

**TOWNSHIP OF ABINGTON  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2049**

**AN ORDINANCE OF THE TOWNSHIP OF ABINGTON AUTHORIZING THE  
ENFORCEMENT OF SECTION 3112(a)(3) OF THE PENNSYLVANIA MOTOR  
VEHICLE CODE (RELATING TO TRAFFIC CONTROL SIGNALS) BY RECORDING  
VIOLATIONS USING AN AUTOMATED RED LIGHT ENFORCEMENT SYSTEM  
APPROVED BY THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION**

The Board of Commissioners of the Township of Abington does hereby **ENACT** and **ORDAIN** as follows:

**Section 1. Definitions.**

(1) *Automated red light enforcement system.* Shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal which automatically produces one or more photographs of a vehicle at the time the vehicle is used or operated in a manner which is a violation of the Motor Vehicle Code, or as otherwise defined under the Motor Vehicle Code.

(2) *Designee.* Shall include a person, business entity or governmental entity, including the Pennsylvania Department of Transportation.

(3) *Motor Vehicle Code.* Shall mean Title 75 of the Pennsylvania Consolidated Statutes.

(4) *Photograph.* Shall mean any visual image produced by an automated red light enforcement system.

**Section 2. Automated Red Light Enforcement.**

An individual whose vehicle is recorded by an automated red light enforcement system in violation of the prohibition of section 3112(a)(3) of the Motor Vehicle Code (relating to obedience to the steady red light indication of traffic control signals) at such intersections of the Township of Abington designated and identified pursuant to this Ordinance shall be liable for civil penalties as set forth in this Ordinance.

**Section 3. Intersections At Which This Ordinance Applies.**

(1) Automated red light enforcement systems approved by the Pennsylvania Department of Transportation may be used to enforce this Ordinance only at the following intersections, and as this list may be amended from time to time by ordinance, subject to the designation of such intersections by agreement of the system administrator and the Pennsylvania Secretary of Transportation:

- (a) Old York Road and Susquehanna Road
- (b) Old York Road and Old Welsh Road
- (c) Moreland Road and Fitzwatertown Road

**Section 4. Penalty.**

- (1) The penalty for a violation of section 2 of this Ordinance shall be a fine of \$100.00.
- (2) A fine is not authorized for a violation of this Ordinance if any of the following apply:
  - (i) The intersection is being manually controlled; or
  - (ii) The signal is in the mode described in section 3114 of the Motor Vehicle Code (relating to flashing signals).
- (3) A fine is not authorized during any of the following:
  - (i) The first 60 days of operation of the automated system at the initial intersection.
  - (ii) The first 30 days for each additional intersection selected for the automated system.
- (4) A warning may be sent to the violator under paragraph (3).
- (5) A penalty imposed under this section shall not be deemed a criminal conviction and shall not be made part of the operating record under section 1535 (relating to schedule of convictions and points ) of the individual upon whom the penalty is imposed, nor may the imposition of the penalty be subject to merit rating for insurance purposes.
- (6) No surcharge points may be imposed in the provision of motor vehicle insurance coverage. Fines collected under this Ordinance shall not be subject to 42 Pa.C.S. § 3571 (relating to Commonwealth portion of fines, etc.) or 3573 (relating to municipal corporation portion of fines, etc.).

**Section 5. Limitations.**

- (1) No automated red light enforcement system shall be utilized in such manner as to take a frontal view recorded image of the vehicle as evidence of having committed a violation.
- (2) Notwithstanding any other provision of law, camera equipment deployed as part of the automated red light enforcement system as provided for by this Ordinance must be incapable



of automated or user-controlled remote intersection surveillance by means of recorded video images. Recorded images collected as part of the automated red light enforcement system may only record traffic violations and may not be used for any other surveillance purposes. The restrictions set forth under this paragraph shall not be deemed to preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonably described and is requested solely in connection with a criminal law enforcement action.

(3) Notwithstanding any other provision of law, information prepared under this section and information relating to violations under this section which is kept by the Township, its authorized agents or employees, including recorded images, written records, reports or facsimiles, names and addresses, shall be for the exclusive use of the Township, its authorized agents, its employees and law enforcement officials for the purpose of discharging their duties under this Ordinance. The information shall not be deemed a public record under the act of February 14, 2008 (P.L. 6 No. 3), known as the Right-to-Know Law. The information shall not be discoverable by court order or otherwise, nor shall it be offered in evidence in any action or proceeding which is not directly related to a violation of this section or any ordinance or resolution of the Township. The restrictions set forth under this paragraph shall not be deemed to preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonable described and is requested solely in connection with a criminal law enforcement action.

(4) Recorded images obtained through the use of automated red light enforcement systems deployed as a means of promoting traffic safety in the Township shall be destroyed within 30 days following the final disposition of any recorded event. The system administrator shall file notice with the Department of State that the records have been destroyed in accordance with this paragraph.

(5) Notwithstanding any other provision of law, registered vehicle owner information obtained as a result of the operation of an automated red light enforcement system under this Ordinance shall not be the property of the manufacturer or vendor of the automated red light enforcement system and may not be used for any purpose other than prescribed in this Ordinance.

## **Section 6. Defenses To Liability.**

(1) It shall be a defense to a violation under this Ordinance that the person receiving the notice of violation was not operating the vehicle at the time of the offense. The owner may be required to submit evidence that the owner was not the driver at the time of the alleged violation. The Township may not require the owner of the vehicle to disclose the identity of the operator of the vehicle at the time of the violation.

(2) If an owner receives a notice of violation under this Ordinance of a time period during which the vehicle was reported to a police department of any state or municipality as having been stolen, it shall be a defense to a violation under this section that the vehicle has been

reported to a police department as stolen prior to the time the violation occurred and not been recovered prior to that time.

(3) It shall be a defense to a violation under this Ordinance that the person receiving the notice of violation was not the owner or lessor of the vehicle at the time of the offense.

(4) No owner shall be found liable pursuant to this Ordinance if he or she is convicted of a violation pursuant to the Motor Vehicle Code for the same violation.

#### **Section 7. Duties of the Township of Abington.**

(1) The Township may not use an automated red light enforcement system unless an appropriate sign is posted in a conspicuous place before the area in which the automated red light enforcement device is to be used notifying the public that an automated red light enforcement device is immediately ahead.

(2) The Township of Abington Police Department or its designee shall serve as the system administrator to supervise and coordinate the administration of notices of violations issued under this Ordinance.

(3) The following requirements apply to notices issued by the system administrator:

(i) The system administrator shall prepare a notice of violation to the registered owner of a vehicle identified in a recorded image produced by an automated red light enforcement system as evidence of a violation of section 3112(a)(3) of the Motor Vehicle Code. The issuance of the notice of violation must be performed by a police officer employed by the Township of Abington Police Department. The notice of violation must have attached to it all of the following:

- (A) A copy of the recorded image showing the vehicle.
- (B) The registration number and state of issuance of the vehicle registration.
- (C) The date, time and place of the alleged violation.
- (D) Notice that the violation charged is under section 3112(a)(3) of the Motor Vehicle Code.
- (E) Instructions for the return of the notice of violation.

(ii) The notice shall contain the following statement:



*This notice shall be returned personally, by mail or by an agent duly authorized in writing. A hearing may be obtained upon the written request of the registered owner.*

(4) The notice of violation must be signed by a Township police officer verifying that he or she has inspected the recorded images evidencing the violation and that he or she has reason to believe the information contained in the notice of violation is true and correct.

(5) Notices of violation must be sent by first class mail. A manual or automatic record of mailing prepared by the system administrator in the ordinary course of business shall be prima facie evidence of mailing and shall be admissible in any judicial or administrative proceeding as to the facts contained therein.

#### **Section 8. System Administrator.**

(1) The system administrator may hire and designate personnel as necessary or contract for services to implement this Ordinance.

(2) The system administrator shall process fines issued under this section.

(3) The system administrator shall submit an annual report to the chairman and minority chairman of the Transportation Committee of the House of Representatives. The report shall be considered a public record under the Right-to-Know Law and include for the prior year:

- (i) The number of violations and fines issued.
- (ii) A compilation of fines paid and outstanding.
- (iii) The amount of money paid to a vendor or manufacturer under this Ordinance.

#### **Section 9. Notice to Owner.**

In the case of a violation involving a motor vehicle registered under the laws of this Commonwealth, the notice of violation must be mailed within 30 days of the commission of the violation or within 30 days after the discovery of the identity of the registered owner, whichever is later, to the address of the registered owner as listed in the records of the Department of Transportation. In the case of motor vehicles registered in jurisdictions other than this Commonwealth, the notice of violation must be mailed within 30 days after the discovery of the identity of the registered owner to the address of the registered owner as listed in the records of the official in the jurisdiction having charge of the registration of the vehicle. A notice of violation under this section must be proved to an owner within 90 days of the commission of the offense.

#### **Section 10. Mailing of Notice and Records.**

Notice of violation must be sent by first class mail. A manual or automatic record of mailing prepared by the system administrator in the ordinary course of business shall be *prima facie* evidence of mailing and shall be admissible in any judicial or administrative proceeding as to the facts contained in it.

#### **Section 11. Payment of Fine.**

(1) An owner to whom a notice of violation has been issued may admit responsibility for the violation and pay the fine provided in the notice.

(2) Payment must be made personally, through an authorized agent, electronically or by mailing both payment and the notice of violation to the system Administrator. Payment by mail must be made only by money order, credit card or check made payable to the system administrator. The system administrator shall remit the fine, less the system administrator's operation and maintenance costs necessitated under this section, to the Department of Transportation for deposit into a restricted receipts account in the Motor License Fund. Fines deposited in the fund under this paragraph shall be used by the Department of Transportation for a Transportation Enhancements Grant Program.

#### **Section 12. Request For A Hearing.**

(1) An owner to whom a notice of violation has been issued may, within 30 days of the mailing of the notice, request a hearing to contest the liability alleged in the notice. A hearing request must be made by appearing before the system administrator during regular office hours either personally or by an authorized agent or by mailing a request in writing.

(2) Upon receipt of a hearing request, the System Administrator shall in a timely manner schedule the matter before a Hearing Officer. Written notice of the date, time and place of the hearing must be sent by first class mail to the owner.

#### **Section 13. Hearings.**

(1) The hearing shall be informal, the rules of evidence shall not apply and the decision of the Hearing Officer shall be final, subject to the right of the owner to appeal to the magisterial district judge.

(2) If the owner requests in writing that the decision of the Hearing Officer be appealed to the magisterial district judge, the System Administrator shall file the notice of violation and supporting documents with the magisterial district judge, who shall hear and decide the matter *de novo*.

#### **Section 14. Compensation to Manufacturer or Vendor.**

The compensation paid to the manufacturer or vendor of the automated red light enforcement system may not be based upon the number of traffic citations issued or a portion or percentage of the fines generated by the citations. The compensation paid to the manufacturer or



vendor of the equipment shall be based upon the value of the equipment and the services provided or rendered in support of the automated red light enforcement system.

**Section 15. Duration of Yellow Light Change Interval.**

The duration of the yellow light change interval at intersections where automated red light enforcement systems are in use shall conform to the yellow light change interval duration specified on the traffic signal permit issued by the Department of Transportation or the Township.

**Section 16. Revenue Limit.**

The Township may not collect an amount equal to or greater than 5% of its annual budget from the collection of revenue from the issuance and payment of violations under this Ordinance.

**Section 17. Repealer.**

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

**Section 18. Severability.**

In the event that any section, sentence, clause or word of this ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this Ordinance.

**Section 19. Effective Date.**

This Ordinance shall become effective as of the date of enactment.

**Section 20. Expiration.**

This Ordinance shall expire one calendar year from the date the automated red light camera system becomes operational, unless the Board of Commissioners, following a public hearing, votes to further extend the effectiveness of this Ordinance.

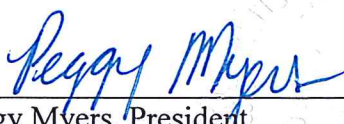
**ENACTED and ORDAINED** this 11th day of APRIL, 2013.

TOWNSHIP OF ABINGTON

Attest:

  
\_\_\_\_\_  
Michael LeFevre, Secretary

By:

  
\_\_\_\_\_  
Peggy Myers, President  
Board of Commissioners