

Proposed Ordinance

No. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF BAYTOWN, TEXAS, CHAPTER 94 "TRAFFIC AND VEHICLES", ADDING ARTICLE VIII "LIMITS ON ENFORCEMENT"; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That Chapter 94 "Traffic and Vehicles" of the Code of Ordinances of the City of Baytown, Texas, is hereby amended, to add the following new Ordinance:

ARTICLE VIII. LIMITS ON ENFORCEMENT

Sec. 94-341. Purpose

- (a) It is the purpose of this article to limit the conditions under which a ticket may be issued for qualified traffic law violations detected by the use of traffic law photo-monitoring devices.
- (b) This article shall apply within the corporate boundaries of the city.

Sec. 94-342. Definitions.

The following terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Law enforcement officer means any law enforcement officer employed by the City of Baytown or any other political jurisdiction in Texas, including the State. The City may from time to time and at its discretion, by ordinance or resolution, designate which City employees are "law enforcement officers" for the purpose of this article.

Qualified traffic law violation means a violation of any of the following:

- (1) Any state or local law relating to complying with a traffic control signal or a railroad crossing sign or signal; or
- (2) any state or local law limiting the speed of a motor vehicle.

Ticket means any traffic ticket, citation, summons, or other notice of liability (whether civil or criminal) issued in response to an alleged qualified traffic law violation detected by a traffic law monitoring photo-monitoring device.

Traffic law photo-monitoring device means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces photographs, videotape, or digital images of the vehicle, its license plate or its owner.

Sec. 94-343. Condition limits.

(a) The City of Baytown, including its various Boards, agencies, departments, or assignees shall not use any traffic law photo-monitoring device for the enforcement of a qualified traffic law violation, unless a law enforcement officer is present at the time and location of the violation.

Sec. 94-344 Intent

(a) It is not the intent of this article to prohibit the City of Baytown, including its various Boards, agencies, departments, or assignees from enforcing any qualified law violation using traffic law photo-monitoring devices as long as they meet the conditions, requirements and limitations set forth in Sec. 94-343 of this article.

Section 2: If any provision, section, exception, paragraph, sentence, clause or phrase of this Ordinance or the application of same to any person or the set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this Ordinance or their application to other persons or sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

Section 3: This Ordinance shall take effect from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this Ordinance to be published in the official newspaper of the City of Baytown, Texas, at least twice within ten (10) days after passage of this Ordinance.

Introduced, read and passed by affirmative vote of the City Council of the City of Baytown, Texas, this _____ day of _____ 2010.

STEPHEN H. DONCARLOS, Mayor

ATTEST

City Clerk

APPROVED AS TO FORM

IGNACIO RAMIREZ, SR, City Attorney