

City of Houston Ordinance No. 2008- 614

AN ORDINANCE ADDING A NEW ARTICLE VII TO CHAPTER 45 OF THE CODE OF ORDINANCES, CITY OF HOUSTON, TEXAS, PROVIDING FOR THE CREATION OF A SPEED FEEDBACK SIGN PROGRAM; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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WHEREAS, speed feedback signs are devices which serve as a traffic safety educational tool designed to increase the awareness of the applicable speed limit; and

WHEREAS, the use of speed feedback signs reminds motorists to remain cognizant of their actual speed in comparison to the statutory speed limit, thereby allowing them to reduce speed accordingly; and

WHEREAS, the use of speed feedback signs will act as a deterrent to excessive speeds on city streets, contributing to the protection of the health, safety, and welfare of the city's inhabitants; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Chapter 45 of the Code of Ordinances, City of Houston, Texas, is hereby amended by adding Article VII to read as follows:

"ARTICLE VII. SPEED FEEDBACK SIGN PROGRAM

Sec. 45-161. Program created.

There is hereby created within the public works and engineering department the Speed Feedback Sign Program.

Sec. 45-162. Purpose.

The purpose of this article shall be to create a program to set criteria for the use of speed feedback devices in public street right-of-ways. The speed feedback signs authorized herein shall be used to provide to the driver of a vehicle real-time feedback by radar of the vehicle's speed and to bring attention to posted speed limits. Such devices are not approved as traffic control devices in the Texas Manual of Uniform Control Devices and are thus not designed to hinder, prevent, or aid in any police function.

Sec. 45-163. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means property owners' associations and public or private school districts which express an interest in participating in the program by completing an application and by taking all other steps as required herein to participate in the program.

Department means the department of public works and engineering.

Property owners' association means that entity as defined in Section 204.004 of the Texas Property Code.

Program means the Speed Feedback Sign Program.

Public way or public street right-of-way shall have the definition ascribed to the term 'public way' in section 40-121 of this Code.

Site means the location where the speed feedback sign will be placed.

Speed feedback sign or sign means each sign used in the program that gives real-time feedback of a vehicle's actual speed to the driver of the vehicle by the use of radar.

Sec. 45-164. Application for participation.

(a) The traffic engineer is hereby authorized to prepare an application in such form as shall be consistent with the requirements of this article for the participation of qualified members of the public and private sector in the program.

- (b) As a minimum, the application shall require the following:
- (1) Applicant's name, telephone number, and email address;
 - (2) Applicant's type of entity (property owners' association or school district);
 - (3) Applicant's mailing address and street address of main office;
 - (4) A description of the public street right-of-way where the speed feedback sign will be located and the applicant's interest therein;
 - (5) The estimated length of time necessary to acquire the required equipment; and
 - (6) Any other information the traffic engineer deems appropriate.

(c) The applicant shall also be required to make the following representations and accept the following obligations as part of the application:

- (1) That the individual preparing the application is authorized to do so and to legally bind the applicant to the representations made in the application.
- (2) That the applicant agrees at its sole cost and expense to purchase, install, and maintain (and, if deemed necessary by the traffic engineer, dismantle and remove) signs conforming with the technical standards and requirements of the department subject to the supervision, direction and control of the department.
- (3) That the applicant will, at its sole cost and expense, comply with all city codes, rules, regulations, and other requirements and will obtain all necessary permits as part of the process of installation of the sign.
- (4) That the applicant will, at its sole cost and expense, pay all monthly charges associated with the operation of the sign, transmission system, monitors, and other peripherals, including the cost of power, maintenance, parts replacement, etc.

- (5) That the applicant will, in accordance with the department's technical standards and requirements, and at its sole cost and expense, pay any and all costs associated with the installation and maintenance of the sign.
- (6) That the applicant recognizes and agrees that the department reserves the right at any time to change or modify the program as the department deems appropriate, or to terminate applicant's participation in the program at any time and for any reason, without recourse by applicant.
- (7) That if the applicant is terminated from participation in the program by the department, or if the applicant voluntarily withdraws from the program, the applicant shall as soon as possible and at applicant's sole cost and expense remove any equipment encroaching into the city's public way and repair any damage to the public way associated with said removal.

(d) The individual preparing the application shall sign the application as the applicant's representative agreeing to the terms, conditions, and representations contained in the application.

Sec. 45-165. Review and approval of application.

(a) In reviewing each application the department shall determine if the proposed applicant is appropriate for inclusion in the program. In doing so, the department may consider the following:

- (1) The completeness of the application;
- (2) The appropriateness of the proposed site;
- (3) The availability of departmental staffing for performing related activities;
- (4) The promptness with which the applicant can meet the department's deadlines for installation and availability of the sign;
- (5) Any other criteria related to the efficacy of the program that the department deems appropriate.

(b) The traffic engineer is authorized, based on his review of the application and the representations and promises made therein, the results

of consultations with the city legal department, and any other information he deems relevant or appropriate, to accept and approve the applicant for participation in the program; to deny the application; or to accept and approve the applicant subject to such conditions as the traffic engineer shall specify. The traffic engineer is not required to approve any application which the traffic engineer determines is not in the best interest of the program or the city.

Sec. 45-166. Technical requirements.

The department shall establish technical specifications and standards for all equipment, apparatus, and software used in the program.

Sec. 45-167. Use of city public street right-of-way authorized.

The department is hereby authorized to utilize those portions of the city's public street right-of-way where such use is necessary to accommodate the placement of a feedback sign as part of the program. Before any public way may be used, the traffic engineer and the legal department shall consult to determine if the proposed use of the public way will impair the city's primary use of said public way or pose any legal issues with regard to the city's right to so use said public way. Any installation of any program equipment in the public way must be approved in advance by the traffic engineer.

Sec. 45-168. Operation.

(a) The traffic engineer may establish rules and regulations for the implementation of the program.

(b) The feedback sign is to be installed as a matter of public safety. Its primary use will be to reduce overall vehicle speed and improve the safety of city streets. It is to be installed at the direction of the department and it is to be installed and operated in a manner such that it will not hinder or interfere with the police department's enforcement of all traffic laws of this city and all of the state vehicle laws applicable to traffic in this city."

Section 3. That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of this Ordinance to any person or set of circumstances, is for any reason held to be unconstitutional, void, invalid, or unenforceable, neither the remaining portions of this Ordinance nor their application to other persons or

sets of circumstances shall be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, invalidity or unenforceability of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 4. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on the sixtieth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 1st day of July, 2008.

Bill White

Mayor of the City of Houston

Prepared by Legal Dept. Kristy J. Orr
 Assistant City Attorney
 Requested by Michael S. Marcotte, P.E., Director, Public Works &
 LD File #0750700048001

Lawrence

AYE	NO	
✓		MAYOR WHITE
••••	••••	COUNCIL MEMBERS
✓		LAWRENCE
✓		JOHNSON
✓		CLUTTERBUCK
✓		ADAMS
	✓	SULLIVAN
✓		KHAN
✓		HOLM
✓		GARCIA
✓		RODRIGUEZ
✓		BROWN
✓		LOVELL
		ABSENT-OUT OF CITY ON PERSONAL BUSINESS
		NORIEGA
✓		GREEN
✓		JONES
CAPTION	ADOPTED	