

**REGULAR MEETING
DECEMBER 14, 2016
6:30 PM**

The Mayor and Councilmen of the Town of Jean Lafitte met in a Regular Meeting with the following members present: Mayor Kerner, Councilman Bartholomew, Councilman Creppel, Councilman Guillie and Councilman Smith. Absent: Councilman LeBeau. Mayor Kerner presided calling the meeting to order at 6:30 p.m. asking everyone to rise and pledge allegiance to the flag of the United States of America.

On a motion by Councilman Creppel and seconded by Councilman Bartholomew the following was offered:

A motion to accept the minutes of the Regular Meeting of November 9, 2016.

YEAS: 4

NAYS: 0

ABSENT: 1

SUMMARY ORDINANCE #488

On a motion by Councilman Bartholomew the following ordinance was offered:

An ordinance amending ordinance #455 by adding the Town of Jean Lafitte *Electronic Enforcement, Speed Limit Enforcement* to provide for the enforcement of certain traffic signal, traffic signage, and speed violations by automated/photographic means and provide for civil penalties for traffic violations enforced by automated means.

WHEREAS, the Town of Jean Lafitte finds there has been a high incidence of drivers violating the speed limit of the Town of Jean Lafitte; and

WHEREAS, the Town of Jean Lafitte finds that violating these traffic laws endangers motor vehicle operators and pedestrians alike; and,

WHEREAS, the Town of Jean Lafitte finds a reduction in violations of the speed limit, traffic signal, and traffic signs through a program utilizing electronic measurement and 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 Jean Lafitte ; and,

WHEREAS, the Town of Jean Lafitte, operating under the powers granted to it by the Lawrason Act, has the power and authority to establish a program of enforcement of posted speed limit, traffic signals, and traffic signage laws by the use of electronic measurement and photographic evidence and the imposition of civil penalties.

IT IS HEREBY ORDAINED BY THE COUNCIL OF THE TOWN OF JEAN LAFITTE,

Ordinance #455 of the Town of Jean Lafitte Municipal Code relative to TRAFFIC AND VEHICLES, is hereby amended by adding the following - ELECTRONIC ENFORCEMENT, Division 1, SPEED LIMIT ENFORCEMENT, Sections I through IV, Division 2 TRAFFIC SIGNAL and TRAFFIC SIGNAGE ENFORCEMENT to read as follows:

ELECTRONIC ENFORCEMENT

Division 1 - Speed Limit Enforcement

Sec. IV Definitions.

For purposes of Sections 1 through 4 inclusive, the following definitions shall apply:

(1) Owner shall mean the owner of a motor vehicle as shown on the motor 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.

(2) *Electronic/Photographic Speed Limit Enforcement System or System* shall mean a system that:

- a) Consists of a system for electronically measuring the speed of a motor vehicle; and
- b) Includes a still camera system and/or full motion video camera system. The full motion video camera system shall be capable of recording 30 frames per second or greater; and
- c) Clearly capture the rear license plate of the subject vehicle.

Sec. I V . Imposition of civil penalty for violations enforced by Electronic/Photographic Speed Limit Enforcement System.

The Town of Jean Lafitte Council finds and determines that vehicles travelling in excess of the posted speed limits damage the public safety by endangering motor vehicle operators and pedestrians alike, by decreasing the efficiency of traffic control and traffic flow efforts, and by increasing the number of serious traffic crashes to which public safety agencies must respond at the expense of the taxpayers.

- a) Except as provided in (b) and (c) below, the Owner of a motor vehicle is liable for a civil penalty of \$120.00 if the motor vehicle proceeds at a rate of speed in excess of the posted limit or limit set by law.
- b) For a second or subsequent violation of the same motor vehicle during any (12) twelve-month period, the amount of the civil penalty assessed to the Owner of that vehicle shall be \$180.00.
- c) An Owner who fails to timely pay a civil penalty shall be subject to an additional late payment penalty of \$50.00 in addition to the original violation penalty.

Sec. IV. Enforcement; procedures.

a) The Police Department is responsible for the enforcement and administration of Sections I through IV, inclusive. The Police Department may utilize a contractor to assist with the gathering of photographic and electronic evidence of violations for the Police Department to determine if a violation notice is to be issued. The Police Department may set minimum parameters for the Contractor to apply to potential violations that are transmitted for Police examination and final disposition as an issued notice or rejected notice. The decision to issue or not issue the notice of violation rests entirely with the Town of Jean Lafitte Police Department

If the Police Department uses a contractor for any portion of the enforcement or administration of this ordinance, then the contractor shall meet the following minimum criteria: (1) The contractor selected by the Police Department must be able to demonstrate 5 years of continuous operations of similar digital photo enforcement programs in municipalities in the United States; (2) must have 3 years of audited financials that show sufficient financial resources to provide the contractual equipment and services; and

b) The actions which can be used to enforce the payment of this civil penalty and related fees may consist of but not be limited to immobilization of vehicles (booting), reporting the debt to collection agencies/credit reporting agencies, initiating actions through the small claims court, and/or submitting required documentation to LA DEPARTMENT OF MOTOR VECHICLES that would lead to Vehicle Registration holds or

other authorized process leading to the enforcement of payment of the civil penalty arising from violations governed by this ordinance.

c) In order to impose a civil penalty under this article, the Police Department shall mail, or direct a contractor to mail, a notice of violation that was issued by a Law Enforcement Officer to the Owner of the motor vehicle, identified in the Notice of Violation liable for the civil penalty, not later than the fourteenth 14th calendar day inclusive of legal holidays and weekends after the date the violation is alleged to have occurred.

d) A notice of 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 penalty to be imposed for the violation;
- (5) The date by which the civil penalty must be paid;
- (6) A statement the person named in the notice of violation may pay the civil penalty in lieu of appearing at an administrative adjudication hearing.
- (7) Information informing the person named in the notice of violation:
 - a.) Of the right to contest the imposition of the civil penalty in an administrative adjudication;
 - b.) Of the manner and time in which to contest the imposition of the civil penalty;
 - c.) Failure to pay the civil penalty or to contest liability is a waiver of the right to appeal under Section 4.
- (8) A statement that a recorded image is evidence in a proceeding for the imposition of a civil penalty;
- (9) A statement indicating failure to pay the civil penalty within the time allowed shall result in the imposition of an additional late penalty of \$50.00 for each violation; and
- (10) Any other information deemed necessary by the Department.

(e) A notice of violation under this article is presumed to have been received on the tenth 10th calendar day inclusive of weekends and legal holidays after the date the notice of violation is mailed.

(f) Once a portion of roadway has been equipped with a System, the Town of Jean Lafitte Police Department shall begin issuing warning notices of the alleged violations as part of an education/ public notification effort for thirty (30) days. After this warning period, the Town of Jean Lafitte Police Department shall begin issuing the civil citations.

Sec. IV. Administrative adjudication hearing.

(a) A person who receives a notice of violation may contest the imposition of the civil penalty by a request in writing for an administrative adjudication of the civil penalty within thirty (30) calendar days inclusive of weekends and legal holidays after receipt of the notice of violation and

posting a cash bond for the total amount due plus \$ 30.00, including late penalty. Upon receipt of a timely request and cash bond, the Police Department shall notify the person of the date and time of the administrative adjudication hearing.

(b) Failure to pay a civil penalty or to contest liability in a timely manner is a waiver of the right to appeal under Section IV.

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

(d) 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 an officer or the Department.

An affidavit from a sworn law enforcement officer or from the Department that alleges a violation based on an inspection of the pertinent recorded image, is admissible in a proceeding under this article and is evidence of the facts contained in the affidavit.

(e) 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 IV.

(f) 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) A traffic control sign stating the posted limit or an ordinance establishing a speed limit was not in proper position and sufficiently legible to an ordinarily observant person;
- 2) The operator of the motor vehicle was acting in compliance with the lawful order or direction of a law enforcement or public safety officer;
- 3) The operator of the motor vehicle violated the instructions of the traffic control sign so as to yield the right-of-way to an immediately approaching authorized emergency vehicle;
- 4) The motor vehicle was being operated as an authorized emergency vehicle under La. R.S. 32:24, and the operator was acting in compliance with La R.S. 32:24;
- 5) The motor vehicle was being operated by a person other than the Owner of the vehicle without the effective consent of the Owner;
- 6) The license plate depicted in the recorded image of the violation was a stolen plate and being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued;
- 7) The presence of ice, snow, unusual amounts of rain or other unusually hazardous road conditions existed that would make compliance with this article more dangerous under the circumstances than non-compliance;
- 8) The person who received the notice of violation was not the Owner of the motor vehicle at the time of the violation; or
- 9) At the time of the violation the motor vehicle was a stolen vehicle or the license plate displayed on the motor vehicle was a stolen plate, which must include proof acceptable to the hearing officer that the theft of the vehicle or license plate had been timely reported to the appropriate law enforcement agency.

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

- 1) The person files an affidavit with the hearing officer stating the

date on which the person received the notice of violation mailed to the person; and

2) The person files a request for an administrative hearing within thirty (30) days from the date of receipt of the notice of violation, as stated in the affidavit.

(h) The decision of the hearing officer shall be the final decision by the Jean Lafitte Town Government. A person or persons aggrieved by a decision may file a petition for judicial review to the Magistrate Court of the Town of Jean Lafitte, within thirty (30) days after the date of entry of the decision.

Sec. IV. Order of Hearing Officer.

(a) The Hearing Officer at any administrative adjudication hearing under this article shall issue an order stating:

(1) Whether the person charged with the violation is liable for the violation;

(2) The amount of any civil penalty, late penalty, and administrative adjudication cost assessed against the person.

(b) The orders issued under Subsection (a) may be filed with the office of the hearing examiner. The hearing examiner shall keep the orders in a separate index and file. The orders may be recorded using microfilm, microfiche, or other physical or electronic data processing techniques.

Sec. IV. Effect of liability; exclusion of civil remedy.

(a) The imposition of a civil penalty under this article shall not be considered a criminal conviction.

(b) A civil penalty may not be imposed under this article upon the owner of a motor vehicle if the operator of the vehicle was arrested or was issued a citation and notice to appear by a law or public safety officer as a violation of the motor vehicle laws of Louisiana or Town of Jean Lafitte if such violation was captured by the System.

(c) The Town of Jean Lafitte Attorney is authorized to file suit to enforce collection of unpaid fines and/or related fees and penalties imposed hereunder by lawful means to secure such payments.

Sec. IV. Public Safety Fund.

The penalties, fines, and fees collected from the imposition of civil Liability under this article shall be deposited into the Public Safety Fund. Funds deposited into this Public Safety Fund shall be expended first for the costs of the System (payment to the vendor/operator of the System, public relations, and general implementation of the program).

SECTION 2. If any provision of this ordinance is held to be invalid or otherwise unenforceable by the final judgment of a court of competent jurisdiction such invalidity shall not affect the validity of any of the remaining provisions of this ordinance that may be given effect without the invalid provision; and to this end the provisions of this ordinance are hereby declared to be severable.

SECTION 3. All ordinances or parts of ordinances of the Town of Jean Lafitte in conflict with this ordinance and all Sections in the Town of Jean Lafitte Municipal Code in conflict with this ordinance are hereby repealed.

SUMMARY ORDINANCE #489

On a motion by Councilman Bartholomew the following ordinance was offered:

An ordinance approving the rental fees for the Jean Lafitte Auditorium.

WHEREAS, the cost of a (4) hour wedding will be (\$2,500) two thousand five hundred dollars,

WHEREAS, the cost of a (2) hour shower will be (\$1,000) one thousand dollars,

WHEREAS, the cost of any other event will be (\$4,000) four thousand dollars, maximum of (4) hours,

WHEREAS, the cost of an additional hour for all events will be (\$500) five hundred dollars,

WHEREAS, a (\$500) five hundred dollar security deposit is required on all events.

The deposit does not go toward the rental fee.

The deposit must be paid within one week of scheduling the event.

An event must be cancelled 6 months prior to the event date to receive a refund.

The deposit will be returned one week following the event after inspection.

WHEREAS, renter's access to the building will be based on the building's schedule,

WHEREAS, decorations on walls and ceilings are prohibited.

WHEREAS, a Town of Jean Lafitte police detail is required for all events that serve alcohol for the duration of the events plus one hour following,

The renter must pay the police officer the night of the event.

RESOLUTION # 2006

On a motion by Councilman Guillie and seconded by Councilman Smith the following resolution was adopted:

A resolution approving the blacktop of the following:

End of Semonia Street

End of City Park Drive to the Nature Trail

End of Madeline Street

End of Church Street

Patchwork on Church Street, Oleander Street and August Lane.

WHEREAS, Jack Harrison is the contractor,

WHEREAS, the cost is \$15,000.00

YEAS: 4

NAYS: 0

ABSENT: 1

Councilman Bartholomew

Councilman LeBeau

Councilman Creppel

Councilman Guillie

Councilman Smith

On a motion by Councilman Smith and seconded by Councilman Creppel the meeting adjourned at 7:05 p.m.

Town Clerk