

James F. Beekman
Mayor

Peter D. Daub
Public Works

City of Charlack

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Charlack, Missouri 63114
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Tony T. Umbertino
City Manager
Chief of Police

Mike Pauley
Court Clerk

BILL NO. 10- 652

ORDINANCE NO. 10- 952

AN ORDINANCE AMENDING ORDINANCE NO. 09-947 WITH RESPECT TO PARAGRAPHS TWO AND FIVE THEREOF

WHEREAS, the Board of Aldermen ("Board") of the City of Charlack, State of Missouri ("City") finds and declares that a vehicle that is excessively speeding, absent certain recognized grounds justifying such, poses a serious risk and detriment to the public including by endangering motor vehicle operators and pedestrians, and by increasing the number of serious accidents to which public safety agencies must respond at the expense of the taxpayers; and

WHEREAS, it has been determined that excessive speeding violations are a cause of many vehicle collisions and numerous personal injuries each year in the City; and

WHEREAS, it is impracticable for the City to station police officers at each roadway and school zone at all times of the day to reduce the incidence of speed safety violations; and

WHEREAS, the City, pursuant to authority provided in § 304.120, RSMo may make additional rules of the road to meet its needs; and

WHEREAS, automated photographic traffic enforcement programs in other jurisdictions throughout the United States have proven to significantly improve public safety by reducing the number of violations in those jurisdictions; and

WHEREAS, the Board finds and declares that in order to improve public safety by reducing the number of excessive speeding violations in the City, owners of motor vehicles must be held accountable for such violations involving their motor vehicles when detected by an automated photographic traffic enforcement program, unless the owners provide applicable justifications or evidence to the contrary;

WHEREAS, in the interest of the public health, safety, and welfare of the citizens of the City, the Board desires to promote public safety through the implementation of safety programs which are proven to reduce excessive speeding violations, including an automated photographic traffic safety enforcement program; and

WHEREAS, the Board believes that it is prudent and in the best interest of the City and its residents to amend Sections Two and Five of Ordinance 09-947 which authorized an automatic photographic traffic safety enforcement program in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD AS FOLLOWS:

Section 1. Title III of the City’s Municipal Code of Ordinances is hereby amended by the addition of a new Chapter 395 which shall read as follows:

CHAPTER 395 TRAFFIC CONTROL DEVICES
SECTION 395.010.A VIOLATION OF TRAFFIC SAFETY ON
**ROADWAYS AND THE AUTOMATED SPEED
ENFORCEMENT REGULATIONS**

1. **Definitions.** For purposes of this Section, the following terms and phrases shall be defined as follows:

“Automated Traffic Enforcement System” means a system that:
Consists of camera(s) and vehicle sensor(s) capable of producing high resolution color digital Recorded Images that show the speed at which a vehicle is moving and the license plate and number of the motor vehicle.

“Municipal Court” means the municipal court of the City.

“Operator” means any person who operates or drives a motor vehicle and has the same meaning as “Driver”.

“Owner” means the owner(s) of a motor vehicle as shown on the motor vehicle registration records of the Missouri Department of Revenue or the analogous department or agency of another state or country.

“Recorded Image” means an image digitally recorded by an Automated Traffic Enforcement System.

“System Location” means the location at which an Automated Traffic Enforcement System has been located.

2. **Violation of Traffic Safety on Roadways**

Except as otherwise provided in this Section, a person commits the infraction of violation of traffic safety on roadways when a motor vehicle of which that person is an Owner exceeds the posted speed limit. Provided, however, that an infraction shall be excused upon submission of a sworn statement that

the speed of the motor vehicle was justified because:

A. The Posting of the speed limit was not in accordance with state or local law;

B. The operator of the motor vehicle was acting in compliance with the lawful order or direction of a police officer;

C. The operator of the motor vehicle violated the speed limit in order to yield the right-of-way to an immediately approaching authorized emergency vehicle;

D. The motor vehicle was being operated as an authorized emergency vehicle as defined and in compliance with Section 304.022, RSMo;

E. The motor vehicle was a stolen vehicle and being operated by a person other than the Owner without the effective consent of the Owner (but this shall not be a justification for such an operator) and the theft was timely reported to the appropriate law enforcement agency;

F. The license plate and/or tags depicted in the Recorded Image(s) were stolen and being displayed on a motor vehicle other than the motor vehicle for which they were issued (but this shall not be a justification for the operator of the motor vehicle) and the theft was timely reported to the appropriate law enforcement agency;

G. Ownership of the motor vehicle had in fact been transferred prior to the violation (provided state records substantiate this statement);

H. Any other issues or evidence that the Court deems pertinent.

Liability hereunder is based on ownership, without regard to whether the Owner was operating the motor vehicle at the time of the infraction, except that, as provided in Section 304.120.4, RSMo, no liability shall be imposed on the Owner of a motor vehicle when the vehicle is being permissively used by a lessee if the Owner furnishes the name, address, and operator's license number of the person renting or leasing the motor vehicle at the time the violation occurred to the City within 21 days from the time of receipt of written request for such information.

3. Automated Traffic Enforcement System Authorized

An Automated Traffic Enforcement System is hereby authorized to be installed and operated within the City for the purpose of detecting violations of traffic safety on roadways. Specific System Locations shall be determined from time to time by the Board of Aldermen upon recommendation of the Chief of Police. Recorded Images from a single camera unit shall constitute sufficient basis for a Notice of Violation if alone or in combination they clearly show the speed at which a motor vehicle is moving and the license plate and license number of the motor vehicle. Recorded Images may also be used as evidence of other violations to the extent permitted by applicable law.

4. Enforcement Procedures

a. Except as otherwise provided herein, upon review of Recorded Image(s) showing an infraction under this Section, a police officer of the City Police Department shall complete a Notice of Violation in a form approved by the Chief of Police (which form may be completed electronically) and the City shall cause the completed Notice of Violation to be mailed to the

Owner at its last known address by first class US Mail, postage prepaid, within 14 days after the date the Recorded Image(s) were taken.

b. Based upon the information obtained from the Recorded Image, the police officer may obtain any additional information about the Owner, which is necessary to complete or mail the Notice of Violation, from the records of the Missouri Department of Revenue or any other legal means; or, if the motor vehicle is registered in another state or country, from the motor vehicle registration records of the department or agency of the other state or country analogous to the Missouri Department of Revenue or any other legal means.

c. If there is more than one Owner of the motor vehicle, a Notice of Violation may be completed and addressed to any or all of them, and such Owner shall be jointly and severally liable hereunder.

d. The Notice of Violation shall direct the Owner to respond within 21 days of the date of mailing of the Notice of Violation either by paying the fine specified in this Section at the appropriate time and place in the City or by providing a sworn statement of applicability of one of the justifications for exceeding the speed limit set forth in this Section.

e. A copy of the Recorded Image(s) upon which the Notice of Violation is based shall be sent to the Owner with the Notice.

f. The Notice of Violation shall include a request that the name, address and operator's license number of any person renting or leasing the motor vehicle at the time the violation occurred be furnished to the City within 21 days of receipt of the request.

g. Any sworn statement provided by an Owner shall be examined by the City Prosecuting Attorney. If the City Prosecuting Attorney determines that a statement is insufficient, including but not limited to a determination based upon a comparison of the statement to the Recorded Image(s), then a letter shall be sent to the Owner (any or all of them) at its last known address by first class US Mail, postage prepaid by the City indicating that the statement was insufficient and the fine specified in this Section must be paid at the appropriate time and place in the City within 21 days of the date of the letter. If the statement timely provides the name, address and operator's license number of any person renting or leasing the motor vehicle at the time the infraction occurred, then the Notice of Violation shall be withdrawn, a letter to that effect shall be sent to the Owner by the City, and new Notice of Violation shall be issued to the identified person together with a copy of the identifying statement, which person shall be liable hereunder as if any Owner.

h. In lieu of completing a Notice of Violation, the Police Department may send a warning notice to the Owner if the System Location was established within 7 days of the violation, or if the reviewing officer determines that the Recorded Images are inconclusive or that it is more likely than not that a justification applies to the infraction.

5. Fine

Notwithstanding any other provision of the City Code of Ordinances, the civil fine for the infraction of violation of traffic safety on roadways shall be \$30.00 for exceeding the limit from 5 to 10 MPH, \$100.00 from 11 to 15 MPH, \$120.00 from 16 to 20 MPH, \$160.00 more than 20

MPH. The fine shall increase by \$25.00 whenever an additional Notice shall be mailed due to failure to respond in a timely manner. Under no circumstances may a person be imprisoned for an infraction.

6. Warning Signs

An Automated Traffic Enforcement System may be identified by advance warning signs posted at entrances to the City and/or at specific System Locations, if the Board determines that such signs will enhance the efficacy of the System. Absence of such signs shall not provide justification for an infraction.

7. Failure to Respond to Notice of Violation

Any person who shall fail to respond to a Notice of Violation or letter issued under this Section by timely payment of fine or by timely and sufficient statement as described herein, or who shall submit a false sworn statement hereunder shall be subject to prosecution for the offense of Failure to Appear in the Municipal Court for violation of this Ordinance subject to the general penalty provisions set forth in the Municipal Code in addition to any other applicable liabilities or sanction.

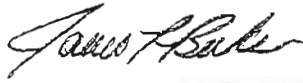
Section 2.

It is hereby declared to be the intention of the Board that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

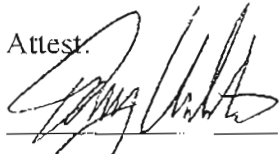
Section 3.

This Ordinance shall be in full force and effect from and after its passage by the Board. Any ordinances inconsistent with this Ordinance are hereby repealed.

Passed and approved this 30th day of March, 2010.

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James F. Beekman, Mayor

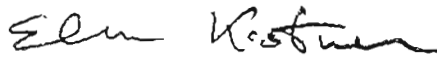
Attest: 

Anthony Umbertino, City Clerk

Form of ordinance approved:

First Reading: 3/30/10

Second Reading: 3/30/10



Elkin L. Kistner, City Attorney

PASSED AND APPROVED BY THE BOARD OF ALDERMEN OF THE CITY OF CHARLACK, MISSOURI, THIS 30th DAY OF MARCH, 2010.