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Title: Sponsor: Mayor Quinton Lucas

Amending Chapter 70, Code of Ordinances, Traffic and Vehicles, by repealing and replacing Section 70-961, for the purpose of authorizing the City's automated camera enforcement system; directing the City Manager to issue a request for proposals to select a vendor for the automated camera enforcement system; and directing the City Manager to include certain requirements in the request for proposals.

Sponsors: Quinton Lucas

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ORDINANCE NO. 240409

Sponsor: Mayor Quinton Lucas

Amending Chapter 70, Code of Ordinances, Traffic and Vehicles, by repealing and replacing Section 70-961, for the purpose of authorizing the City's automated camera enforcement system; directing the City Manager to issue a request for proposals to select a vendor for the automated camera enforcement system; and directing the City Manager to include certain requirements in the request for proposals.

WHEREAS, running red lights is a dangerous activity that can and does result in personal injury, even death, and property damage to people involved in accidents caused by persons ignoring traffic control signals; and

WHEREAS, vehicular speeding is a dangerous activity and vehicular speeding in the City of Kansas City is a concern of all its citizens; and

WHEREAS, the City formerly utilized an automated camera enforcement system to detect red light signal violations; and

WHEREAS, studies and data confirm that automated camera enforcement systems reduce collisions at intersections and improve public safety outcomes in other ways; and

WHEREAS, automated camera enforcement systems are used in approximately 330 communities across

twenty-two states; and

WHEREAS, the Missouri Supreme Court has issued several opinions confirming that the use of automated camera enforcement systems does not conflict with state law and is a permissible law enforcement tool, but requiring cities which use them to meet certain burdens of proof in the prosecution of violations detected by the automated camera enforcement system, and providing cities with guidance on how to administer a camera enforcement program; and

WHEREAS, following implementation there should be regular automated camera enforcement systems program evaluation that utilizes crash and infraction data not just at the targeted intersections, but also in the broader community; and

WHEREAS, the information collected by automated camera enforcement systems shall be used only for the authorized purpose indicated under this ordinance, as otherwise required by law, and not sold, shared, or otherwise abused; and

WHEREAS, automated camera enforcement systems should prioritize safety, not revenue, and any revenue received by the City as a result of automated enforcement systems should therefore be allocated towards the City's internal cost to administer the program created under this ordinance and improving the safety of City streets for all users; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 70, Code of Ordinances of the City of Kansas City, is hereby amended by repealing Section 70-961, Violation of public safety at intersections and the automated camera enforcement of traffic control regulations, and replacing it with a section of like number and subject matter for the purpose of authorizing the City's automated camera enforcement of traffic control regulations, to read as follows:

Sec. 70-961. Automated camera enforcement of traffic control regulations.

(a) Definitions. For the purpose of this section, the following words and phrases shall have the meaning given herein:

(1) Artificial intelligence system: A technological system that, autonomously or partly autonomously, processes data related to human activities through use of a genetic algorithm, a neural network, machine learning or another technique to generate content or make decisions, recommendations, or predictions. It does not include passive computing infrastructure intermediary technology that does not influence or determine the outcome of decision, make or aid in decisions, inform policy implementation, or collect data or observations, such as web hosting, domain registration, networking, caching, data storage, or cybersecurity.

(2) Authorized employees: Employees of the Kansas City Police Department ("KCPD") who are commissioned officers and who are authorized by the Chief of the KCPD to access the images, video, and data collected by the City's automated camera enforcement system.

(3)   Automated camera enforcement system: A system that:

i. Consists of cameras installed or deployed to work in conjunction with electrically

operated traffic control signals or other methods of activation or detection;

ii.   Is capable of recording the date and time of the alleged violation;

iii.   Is capable of recording the time elapsed under the red light;

iv.   Is capable of recording the speed of the vehicle involved in the alleged violation;

v. Is capable of recording and producing video footage of the incident which is an alleged violation of an ordinance of the City of Kansas City; and

vi. Is capable of taking and producing not less than four (4) high-resolution color digital recorded images that show the incident which is an alleged violation of an ordinance of the City of Kansas City, including, at a minimum:

1. An image before the alleged violation occurred, that shows the front or back of the vehicle involved in the alleged violation;

2. An image after the incident occurred, that shows the front or back of the vehicle involved in the alleged violation;

3.   The license plate of the vehicle involved in the alleged violation; and

4.   The face of the operator of the vehicle involved in the alleged violation.

(4)   *Operator*: The individual driving and/or in possession of a vehicle.

(5) Recorded Images. Photographs, digital images, microphotographs, micrographs, videotape, digital video, or other recorded images.

(6) Surveillance program. Any program, electronic or otherwise, that has its primary purpose the monitoring of the behavior or activities of a person or people or gathering information on a person or people.

(7)   Traffic violation. Either a red-light violation or a vehicular speeding violation.

(b) Automated camera enforcement system authorized.

(1) System authorized. An automated camera enforcement system is hereby authorized to be installed and operated within the City for the purpose of detecting traffic violations at intersections or other system locations.

(2)   Locations. Specific system locations shall be determined from time to time by the director of public works in conjunction with, but not limited to, the following information:

i.   Data on vehicular crash locations in the City, including side impact and turning crashes, crashes involving pedestrians and bicyclists, and crashes resulting in injuries or fatalities;

ii.   Data on traffic control ordinance violations, including violations pertaining to the

running of red lights, vehicular crashes, and speeding;

  iii. Traffic volume on streets or highways associated with potential locations;

  iv. Equity and environmental factors associated with potential locations; and

  v. Community feedback regarding intersections of concern in the City.

(c) Authorized use of automated camera enforcement system. The automated camera enforcement system may be used by the KCPD to issue violation notices for alleged violations of City ordinances and state laws. Only authorized employees may access the system provided by the automated camera enforcement system vendor that collects, stores, and provides recorded images and other data for the City's automated camera enforcement program.

(d) Designation of authorized employees. No later than sixty (60) days prior to the first date the automated camera enforcement system becomes operations, the KCPD shall inform the Director of Public Works of the employees who will be designated as authorized employees. The KCPD shall inform the Director of Public Works of any additional employees designated as authorized employees no later than one (1) week prior to such individuals gaining access to the system provided by the automated camera system vendor that collects, stores, and provides recorded images and other data for the City's automated camera enforcement program.

(e) Probable Cause. Authorized employees shall examine the images and other data collected pursuant to this section to determine whether probable cause exists for a violation of City ordinances or state laws. For any alleged traffic violations, probable cause shall not exist unless the identity of the operator of the vehicle at the time of the alleged violation is determined. An authorized employee may use any lawful means to identify an individual allegedly violating any City ordinance or state law, but in no instance shall artificial intelligence systems, as defined in Section 70-961(a), be used to identify the individual. Probable cause for alleged traffic violations detected through the automated camera enforcement system created under this section may be deemed to exist if it is in compliance with Supreme Court Rule 37 and if the recorded images and other data show the following:

 (1) An alleged violation of the ordinances of the City of Kansas City or state laws;

 (2) The date and time of the alleged violation;

 (3) The vehicle involved in the alleged violation;

 (4) The letters or numbers on the vehicle's license plate or temporary tag, as well as the state in which the license plate or temporary tag was issued;

 (5) The face of the operator of the vehicle;

 (6) The traffic control signal while it is emitting a steady red signal, as applicable; and

 (7) The speed of the vehicle, as applicable.

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(f) Prosecution.

(1) The prosecution for an alleged violation of City ordinance or state law utilizing information from the automated camera enforcement system shall be conducted in compliance with Missouri Supreme Court Rules, including Rule 37 or its successor.

(2) A notice of a traffic violation, including a red-light violation, alleged as a result of the automated camera enforcement system created under this section shall only be issued to an individual who authorized employees have determined, pursuant to subsection (e) above, was the operator of the vehicle at the time of the alleged violation. The notice of violation shall comply with the requirements of Missouri Supreme Court Rule 37.33 or its successor, and shall also provide the following information gathered from the recorded alleged violation, including:

    i.   The date and time of the alleged red light violation;

    ii.   The time elapsed under the red light, as applicable;

    iii.   The speed of the vehicle involved in the red light violation, as applicable;

    iv.   How to access any video footage of the alleged traffic violation; and

    v.   Any images that show the alleged traffic violation including, at a minimum:

        1. An image before the violation occurred, that shows the front or back of the vehicle involved in the alleged violation;

        2. An image after the incident occurred, that shows the front or back of the vehicle involved in the alleged violation;

        3.   The license plate of the vehicle involved in the alleged violation; and

        4.   The face of the operator of the vehicle involved in the traffic violation.

(g) Prohibited use of automated camera enforcement system. In no instance shall the automated camera enforcement system be used by the KCPD or any authorized employees for or in support of any of the following:

    (1)   Prosecuting, issuing violation notices, or other enforcement activities for:

    i. A red-light violation for a legal right turn made after the operator of a vehicle brings the vehicle to a complete stop at a red light such that the wheels of the vehicle stop moving;

    ii.   Activity protected under the First Amendment;

    iii. The sleeping, camping, eating, sitting, or asking for money or resources in public spaces

by unhoused persons; or

iv. Activities part of or otherwise in support of any surveillance program or artificial intelligence system, as defined by section 70-961(a).

(2) In no instance shall the KCPD or any authorized employee provide access to, share, or otherwise make available or accessible the recorded images and other data collected through the City's automated camera enforcement system to or for:

i. Any artificial intelligence system, as defined by section 70-961(a), including, but not limited to facial recognition systems;

ii. Any electronic surveillance program of citizens, as defined in Section 70-961(a);

iii. Any individuals, parties, or entities who are not authorized employees, other than individuals, parties, or entities involved in the prosecution of, defense against, or adjudication of an alleged violation detected through the automated camera enforcement system; or

iv. Any purpose other than for the implementation and administration of the City's automated camera enforcement system.

(h) Public awareness.

(1) The Director of Public Works, in partnership with the KCPD and any other City departments as may be necessary, shall develop strategies to raise public awareness of the implementation of the automated camera enforcement system in the City. Such awareness strategies shall be implemented by the Director of Public Works, in partnership with the KCPD and any other City departments as may be necessary, no less than sixty (60) days prior to the first date the automated camera enforcement system becomes operational.

(2) Any automated camera enforcement system located on a street or highway must be identified by appropriate warning signs conspicuously posted either at the major roadways entering the City, or not more than three hundred (300) feet from the location of the automated camera enforcement system location. The placement of all advance warning signs must be approved by the Director of Public Works, working in partnership with the KCPD and any other City departments as may be necessary.

(i) Program assessment.

(1) One (1) year following the first date the automated camera enforcement system become operational in the City, and every year thereafter, the Director of Public Works shall compile information assessing the outcomes of the automated camera enforcement system program created by this section, including the following:

i. The number of crashes at each intersection where an automated camera enforcement system has been installed or deployed;

ii. The number of crashes at intersections where an automated camera enforcement system

has not been installed or deployed;

      iii.   The number of violations issued utilizing the automated camera enforcement system;

      iv. The number of violations issued utilizing the automated camera enforcement system at each intersection where an automated camera enforcement system has been installed or deployed;

      v. The number of violations issued utilizing the automated camera enforcement system, by zip code where the violation allegedly occurred;

      vi. Anonymized demographic data, to the extent it is available, of individuals who have received violations through the automated camera enforcement system, including their race and residential zip code; and

      vii.   Information regarding the cameras in use, including:

            1.   The number of cameras;

            2.   The location of cameras;

            3. The time intervals for which the recorded images and other data collected by the automated camera enforcement system are stored and destroyed; and

            4. As authorized under Chapter 610, RSMo, or its successor, the authorized employees who have access to the system provided by the automated camera enforcement system vendor that collects, stores, and provides recorded images and other data for the City's automated camera enforcement program.

(2) The Director of Public Works shall provide a copy of the compiled information to the City Council.

(3) As part of this annual assessment, the Director of Public Works, in partnership with the KCPD, determine whether to install or deploy automated camera enforcement systems at additional intersections, or to remove existing installed or deployed automated camera enforcement systems from intersections.

(j) Revenue. All fines issued by the courts pursuant to traffic violations prosecuted utilizing the automated camera enforcement system shall be paid to and through the courts, with monies distributed by the court according to law. Fines shall not be collected or paid directly to the vendor. Any revenue received by the City from the courts as a result of the automated camera enforcement system shall be used exclusively for the following purposes:

(1) City and administrative court costs associated with the automated camera enforcement system created under this section; and

(2) The remainder shall be deposited into a fund to be used solely for the improvement of traffic safety throughout the City.

Section 2. That the City Manager is hereby directed to issue a request for proposals to select a vendor

for an automated camera enforcement system. Such request for proposals shall include, but not be limited to, the following requests for information:

a. The vendor's ability to provide an automated camera enforcement system that meets, at minimum, the qualifications outlined in this Section Two;

b. The vendor's ability to install, maintain and quickly repair all automated camera enforcement system equipment;

c. The vendor's ability to cover all associated costs of implementation, installation, maintenance, repair, and operation of an automated camera enforcement system, and their proposed cost-sharing model with the City for doing so;

d. The vendor's ability to provide and maintain signage required under this Ordinance;

e. The vendor's ability to review footage for potential violations of City ordinances and state law and communicate such potential violations to the KCPD;

f. The vendor's ability to assist in determining the identity of the operator of a vehicle allegedly committing a traffic violation;

g. The vendor's ability to allow authorized employees of the KCPD to access or view, at any time, recorded images captured through the City's automated camera enforcement program;

h. The vendor's ability to safeguard all recorded images and other data the vendor collects through the City's automated camera enforcement system from unauthorized access, including but not limited to the vendor's use of encryption, complaints with CRS standards, and access control mechanisms;

i. The vendor's ability to ensure that all recorded images and other data the vendor collects through the City's automated camera enforcement system are accessed only by authorized employees;

j. The vendor's data selling practices, and ability and willingness to ensure that no recorded images or other data the vendor collects through the City's automated camera enforcement system is sold, distributed, viewed, or otherwise exchanged for any value;

k. The vendor's ability to maintain an audit log of individuals who access the recorded images and other data the vendor collects through the City's automated camera enforcement system;

l. The vendor's ability to retain and destroy recorded images and other data the vendor collects through the City's automated camera enforcement system, including at intervals as directed by the City;

m. The vendor's ability to provide individuals who receive a violation notice under this ordinance alleging a violation of City ordinance or state law with the recorded images collected by the City's automated camera enforcement system relating to the alleged violation;

n. The vendor's ability to support the production of separate violation notices, one of which will

include all the alleged violator's information that will be provided to the alleged violator, and one of which will be redacted of the alleged violator's sensitive personal information that will be entered on the court record; and

o. The vendor's ability to meet any applicable requirements established by the State of Missouri and federal law for automated camera enforcement systems.

Section 3. In addition to the information requested above, a vendor to provide an automated camera enforcement system shall also meet the following requirements:

a. Minimum Vendor System Requirements. The system provided by the vendor shall provide authorized employees with the ability to review potential violations for tickets to be issued. The system shall further allow authorized employees to retrieve, at any time, recorded images captured through the City's automated camera enforcement program.

b. Vendor Maintenance Requirements. The vendor selected shall be responsible for the installation, implementation, maintenance, and repair of the automated camera enforcement system equipment and software and all costs associated therein. In the event of automated camera enforcement system equipment failure, malfunction, damage, or other circumstances which render the automated camera enforcement equipment less effective, negatively impact operations under this ordinance, or otherwise necessitate maintenance, the vendor shall quickly repair and return to operational status all automated camera enforcement system equipment. The vendor shall also be responsible for the installation, implementation, maintenance and repair of signage required under this ordinance.

c. Vendor Information Protection Requirements. The vendor selected shall safeguard all recorded images and other data the vendor collects through the City's automated camera enforcement system from access by individuals other than authorized employees. The vendor shall ensure that all recorded images and other data the vendor collects through the City's automated camera enforcement system are accessed only by authorized employees or as otherwise provided by law or required by official duties for a purpose authorized by law.

d. Vendor Prohibitions. In no instance shall the vendor sell or otherwise provide access to, share, or otherwise make available or accessible the recorded images and other data collected through the City's automated camera enforcement system for anything of value. The vendor shall not provide access to, share, sell, or otherwise make available or accessible images, video, and other data the vendor collects through the City's automated camera enforcement system to or for:

i. Any artificial intelligence system, as defined in section 70-961(a), including, but not limited, to facial recognition systems;

ii. Any electronic surveillance program of citizens, as defined in section 70-961(a);

iii. Any individuals, parties, or entities who are not authorized employees, other than individuals, parties, or entities involved in the prosecution of, defense against, or adjudication of an alleged violation detected through the automated camera enforcement system created under this ordinance; or

iv. Any purpose other than for the implementation and administration of the City's

automated camera enforcement system.

e. Other Vendor Requirements. The operation of the automated camera enforcement system and the vendor must comply with the requirements for admission of photographic and video evidence under the "silent witness doctrine" in *State v. Moyle*, 532 S.W.3d 733 (Mo.App.W.D. 2017), and *State v. Whittier*, 591 S.W.3d 19 (Mo.App.E.D. 2019), provided that precedent is not overturned, to provide a live witness to testify at trials pertaining to violations issued pursuant to this ordinance, and to establish any legal foundation that may be necessary in order for video from unattended cameras operating pursuant to this ordinance to be submitted as evidence for such trials.

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Approved as to form:

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Andrew Bonkowski
Assistant City Attorney