

ORDINANCE NO. C-09-14

AN ORDINANCE AMENDING CHAPTER 26, TRAFFIC, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, BY CREATING ARTICLE VII, TO BE TITLED "TRAFFIC INTERSECTION SAFETY ACT", RELATING TO TRAFFIC INTERSECTION SAFETY AND PROVIDING LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; ESTABLISHING AN ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO IMPLEMENT THE USE OF AUTOMATED UNMANNED CAMERA MONITORING DEVICES FOR RED LIGHT INFRACTIONS; PROVIDING ENFORCEMENT PROCEDURES, INCLUDING NOTICE, APPEALS AND PENALTIES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Fort Lauderdale finds that motorists who fail to obey traffic control signals, including red lights, cause serious harm to the public health, safety, or welfare of our citizens and visitors; and

WHEREAS, the City of Fort Lauderdale experiences high volumes of traffic and frequent traffic accidents caused by violating red light traffic control signals, exposing our citizens to personal injury and property damage; and

WHEREAS, the use of unmanned cameras results in more effective use of staff, and therefore more efficient use of public resources; and

WHEREAS, the City of Fort Lauderdale desires to reduce the number of occurrences of red light traffic control signal violations by installing and implementing traffic control camera systems and corresponding enforcement procedures; and

WHEREAS, Article VIII, Section 2(b), of the Florida Constitution, provides that "municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law"; and

WHEREAS, Florida Statutes, Section 166.021(1), provides that municipalities “may exercise any power for municipal purposes, except when expressly prohibited by law”; and

WHEREAS, the City of Fort Lauderdale desires to improve and further protect public health, safety, and welfare by implementing an automated camera red light traffic enforcement system in efforts to reduce occurrences of red traffic control signal violations in the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 26, Traffic, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to add Article VII, Traffic Intersection Safety Act, to read as follows:

ARTICLE VII. TRAFFIC INTERSECTION SAFETY ACT

Sec. 26-210. Purpose

The purpose of this Act is to authorize the use of unmanned camera monitoring systems to promote compliance with red light signals at intersections and to adopt a civil enforcement system for red light signal violations. This Act will also supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for red light signal violations in accordance with normal statutory enforcement techniques.

Sec. 26-211. 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:

Appeal shall mean a contested hearing before the Special Magistrate for review of a Red Light Traffic Control Signal Violation under this Article.

Authorized Emergency Vehicles shall mean ambulances and vehicles operated by the fire department or law enforcement agency when responding to an emergency.

Intersection shall mean:

(1) The area embraced within the prolongation or connection of the lateral curb lines; or, if none, then the lateral boundary lines of the roadways of two (2) highways that join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate Intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate Intersection.

Motor Vehicle shall mean any self-propelled vehicle not operated upon rails or guide-way, but not including any bicycle or electric personal assisted mobility device. For the purposes of this Article, Authorized Emergency Vehicles are excluded from the definition of Motor Vehicle.

Notice of Violation shall mean a citation issued for a Red Light Traffic Control Signal Violation under this Article.

Owner shall mean the person or entity identified by the Florida Department of 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.

Recorded Images shall mean photographic, electronic, digital or video images of a Motor Vehicle, recorded by a Traffic Control Signal Monitoring System and establishing a time sequence of the Motor Vehicle entering the Intersection.

Red Light Traffic Control Signal Violation shall mean an offense whereby a Traffic Control Signal Monitoring System establishes that a Motor Vehicle entered an Intersection controlled by a Traffic Control Signal at a time when the Traffic Control Signal for such vehicle's direction of travel was red.

Special Magistrate shall mean a Special Magistrate defined under Sec. 11-10 of the City of Fort Lauderdale Code of Ordinances.

Traffic Control Signal shall mean any device that shows green, yellow and red lights or colored lighted arrows, successively, one at a time, or in combination, by which traffic is directed to stop and permitted to proceed.

Traffic Control Signal Monitoring System shall mean an electronic system that captures recorded images of Motor Vehicles entering an Intersection against a red light Traffic Control Signal.

Traffic Enforcement Officer shall mean the police officer(s) and/or public safety aide(s) designated by the Chief of Police to review Recorded Images prior to the issuance of a Notice of Violation.

Sec. 26-211. Red Light Traffic Control Signal Compliance

Any Motor Vehicle that approaches an Intersection at which a red Traffic Control Signal is displayed shall stop before entering the crosswalk on the near side of an Intersection or, if none, then before entering the Intersection, and shall remain stationary until the Traffic Control Signal indicates green. After the Motor Vehicle has completely stopped for the Red Traffic Control Signal, the Motor Vehicle may make a right turn on the red Traffic Control Signal in accordance with the law.

Sec. 26-212. Violation

A violation of this Article shall be known as a Red Light Traffic Control Signal Violation and occurs when a Motor Vehicle does not comply with the requirements of Sec. 26-211.

Sec. 26-213. Enforcement of Red Light Traffic Control Signal

(a) A violation pursuant to Sec. 26-212 occurs when the Recorded Images from the Traffic Control Monitoring System shows:

1. the rear of the Motor Vehicle; and

2. the Motor Vehicle behind the stop bar for a red Traffic Control Signal; and
3. the Motor Vehicle violating the red light Traffic Control Signal.

(b) The Traffic Enforcement Officer shall review the Recorded Images to determine and establish accurate identification of the Motor Vehicle and the red light Traffic Control Signal Violation. Once the Traffic Enforcement Officer has confirmed the above, the Notice of Violation 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.

(c) Owner herein shall be responsible for paying the civil fine for the violation in the amount set forth in Sec. 26-217.

Sec. 26-214. Notice of Violation

(a) *Contents of Notice.* A notice issued for any violation of provisions of this Article shall contain the following:

1. the name and address of the Owner of the Motor Vehicle ;
2. the license plate and registration number of the Motor Vehicle;
3. the make, model and year of the Motor Vehicle;
4. the location of the Intersection where the violation occurred;
5. the date and time of the violation;
6. a statement that the violation stated is pursuant to this Article;
7. a copy of the Recorded Images of the violation;
8. the amount of the civil fine and the date by which the civil fine must be paid;
9. a statement that the Recorded Images show the violation;

10. a statement of the procedures for payment of the civil fine and contesting the Notice of Violation;

11. a statement providing for the procedures and time limit within which to file for an Appeal; and

12. a statement that if the Owner of the violating Motor Vehicle fails to pay the civil fine within the time allowed, or fails to timely file for an Appeal, the Owner shall be deemed to have waived his or her right to contest the Notice of Violation and admitted to the violation reflected in the Notice of Violation.

(c) *Manner of Delivery of Notice.* The Notice of Violation shall be sent by first class mail to the address of the Owner of the Motor Vehicle. If there is more than one registered Motor Vehicle Owner, the Notice of Violation shall be sent to all named registered Motor Vehicle Owners. The City, or its designee, shall also have the right, but not the obligation, to hand deliver the Notice of Violation upon the Motor Vehicle Owner.

Sec. 26-215. Owner Responsibilities

(a) Upon issuance of a Notice of Violation, the Owner shall within thirty (30) days of the date of the Notice of Violation either:

1. Pay the assessed civil fine as stated on the Notice of Violation; or
2. Request an Appeal pursuant to the procedure under Sec. 26-216 to contest the Notice of Violation.

(b) Any Owner who does not comply with subsection (a) within thirty (30) days from the date of the Notice of Violation admits liability and waives the right to contest the Notice of Violation.

Sec. 26-216. Appeals

(a) Any Owner who chooses to challenge the Red Light Traffic Control Signal Violation shall file an Appeal with the Traffic Enforcement Officer, as

provided on the Notice of Violation, and shall include a notarized statement explaining the grounds for Appeal and any supporting documents for the Appeal.

(b) The Traffic Enforcement Officer may dismiss the violation if the Owner proves the following:

1. At the time of the violation, the Motor Vehicle was stolen or otherwise legally not under the care, custody or control of the Owner. This may only be proved with a notarized statement which specifically provides that at the time of the violation, the operator of the vehicle did not have the permission of the Owner and lists the full legal name, current address and driver's license number of the operator of the vehicle at the time of violation, or attachment of a copy of the stolen vehicle report that has been filed with a law enforcement agency; or
2. A violation of this Article was necessary to comply with other laws; or
3. A violation of this Article was necessary to reasonably protect the property or person of another; or
4. At the time of the violation of this Article, the red Traffic Control Signal was inoperable or malfunctioning; or
5. The Owner sold the Motor Vehicle prior to the violation of this Article. This may only be proved by attaching a copy of proof of sale to the notarized statement.

If the violation is not dismissed by the Traffic Enforcement Officer after a review of the notarized statement, the City shall schedule a hearing before a Special Magistrate. The notice of hearing shall be sent to the Owner by certified and first class mail at the address provided on the Owner's request for Appeal.

(c) The Traffic Enforcement Officer shall testify at the Special Magistrate hearing. The Owner, or his attorney or duly authorized representative, may also present testimony and evidence.

(d) The recorded images of the violation verified by the Traffic Enforcement Officer shall be admissible and constitute prima facie evidence of the violation.

(e) Formal rules of evidence shall not apply at the Special Magistrate hearing and any relevant evidence may be admitted. Hearsay evidence may be admitted, but shall not form the sole basis upon which the decision is made. Irrelevant and unduly repetitious evidence may be excluded. The hearing shall be conducted in a manner to ensure that procedural and substantive due process is afforded the Owner.

(f) The Special Magistrate shall issue a written order either granting or denying the Appeal. If the Appeal is denied, the Owner shall pay all civil fines and assessed costs within fifteen (15) days of the date of the written order.

Sec. 26-217. Penalties

A violation of this Article is a civil, noncriminal infraction. A civil fine in the amount of \$125.00 shall be assessed for each violation.

Section 26-218. Collection of Fines

The City may for the purposes of collecting any delinquent civil fines from the Owner, refer the delinquency to a debt collection agency. The collection fee, including any reasonable attorney's fee, paid to the collection agency shall be in accordance with Florida law.

Section 26-219. Warning Period


An Owner shall receive a courtesy Notice of Violation of this Article no less than the first thirty (30) days after the installation and operation of any Traffic Control Monitoring System. After the courtesy notice period of no less than thirty (30) days, Owners are subject to the enforcement provisions provided herein.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.


SECTION 4. That this Ordinance shall be in full force and effect ninety (90) days from the date of final passage.

PASSED FIRST READING this the 19th day of May, 2009.
PASSED SECOND READING this the 2nd day of June, 2009.



Mayor
JOHN P. "JACK" SEILER

ATTEST:



City Clerk
JONDA K. JOSEPH

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