ORDINANCE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER IN COUNCIL MET:

The Dover Code, Chapter 13 is amended by adding a new subsection to read as follows:

Sec. 13-17. Failure to stop for a red traffic signal; traffic light signal violation monitoring program; penalties.

(a) *Generally*. Vehicular traffic facing the red traffic signal shall stop before crossing the stop limit, whether marked by sign or painted line, or if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown.

(b) *Traffic Light Signal Violation Monitoring Program*. A failure to stop for a red traffic signal may be recorded by a traffic light signal violation monitoring system in accordance with a program or authorization approved by the city manager, pursuant to the provisions of 21 Del. C. § 4101(d) and this section. The administration and enforcement of the provisions of this section shall be done in accordance with the provisions of 21 Del. C. § 4101(d) which shall prevail in the event of any conflict with the provisions of this section.

(1) The owner or operator of a vehicle which has failed to comply with a traffic light signal, as evidenced by information obtained by a traffic light signal violation monitoring system, shall be liable for a civil or administrative monetary assessment of $75.00; provided, however, if the civil or administrative assessment is not paid within 14 days an additional assessment of $10.00 shall be added to the original assessment; which additional assessment shall be increased to $20.00 if the assessment is not paid within 45 days; and shall be increased to $30.00 if the assessment is not paid within 90 days. Court costs or similar administrative fees not to exceed $30.00 may also be assessed

if the owner requests a hearing to contest the violation, and is ultimately found to be in violation or fails to pay or contest the violation in a timely manner. (2) A violation for which a civil or administrative assessment is imposed pursuant to this subsection shall not be classified as a criminal offense. Judgments pursuant to this section shall not be deemed a conviction of the owner and shall not be made part of the motor vehicle operating record of the person upon whom such liability is imposed.

(3) *Definitions.* For purposes of this subsection only,

(a) "owner" means the registered owner of such vehicle on record with the division of motor vehicles; provided, however, that in the event that the owner is a vehicle leasing company licensed to do business in this state, the "owner" for purposes of this subsection shall mean the person shown on the records of the division of motor vehicles to be the lessee of such vehicle. Vehicle rental companies are excluded from the definition of "owner" for purposes of this subsection only.

(b) "traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this subsection.

(4) *Summons and Notice of Violation*. A summons for a violation of this subsection may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the division of motor vehicles of this or any other state. Collection actions, including default judgment and execution, may proceed based upon jurisdiction obtained through the mailing by first class mail of a summons and subsequent court notices pursuant to this subsection. Every initial mailing shall include the:

a. Name and address of the owner of the vehicle;

b. Registration number of the motor vehicle involved in the violation;

c. Violation charges;

d. Location where the violation occurred;

e. Date and time of the violation;

f. Copies of 2 or more photographs, or microphotographs or other recorded images, taken as proof of the violation;

g. Amount of the civil assessment imposed and the date by which the civil assessment should be paid;

h. Information advising the summonsed person of the matter, time and place by which liability as alleged in the notice may be contested, and warning that the failure to pay the civil assessment or to contest liability in a timely manner is an admission of liability and may result in a judgment being entered against the summonsed person and/or the denial of the registration or the renewal of the registration of any of the owner's vehicles; and

i. Notice of the summonsed person's ability to rebut the presumption that he or she was the operator of the vehicle at the time of the alleged violation and the means for rebutting such presumption.

All subsequent mailing of court notices, summons, and payment requests shall include all information listed in subparagraphs a. through i. of this subdivision.

(5) *Payment by voluntary assessment*. Persons electing to pay by voluntary assessment shall make payments to the entity designated on the summons for payment. Procedures for payment under this subsection shall be as provided by court rule of the Justice of the Peace Court and shall be in lieu of the procedures set forth in § 709 of this title.

(6) *Procedures to contest the violation*. A person receiving the summons pursuant to this subsection may request a hearing to contest the violation by notifying, in writing, the entity designated on the summons within 20 days of the date. Upon receipt of a timely request for a hearing a civil hearing shall be scheduled and the defendant notified of the hearing date by first class mail. A civil hearing shall be held by the Justice of the Peace Court. The hearing may be informal and shall be held in accordance with Justice of the Peace Court rules. Costs for such hearing shall not be assessed against the prevailing party.

(7) *Failure to pay or successfully contest the violation*. If the owner fails to pay the civil assessment, to respond to the summons within the time period specified on the summons, and/or to successfully contest the civil assessment resulting from the violation, the city manager shall notify the Division of Motor Vehicles of such facts. In addition, city manager shall refer the unpaid assessment and costs to the Administrative Services Department for the collection of these assessments and the City Solicitor may enforce the assessments by civil action, including seeking judgment and execution on a judgment against the owner in accordance with this subsection.

(8) *Proof of violation*. Proof of a violation of this subsection shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this subsection. A certificate, or facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic light signal violation monitoring system shall constitute prima facie evidence of the facts contained therein, if the certificate, or facsimile thereof, is sworn to or affirmed by a technician employed by a locality authorized to impose assessments pursuant to this subsection, or by an employee of an entity designated by such locality to administer records under this subsection. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available

for inspection in any proceeding to adjudicate the liability for such violation pursuant to regulation, ordinance or other law adopted pursuant to this subsection. Any affidavit submitted pursuant to subsection 9(a) shall be admissible in any proceeding to contest the violation.

(9) Presumptions. The owner of any vehicle found to be in violation of this subsection shall be held prima facie responsible for such violation in the same manner as provided for under § 7003 of this title, unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody or control of another person. Such presumption shall be rebutted if the owner:

a. Furnishes an affidavit by regular mail to the entity indicated on the summons that he or she was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person or company who leased, rented or otherwise had the care, custody or control of the vehicle, or attaches a certified copy of a police report showing that the vehicle or license plate(s) thereof had been reported to the police as stolen prior to the time of the alleged violation of this subsection; or

b. Provides proof in at the hearing to contest the violation that he or she was not the operator of the vehicle at the time of the alleged violation or that he or she failed to comply with the traffic signal either in order to yield the right-of-way to an emergency vehicle or as part of a funeral procession.

(c) Notwithstanding any other provision in this section, if the motor vehicle which is found by the traffic light signal violation monitoring system to have failed to comply with a traffic light signal is commercially licensed, then the owner of that vehicle shall be sent notice of the date, time and location of the violation with two photographs thereof. Within ten days of the receipt of said notice, the owner of the vehicle shall provide the law enforcement agency which has issued the

summons with the name and address of the driver of the vehicle at the date, time and location of the violation and within the same time period, shall provide the driver of the vehicle with the photographs of the violation. After receipt by the law enforcement agency which has issued the summons of the name and address of the driver of the vehicle at the time of the violation, the driver of the vehicle shall be prima facie responsible for such violation in the same manner as provided under 21 Del. C. § 7003 and shall be subject to the provisions of this section. Failure of the owner of the vehicle found to be in violation of subsection (b) to provide the name and address of the driver at the time of the violation within the period prescribed shall cause the owner to be held responsible as set forth in subsection (b)(3).

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