudicating violations, statistical or other governmental purposes.

SECTION 2. 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 Code of the Village of Streamwood irrespective of the fact that any one or more provisions, sections, subsections, subdivisions, paragraphs, sentences, clauses and phrases of the Village Code of the Village of Streamwood be declared unconstitutional, inconsistent, or otherwise invalid or ineffective.

SECTION 3. Effective Date. This Ordinance shall be in full force and effect ten (10) days from and after its passage, approval, and publication in the manner provided by law.

ROLL CALL VOTE: AYES _____

 NAYS _____

 ABSTENTIONS _____

 ABSENT _____

PASSED AND APPROVED this ___ day of _____, 2008.

APPROVED:

VILLAGE PRESIDENT

ATTEST:

VILLAGE CLERK