ORDINANCE NO. 388

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING CHAPTER 38, TRAFFIC AND VEHICLES, BY AMENDING SECTION 38-18 ENTITLED "DANGEROUS INTERSECTION SAFETY ACT" BY MODIFYING THE SECTION TO INCLUDE THE APPLICABLE PROVISIONS OF CHAPTER 2010-80, LAWS OF FLORIDA, INCLUDING, WITHOUT LIMITATION, REVISING DEFINITIONS RELATING TO RED ZONE INFRACTIONS, TRAFFIC CONTROL SIGNAL MONITORING SYSTEM/DEVICE, AND TRAFFIC INFRACTION ENFORCEMENT OFFICER; ELIMINATING A RIGHT TURN ON RED AS A VIOLATION; ALLOWING THE TOWN COUNCIL TO EXTEND THE WARNING PERIOD OR SUSPEND ISSUANCES OF NOTICES OF VIOLATION; SPECIFYING THE TWO STEP PROCESS FOR ENFORCING RED ZONE INFRACTIONS, INCLUDING THE ISSUANCE OF A UNIFORM TRAFFIC CITATION IF THE OWNER OF A MOTOR VEHICLE COMMITTING A RED ZONE INFRACTION DOES NOT EITHER PAY THE FINE OR SUBMIT AN AFFIDAVIT ESTABLISHING AN EXEMPTION FROM LIABILITY; ELIMINATING THE APPEAL OPPORTUNITY TO THE TOWN, BUT PROVIDING FOR A HEARING RIGHT UPON ISSUANCE OF A UNIFORM TRAFFIC CITATION; MODIFYING THE FACTORS TO REBUT THE PRESUMPTION OF LIABILITY, PROVIDING THE TRAFFIC INFRACTION OFFICER WITH AUTHORITY TO DISMISS A CASE; REQUIRING THE CODE ENFORCEMENT OFFICER OF THE TOWN TO BE THE ONE DESIGNATED TO SERVE AS TRAFFIC INFRACTION ENFORCEMENT OFFICER UPON PROPER TRAINING; REQUIRING ANY THIRD PARTY VENDOR WITH WHOM THE TOWN CONTRACTS TO PROVIDE AND PAY FOR A DEFENSE IN THE EVENT THE TOWN IS SUED OVER THIS ACT; INCREASING THE FINE TO $158; AND MANDATING THAT ANY CONTRACT WITH A THIRD PARTY VENDOR HAVE NO FISCAL IMPACT TO THE TOWN AFTER PAYMENT OF ALL DIRECT AND INDIRECT COSTS AND EXPENSES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council adopted its Dangerous Intersection Safety Act in Ordinance 380 on February 26, 2009 ("Act"); and

WHEREAS, the Legislature of the State of Florida has adopted Chapter 2010-80, Laws of Florida, addressing the issues raised in the Act and therefore the Act needs to be amended to conform to state law; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Act will promote, protect and improve the health, safety and welfare of its citizens, consistent with the authority of and limitations on the Town pursuant to the *Constitution of the State of Florida* and the *Florida Statutes.*

***NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE* TOWN OF HAVERHILL, FLORIDA:**

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Chapter 38, Traffic and Vehicles, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

Sec. 38-18 Dangerous Intersection Safety Act

(a) **Purpose and Intent**. The purpose of this Ordinance is to authorize the use of an unmanned cameras/monitoring system to promote compliance with red light signal directives as set forth in this Ordinance, and to adopt ~~a civil~~an enforcement system for red light signal violations. This Ordinance will supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for a red light signal violation in accordance with normal statutory traffic enforcement techniques. This Act is expressly subject to the terms, provisions, conditions and limitations Chapter 2010-80, Laws of Florida.

(b) **Use Of Image Capture Technologies.** The Town shall utilize image capture technologies as a supplemental means of monitoring compliance with the State laws related to traffic control signals, while assisting law enforcement personnel in the enforcement of such laws, which are designed to protect and improve public health, safety and welfare. This Section shall not supersede, infringe, curtail or impinge upon State laws related to red light signal violations or conflict with such laws. The Town shall utilize image capture technologies as an ancillary deterrent to traffic control and traffic signal violations and to thereby reduce accidents and injuries associated with such violations. ~~Notices of infractions issued pursuant to this Ordinance shall be addressed using the Town's code enforcement process and not uniform traffic citations or County Courts, provided, however, that this shall not bar the use of uniform traffic citations and the county courts when law enforcement personnel decide not to rely on this Section as the enforcement mechanism for a specific violation.~~

(c) **Definitions.**

(1). *Intersection* means the area embraced within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary lines, of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

(2). *Motor vehicle* means the meaning set forth in the definition in Section 316.003 (21), *Florida Statutes*, or its successor provision.

(3). *Notice of ~~Infraction~~Violation* means a citation issued for a ~~red zone infraction~~Red Zone Infraction issued pursuant to this section.

(4). *Owner* means the person or entity identified by the Florida Department of

Highway Safety and Motor Vehicles, or other State vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six (6) months or more.

(5). *Recorded Images* means sequential images recorded by a traffic control signal monitoring system/device:

1. On:
   Two (2) or more photographs, or
   Two (2) or more electronic images; or
   Two (2) or more digital images, or
   Digital or video movies; or
   Any other medium that can display a ~~violation~~Red Zone Infraction; and

2. Showing ~~the rear of a motor vehicle and on at least one (1) image, clearly identifying~~both the license ~~plate number~~tag of the offending vehicle and the ~~vehicle~~traffic control signal being violated.

(6). *Red Zone Infraction* means a traffic offense in violation of s. 316.074(1) or s. 316.075(1)(c)1, whereby a ~~traffic control signal monitoring system established that~~driver of a motor vehicle ~~entered an intersection controlled by a duly erected traffic control device~~fails to stop at a ~~time when~~traffic signal on a street within the ~~traffic control signal for such motor vehicle's direction of travel was emitting~~municipal limits of the Town. However, a ~~steady~~right-hand turn on red ~~signal~~shall not be considered a Red Zone Infraction.

(7). *Traffic Control Signal* means a device exhibiting different colored lights or colored lighted arrows, successively, one at a time, or in combination, using only the colors green, yellow, and red which indicate and apply to drivers of motor vehicles as provided in Section 316.075, *Florida Statutes.*

(8). *Traffic Control Signal Monitoring System/Device* means ~~an electronic system consisting of one or more~~ a vehicle ~~sensors, working~~sensor installed to work in conjunction with a traffic control signal~~, still~~ and a camera or cameras ~~and video recording device, to capture and produce recorded~~ synchronized to automatically record two or more sequenced photographic or electronic images ~~of motor vehicles entering an intersection against a steady red light signal indication.~~

~~(9) *Hearing Officer* means~~or streaming video of only the ~~person that~~ rear of the ~~Town Council appoints to conduct hearings and appeals who are members of~~ motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady read light. The ~~Florida Bar in good standing. All Town Special Magistrates appointed to hear code enforcement cases in the~~

~~Town~~system/device shall ~~act as hearing officers under this Section~~be in compliance with specifications developed by the Florida Department of Transportation.

(~~1~~09) *Traffic Infraction ~~Review~~Enforcement Officer* means the Code Enforcement Officer for the Town of Haverhill, ~~or such other person as designated by the Town Council,~~ provided, that such officer is physically located in Palm Beach County, and who either (a) successfully completes instruction in traffic enforcement procedures and court presentation through a program approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program offered by the local sheriff's department or police department, or (b) fully completes instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, as set forth in section 316.640(5)(a), Florida Statutes. Until such time as the Town's Code Enforcement Officer receives the proper training as set forth above, no violations may be issued, and the Warning Period set forth in Section (e) below shall be automatically extended.

(d) **Adherence To Red Light Traffic Control Signals.** ~~Any~~The driver of any motor vehicle shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with Chapter 316, Florida Statutes, and any motor vehicle facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal~~; provided, however, the driver of a motor vehicle which is stopped at a clearly marked stop line, or if none, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersection roadway before entering the intersection in obedience of a steady red traffic control signal, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device), but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection~~.

(e) **Violation.** A violation of this Ordinance (Red Zone Infraction) shall occur when a vehicle does not comply with the requirements of Section (d~~). Violations shall be enforced pursuant to Section (g) herein~~) except those drivers making a right turn on red shall not be considered a Red Zone Violation. Violations shall be enforced pursuant to Section (g) herein. Notwithstanding the foregoing, no notices of violation shall be issued for the period from April 15, 2010 until and through July 31, 2010 ("Warning Period"), but a warning notice shall be issued for any person otherwise violating the provisions of this Section. The Town Council expressly reserves the right, at any time, and from time to time, to extend the Warning Period or enact a new one, or suspend issuance of notices of violations.

(f) **Review Of Recorded Images.**

1) The owner observed by ~~recorded images~~Recorded Images committing a red zone infraction~~,~~ shall be issued a notice of ~~infraction~~violation. The ~~recorded image~~Recorded Image shall be sufficient grounds to issue a ~~notice~~ Notice of ~~infraction~~Violation.

2) The ~~Town~~Traffic Infraction Enforcement Officer shall ~~designate a person or persons, who shall meet the qualifications set forth in Section 316.640(5)(a), *Florida Statutes*, or any other relevant statute, as a traffic control infraction~~ review ~~officer. The traffic infraction review officer shall review recorded images~~Recorded Images prior to the issuance of a notice of ~~infraction~~violation to ensure accuracy and the integrity of the ~~recorded images. The traffic infraction officer shall also verify that the traffic control monitoring system/devices that captured the recorded images was functioning properly at the time the recorded images were captured~~Recorded Images. Once the ~~traffic infraction review officer~~Traffic Infraction Enforcement Officer has verified the accuracy of the ~~recorded images and functionality of the traffic control monitoring system/devices~~Recorded Images, he or she shall complete a report, and a notice of violation~~/infraction~~ shall be sent to the owner of the motor vehicle at the address on record with the Florida Department of Highway Safety and Motor Vehicles, or any other state vehicle registration office.

3) The Traffic Infraction Enforcement Officer has the authority and power to dismiss a case at any time prior to adjudication by the County Court in and for Palm Beach County.

(g) **Notice Of Violation~~/Infraction~~.**

(1). The notice of violation~~/infraction~~ shall include at a minimum:

(a). The name and address of the owner;

(b). The license plate number and registration number of the motor vehicle;

(c). The make, model, and year of the motor vehicle;

(d). Notice that the violation charged is pursuant to this Ordinance;

(e). The location of the intersection where the violation occurred;

(f). The date and time of the ~~red zone infraction~~Red Zone Infraction;

(g). Notice that the ~~recorded images~~Recorded Images relating to the vehicle and a statement that the ~~recorded images~~Recorded Images

are evidence of a ~~red zone infraction~~Red Zone Infraction;

(h). The civil penalty imposed;

(i). Recorded Images depicting violation;

(j). The procedures for payment of the ~~civil~~ penalty and contesting the notice of ~~infraction~~violation;

(k). A signed statement by the ~~traffic infraction review officer~~Traffic Infraction Enforcement Officer that, based on inspection of recorded images, the vehicle was involved in a ~~red zone infraction~~Red Zone Infraction;

(l). Information ~~advising the person alleged to be liable~~specifying the remedies available under ~~this Section, the manner~~s. 318.14 regarding noncriminal traffic infractions, and ~~time in which liability as alleged in the notice of infraction may be appealed and warning~~ that ~~failure to~~ the violator must pay the ~~civil~~ penalty of $158.00 to the Town or ~~to contest liability in a timely manner is~~ furnish an ~~admission~~affidavit in accordance with Section (j) of ~~liability~~the Act, within thirty (30) days following the date of the Notice of Violation in order for the owner to avoid court fees, costs, and the issuance of a traffic citation.

(m). A statement that the owner of the motor vehicle involved in the violation has the right to review the Recorded Images and the time and place or Internet location where the evidence may be examined or observed.

(2). The Town ~~traffic infraction review officer~~Traffic Infraction Enforcement Officer, shall have authority to promulgate the form described herein.

(3) A Notice of Violation shall be mailed by first-class mail to the address of the registered owner of the motor vehicle involved in the violation within thirty (30) days after the date of the violation. If the registered owner does not pay the penalty of $158.00 to the Town or furnish an affidavit in accordance with subsection (j) below within thirty (30) days after the notice of violation was issued, a uniform traffic citation shall be issued by the Traffic Infraction Enforcement Officer. In the case of joint ownership of a motor vehicle, the notice of violation shall be mailed to the first name appearing on the registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.

(4) Upon receipt of the affidavit, the person designated as having care, custody and control of the motor vehicle at the time of the violation may be issued a

notice of violation and shall be responsible for paying the fine.

(5) The owner of a leased vehicle for which a notice of violation is issued is not responsible for paying the fine and is not required to submit an affidavit as required if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

(6) For any Red Zone Violation that remains unpaid thirty (30) days after the Notice of Violation, a uniform traffic citation, which is designed consistent with the Uniform Citations, shall be sent by certified mail. Each Citation shall contain a unique Citation Number issued by the Florida Department of Motor Vehicles. The Traffic Citation shall be mailed within sixty (60) days of the violation.

(h) **Owner Responsibilities.**

(1). An owner receiving a ~~notice~~Notice of ~~infraction may~~Violation must, within ~~twenty-one (21~~thirty (30) days of the date of the date of the ~~notice~~Notice of ~~infraction~~Violation:

(a). Pay the assessed civil penalty pursuant to instructions on the notice of ~~infraction~~violation; or

(b). ~~Request~~Furnish an ~~appeal pursuant to~~affidavit in conjunction with Section (~~i).~~j) below.

(2). The failure to comply with the provisions of ~~this Section~~subsection (h)(1) within ~~twenty-one (21~~thirty (30) days from the date of the ~~notice~~Notice of ~~infraction~~Violation shall ~~constitute a waiver~~ be issued a uniform traffic citation. The traffic citation shall be mailed by certified mail to the address of the ~~right to contest the notice of infraction and will be considered an admission of liability.~~

~~(i) **Appeal To Hearing Officer.**~~

~~(1). The Town's hearing officer shall consider appeals under this within twenty one (21) days of~~ registered owner of the motor vehicle involved in the Red Zone Infraction no later than sixty (60) days after the date of the ~~notice of infraction. The owner may file an appeal with the Town pursuant to the directions in the notice of infraction. A hearing on the appeal shall be scheduled for all appeals.~~violation. In the case of joint ownership of a motor vehicle, the traffic citation shall be mailed to the first name appearing on the registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.

~~(2). Upon receipt of the appeal, the Town shall schedule a hearing before the hearing officer to occur not later than sixty (60) days after Town's receipt of the appeal request. A notice of hearing shall be provided to the owner no less than ten (10) days~~

prior to the hearing, and shall be delivered via certified U.S. mail to the same address to which the notice of infraction was sent. The hearing officer shall issue a written order either granting or denying the appeal.

(3) The following shall be permissible grounds for an appeal:

(a). At (3) The owner of the motor vehicle involved in the violation is responsible and liable for paying the fine assessed in the notice of violation or traffic citation unless the owner can establish that:

(a) The motor vehicle passed through the intersection in order to yield right-of-way to an emergency vehicle or as part of a funeral procession;

(b) The motor vehicle passed through the intersection at the direction of a law enforcement officer;

(c) The motor vehicle was, at the time of the infraction, the vehicle was not underviolation, in the care, custody, or control of the owner or an individual with owner's consent, established pursuant to affidavit as provided in Section (j).another person; or

(b). The motor vehicle driver (d) A uniform traffic citation was issued a citation by a law enforcement officer, which was separate and distinct from officer to the citation issued under this Section, driver of the motor vehicle for violating the steady red traffic control signal;

(c). The motor vehicle driver was required to violate the steady red traffic control signal in order to comply with other governing laws;

(d). The motor vehicle driver was required to violate the steady red traffic control signal in order to reasonably protect the property or person of another;

(e). The steady red traffic control signal was inoperable or malfunctioning; or

(f). Any other reason the hearing officer deems appropriate.

(4). The traffic infraction review officer shall testify at the appeal. The owner, or his or her duly authorized representative, may also present testimony and evidence.

(5). Recorded images indicating a red zone infraction, verified by the traffic control infraction review officer, are admissible in any proceeding before the hearing officer to enforce the provisions of this Ordinance, and shall constitute prima facie evidence of thealleged violation. set forth in the notice of violation.

~~(6). Unless an affidavit is provided pursuant to Section (j), it is presumed the person registered as the owner with the Florida Department of Highway Safety and Motor Vehicles or any other State vehicle registration office, or an individual having the owner's consent, was operating the vehicle at the time of a red zone infraction.~~

(j) **Owner Affidavit Of Non-Responsibility.**

(1). In order for the owner to establish ~~that the~~ any of the facts or circumstances set forth in subsection (h)(3) above, the owner of the motor vehicle ~~was, at the time of the red zone infraction, in~~ shall, within thirty (30) days after the ~~care, custody, or control of another person without the consent~~issuance of the ~~owner, the owner is required~~notice of violation or traffic citation, furnish to ~~complete~~the Town and the Clerk of the Court an affidavit setting forth ~~the circumstances demonstrating that the motor vehicle was not in the owner's care, custody or control, or that of a person with owner's consent.~~detailed information supporting an exemption and defense as provided above. The affidavit must be executed in the presence of a notary, and include at a minimum~~:~~

~~(a). If known to the owner, the name, address, and the driver license number of the person who leased, rented or otherwise had care, custody, or control of the motor vehicle at the time of the alleged red zone infraction; or~~

~~(b). If the motor vehicle was stolen, the police report indicating the motor vehicle was stolen at the time of the alleged red zone infraction.~~

~~(c). The~~ the following language immediately above the signature line: "Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true."

~~(2). The owner may present an affidavit pursuant to this Section, as a defense in any proceeding before the hearing officer.~~

~~(k) **Penalties.**~~

~~(1). A violation of this Ordinance shall be deemed a non-criminal, non-moving violation for which a civil penalty in the amount of $125.00 shall be assessed.~~

~~(2).~~

(2). An affidavit supporting an exemption under sub-subsection (h)(3)(c) above must include the name, address, date of birth, and, if known, the driver's license number of the person who leased, rented, or otherwise had care, custody or control of the motor vehicle at the time of the alleged violation. If the vehicle was stolen at the time of the alleged offense, the affidavit must include a copy of the police report indicating that the

vehicle was stolen.

(3) If the traffic citation was issued by a law enforcement officer, the affidavit must include the serial number of the uniform traffic citation.

(4) .Upon receipt of the affidavit, the person designated as having care, custody and control of the motor vehicle at the time of the violation may be issued a traffic citation for a Red Zone Violation. The affidavit is admissible in a proceeding pursuant to this section for the purpose of providing proof that the person identified in the affidavit was in actual care, custody or control of the motor vehicle. The owner of a leased vehicle for which a traffic citation is issued for a Red Zone Violation is not responsible for paying the traffic citation and is not required to submit an affidavit as specified above if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

(5) The photographic or electronic images or streaming video attached to or referenced in the traffic citation is evidence that a Red Zone Violation occurred and is admissible in any proceeding to enforce this Act and raises a rebuttable presumption that the motor vehicle named in the report or shown in the photographic or electronic images or streaming video evidence constitutes a Red Zone Violation.

(6) The submission of a false affidavit is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(k) **Points.** As the violation relates to this Ordinance and not the *Florida Statutes* and no points as provided in Section 322.27, *Florida Statutes*, shall be recorded on the driving record of the vehicle owner or responsible party.

~~(l) **Administrative Charges.** In addition to the assessment pursuant to Section (k), administrative charges in the amount of the Town's actual costs shall be assessed in the event of an unsuccessful appeal or the necessity to institute collection procedures, including attorneys' fees and costs.~~

~~(m) **Collection Of Fines.** The Town may establish procedures and processes for the collection of any penalty or charge imposed or assessed under the provisions of this Ordinance and may enforce such penalty by civil action in the nature of debt.~~

~~(n) **Exceptions.** This Ordinance shall not apply to red zone infractions involving motor vehicle collisions or to any authorized emergency vehicle responding to a bona fide emergency. A notice of infraction may be issued in any case where the operator of the motor vehicle was issued a citation for violating State law regarding the failure to stop at a red light indication.~~

~~(o) **Additional Legislative Findings.** The Town Council of the Town of Haverhill hereby finds that from time to time it is beneficial and desirable for various~~

~~matters, arising from the provisions of the Town's codes and ordinances, to be referred to hearing officers to make findings of facts and conclusions of law; to hear administrative appeals; or to hear other matters of a similar nature.~~

~~(p~~(l) **Additional Means of Enforcement.** This Section may be enforced by any other lawful means available to the Town.

~~(q) **Referrals To Hearing Officers.**~~

~~(1) The Town Council may determine that matters will be referred to hearing officer for a determination, a decision, a recommendation, or findings of facts and conclusions of law, or any combination thereof, by providing for same in the provisions of an ordinance enacted or a resolution adopted by the Town Council.~~

~~(2). The rules of procedure relating to a matter referred to a hearing officer shall be set forth in the ordinance or resolution providing for the involvement of hearing officers; provided, however, that in the absence of such rules of procedure, hearing officers shall conduct proceedings generally in accordance with the *Uniform Rules of Procedure* set forth in the *Florida Administrative Code*.~~

(~~r~~m) **Signage**. The Town shall, to the reasonable extent practicable, at the primary motor vehicle entry points to the Town, cause to be erected and maintained signs which notify owners of red light traffic monitoring. Failure to erect, maintain or create these signs shall not invalidate or impair any enforcement of this Section. Signage shall use ~~generally the following~~ language~~:~~ acceptable to the Town and FDOT.

~~NOTICE OF TRAFFIC MONITORING~~

~~CERTAIN INTERSECTIONS WITHING THE TOWN ARE SUBJECT TO RED LIGHT ENFORCEMENT BY PHOTOGRAPHIC MEANS. NOTICES OF VIOLATIONS WHICH CARRY A CIVIL PENALTY MAY BE ISSUED TO VEHICLE OWNERS AND/OR OPERATORS FOR THE VIOLATION OF TRAFFIC CONTROL DEVICES.~~

(n) **Third Party Vendors**. The Town may enter into a contract with a qualified third party vendor to install or operate traffic infraction detectors on the streets within the Town limits. However, an individual or vendor may not receive a commission or per-ticket fee from any revenue collected from violations detected through the use of a traffic infraction detector; nor may they receive a fee based on the number of violations detected through the use of a traffic infraction detector. Moreover, any contract entered into by the Town with a vendor must have a clause that will allow the Town to immediately terminate the agreement if the monthly net revenue to the Town does not cover the direct and indirect expenses incurred by the Town for that month, including the prorata salary allocation of Town staff time. Any contract between the Town and any third party vendor shall also require said vendor to provide and pay for

the Town's defense for any claims arising out of the Town's implementation of this Ordinance and to indemnify the Town for any damages arising therefrom except for any net monies received by the Town after deducting all direct and indirect expenses.

SECTION 3. Codification. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause. phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, or is deemed violative of Chapter 2010-80, Laws of Florida, such portion or application shall be deemed a separate, distinct, and independent provision and such holding or determination shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of July, 2010.

THE SECOND AND FINAL READING was held this 22nd day of July, 2010. Council member JAY FOY offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member HENRY LYNCH, and upon being put to a vote, the vote was as follows:

JAMES E. WOODS, Mayor	Aye
JAY G. FOY, Vice Mayor	Aye
JERRY E. BEAVERS, Council Member	Aye
HENRY LYNCH, Council Member	Aye
MARK C. UPTEGRAPH, Council Member	Aye

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

Janice C. Rutan, Town Admin.

TOWN OF HAVERHILL, FLORIDA

James E. Woods, Mayor