

ORDINANCE NO. 2010-16-224

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2007-26-132, REGULATING INTERSECTIONS DETERMINED TO BE DANGEROUS; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL SIGNALS CONSISTENT WITH CHAPTER 2010-80, LAWS OF FLORIDA (2010) ("THE MARK WANDALL TRAFFIC SAFETY ACT"); PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature adopted CS/CS/HB325 during the 2010 Legislative Session, authorizing the use of traffic infraction detectors to enforce certain provisions of Chapter 316 of the Florida Statutes, and

WHEREAS, the Governor of the State of Florida signed CS/CS/HB325 into law on May 13, 2010, resulting in the creation of Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act" or the "Act") taking effect on July 1, 2010, and

WHEREAS, the running of red lights continues to be a safety hazard affecting every citizen and traveler in the City of Miami Gardens, and

WHEREAS, as of July 1, 2010, the Mark Wandall Traffic Safety Act, and

WHEREAS, the City Council desires to amend Ordinance No. 2007-26-132 to conform with and implement the Act,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Ordinance No. 2007-26-132 is hereby amended as follows:

A. Intent.

The purpose of this Ordinance is to authorize the use of ~~an unmanned cameras/monitoring system~~ traffic infraction detectors to promote compliance with red light signal directives ~~as proscribed by this Ordinance~~, and to adopt a civil enforcement system for red light signal violations, in accordance with Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act" or the "Act"). This Ordinance 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 a red light signal violation in accordance with other routine statutory traffic enforcement techniques. The City intends that the Mark Wandall Traffic Safety Act govern the City's Dangerous Intersection Program.

B. Use of Image Capture Technologies.

The City shall utilize ~~image capture technologies~~ traffic infraction detectors ~~as a supplemental~~ pursuant to the Mark Wandall Traffic Safety Act as a means of monitoring compliance with 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 Ordinance shall not supersede, infringe, curtail or impinge upon state or county laws related to red light signal violations or conflict with such laws. This Ordinance shall serve to enable the City to provide enhanced enforcement and respect for authorized traffic signal devices pursuant to Florida Statutes. The City shall utilize ~~image capture technologies~~ traffic infraction detectors as an ancillary deterrent to traffic control signal violations and to thereby reduce accidents and injuries associated with such violations. ~~Notices of infractions issued pursuant to this article shall be addressed using the City's own Special Magistrates pursuant to Article V of Chapter 2 of the City Code and not through uniform traffic citations or county courts.~~

C. Definitions.

The following definitions shall apply to this Ordinance:

1. *Intersection* shall mean 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* shall mean any self-propelled vehicle not operated upon rails or guideways, but not including any bicycle, motorized scooter, electric personal assisted mobility device, or moped.
3. *Notice of Infraction Violation or Traffic Citation* shall mean a citation issued for a red zone infraction.
4. *Owner/vehicle 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 months or more.~~
5. *Recorded Images* shall mean images recorded by a traffic control signal monitoring system/device on: infraction detector which is operated in accordance with this Ordinance.
 - a. ~~Two or more photographs; or~~
~~Two or more electronic images; or~~
~~Two or more digital images; or~~
~~Digital or Video movies; or~~
~~Any other medium that can display a violation; and~~
 - b. ~~Showing the rear of a motor vehicle and on at least one image, clearly identifying the license plate number of the vehicle.~~
6. *Red Zone infraction* shall mean a traffic offense whereby a traffic control signal monitoring system established that a vehicle entered an intersection controlled by a duly erected traffic control device at a time when the traffic control signal for such vehicle's direction of travel was emitting a steady red signal infraction detector indicates a violation of this Ordinance.
7. ~~*Special Master* shall mean the City's Code Enforcement Special Master~~
Traffic Control Signal shall mean 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 Florida Statutes §316.075.

8. ~~Traffic Control Signal Monitoring System/Device shall mean an electronic system consisting of one or more vehicle sensors, working in conjunction with a traffic control signal, still camera and video recording device, to capture and produce recorded images of motor vehicles entering an intersection against a steady red light signal indication.~~

Traffic Infraction Detector. A vehicle sensor(s) installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a 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 red light.

9. Traffic Infraction Review Officer. The City of Miami Gardens employee designated, in accordance with the Mark Wandall Traffic Safety Act, to review recorded images and issue red zone infractions based upon those images.

D. Adherence to Red Light Traffic Control Signals.

Pursuant to the Mark Wandall Traffic Safety Act, ~~M~~motor vehicle traffic 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. However, the driver of a vehicle that is approaching stopped at a clearly marked stop line, but if none, is approaching before entering the crosswalk on the near side of the intersection or, if none, then is approaching at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience of a steady red traffic control signal, may make a right turn in a careful and prudent manner (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, known as a Red Zone Infraction, shall occur when a vehicle does not comply with the requirements of Section ~~G~~ D. Violations shall be enforced pursuant to ~~paragraph (7) herein~~ the Mark Wandall Traffic Safety Act.

F. ~~Six-month notice: introductory period:~~

~~For the first two months of this Ordinance, unless the driver of a vehicle received a citation from a police officer at the time of a Red Zone Infraction in accordance with normal traffic enforcement techniques, the vehicle owner shall receive a courtesy notice of the violation. Commencing two months after the effective date of the Ordinance, the vehicle owner is subject to the enforcement provision as provided herein.~~

Implementation of the Mark Wandall Traffic Safety Act.

The City Manager is authorized to implement the provisions and requirements of Chapter 2010-80, Laws of Florida (2010), as may be amended from time to time, and may take any action which is necessary for such purpose.

G. Review of Recorded Images.

1. The owner of the vehicle which is observed by Recorded Images committing a Red Zone Infraction, shall be issued a Notice of violation in accordance with the Mark Wandall Traffic Safety Act.~~The Recorded Image shall be sufficient grounds to issue a City Notice of Infraction.~~

2. The City may utilize Law Enforcement Officers and/or The City may designate a Traffic Control—Infraction—Review ~~Infraction Enforcement Officer(s), who shall meet the qualifications set forth in §316.640(5)(A), Florida Statutes, or any other relevant statute~~ the Mark Wandall Traffic Safety Act. ~~The Traffic Control Infraction Review Officer(s) shall review Recorded Images prior to the issuance of a Notice of Violation/Infraction to ensure accuracy and the integrity of the Recorded Images. The Traffic Control Infraction Officer(s); or the City's agent, shall also verify that the recorded Traffic Control Monitoring System/Devices that captured the Recorded Images was functioning properly at the time the Recorded Images were captured~~ the accuracy and integrity of the recorded image. ~~Once the Traffic Control Infraction Review Officer has verified the accuracy of the Recorded Images and functionality of the Traffic Control Monitoring System/Devices, a Notice of Violation/Infraction shall be sent to the Vehicle Owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles~~ or the address on record with the appropriate agency having such information in another state.

H. Notice of Violation/Infractions/ Hearings.

The All Notices of Violation/Infraction and hearings shall be issued and heard in accordance with the Mark Wandall Traffic Safety Act. include:

- ~~1. The name of the vehicle owner, and the current address as listed on the vehicle registration with the Department of Highway Safety and Motor Vehicles;~~
- ~~2. The license Plate number and registration number of the vehicle;~~
- ~~3. The make and year of the vehicle;~~
- ~~4. Notice that the violation charged is pursuant to this Ordinance;~~
- ~~5. The location of the intersection where the violation occurred;~~
- ~~6. The date and time of the red zone infraction;~~
- ~~7. Notice that the Recorded Images relating to the vehicle and a statement that the recorded images are evidence of a red zone infraction;~~
- ~~8. The civil penalty imposed;~~
- ~~9. Images depicting violation;~~
- ~~10. The procedures for payment of the civil penalty and contesting the notice of infraction;~~
- ~~11. The name of the Traffic Control Infraction Officer(s) that, based on inspection of recorded images, the vehicle was involved in a Red Zone Infraction;~~
- ~~12. Information advising the person alleged to be liable under this Section of the manner and time in which liability as alleged in the Notice of Infraction may be appealed, and warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability.~~

I. Vehicle Owner Responsibilities.

~~A vehicle Owner receiving a Notice of Infraction may, within twenty one (21) days of the date of the Notice of Infraction:~~

- ~~1. Pay the assessed civil penalty pursuant to instructions on the notice~~

of infraction; or

- ~~2. Request an appeal pursuant with procedures as outlined in this Ordinance~~

Signage.

When the City installs a traffic infraction detector at an intersection, it shall erect signage at the intersection sufficient to notify the public that a traffic infraction detector may be in use at the intersection and shall include specific notification of intersection safety camera enforcement of violations concerning right turns. Such signage shall meet the specifications for uniform signals and devices adopted by the Department of Transportation pursuant to §316.0745, Florida Statutes.

J. ~~Appeals to Special Master:~~

- ~~1. The City's Code Enforcement Special Masters are authorized to consider appeals under this Chapter within twenty one (21) days of the date of the Notice of Infraction; the Vehicle Owner may file an appeal with the City pursuant to the directions in the Notice of Infraction. A hearing on the appeal shall be scheduled for all appeals except those in which the Vehicle Owner submits an affidavit pursuant to Section K of this Ordinance in which the Vehicle Owner affirms under penalty of perjury that the vehicle was not under his or her care, custody or control, or that of someone with Vehicle Owner's consent.~~
- ~~2. Upon receipt of the appeal, the City shall schedule a hearing before the Special Master but in no event shall a hearing be scheduled for a date that is more than six (6) months from the date that the Notice of Appeal was received. A Notice of Hearing shall be provided to the Vehicle Owner no less than five (5) days prior to the hearing, and shall be provided by U.S. mail to the current address as listed on the vehicle registration with the Department of Highway Safety and Motor Vehicles~~
- ~~3. The following shall be permissible grounds for an appeal:
 - a. At the time of the infraction, the vehicle was not under the care, custody, or control of the Vehicle Owner or an individual with Vehicle Owner's consent, established pursuant to affidavit as provided in Section K of this Ordinance;~~

- b. ~~The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the citation issued under this Section, 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.~~
 - f. ~~The Special Master determines that the City violated a provision of the Ordinance.~~
4. ~~The hearing shall be conducted in accordance with Ordinance No. 2004-11-27, as amended.~~
5. ~~Recorded Images indicating a Red Zone Infraction, verified by the Traffic Control Infraction Review Officer, are admissible in any proceeding before the City's Special Master to enforce the provisions of this Chapter and shall constitute prima facie evidence of the violation.~~
6. ~~Unless an affidavit is provided pursuant to Section K of this Ordinance, it is presumed the person registered as the vehicle owner with the Florida Department of 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.~~
- K. ~~Vehicle Owner Affidavit of Non-responsibility.~~

~~In order to for the Vehicle Owner to establish that the motor vehicle was at the time of the Red Zone Infraction, in the care, custody, or control of another person without the consent of the registered owner, the Vehicle Owner is required, within twenty one (21) days from the date listed on the Notice of Infraction, to furnish to the City, an affidavit setting forth the circumstances demonstrating that the motor vehicle was not in the Vehicle Owner's care custody or control, or that of a person with Vehicle Owner's consent. The affidavit must be executed in the presence of a notary, and include:~~

- a. ~~If known to the Vehicle 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 vehicle was stolen, the police report indicating the vehicle was stolen at the time of the alleged Red Zone Infraction.~~
- c. ~~The following language must be placed 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."~~

- d. ~~Upon receipt of an affidavit pursuant to this section, any prosecution of the Notice of Infraction issued to the vehicle owner shall be terminated.~~

L.J. Penalties and Costs.

~~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. As the violation relates to this Ordinance and not the State Statutes, no points as provided in §322.27, Florida Statutes, shall be recorded on the driving record of the vehicle owner or responsible party.~~

All penalties and costs shall be collected in accordance with the Mark Wandall Traffic Safety Act.

M. Administrative Charges.

~~In addition to the assessment, administrative charges may be assessed in the event of an appeal or the necessity to institute collection procedures.~~

N. Collection of Fines.

~~The City may collect a penalty in accordance with Florida Statutes and the City's Code Enforcement Procedures. In addition, the City may enforce such penalty by civil action in the nature of debt.~~

O. Exceptions.

~~This Ordinance shall not apply to Red Zone Infractions involving vehicle collisions or to any authorized emergency vehicle responding to a bonafide emergency; nor shall a Notice of Infraction be issued in any case where the operator of the vehicle was issued a citation for violating the State Statute~~

~~regarding the failure to stop at a red light.~~

Section 3. CONFLICT: Sections "A" through "O" of Ordinance No. 2007-26-132, as amended, are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 6. SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS.

A. In accordance with paragraph (C) below of this Section 6, all fines, penalties, fees and costs imposed pursuant to the provisions of Ordinance No. 2007-26-132, which provisions existed immediately prior to July 1, 2010, are hereby authorized, approved, ratified and confirmed, and shall continue to be due and owing until paid to the City.

B. The Special Master operating pursuant to Ordinance No. 2004-11-27, as amended, shall continue to have jurisdiction over any violations for which a hearing has been timely requested by the violator pursuant to the provisions of Ordinance No. 2007-26-132 which existed immediately prior to July 1, 2010.

C. Notwithstanding any other provision of this Ordinance above, the provisions of Ordinance No. 2007-26-132, which existed immediately prior to July 1, 2010, shall remain in full force and effect solely to the extent necessary to effectuate paragraphs (A) and (B) above of this Section 6, but shall not be applicable to any violation that occurred from and after July 1, 2010.

D. The City hereby preserves and reserves each and every right, power, authority, benefit and exemption bestowed upon City and City's Dangerous Intersection Safety Program (the "Program") pursuant to CS/HB 325 as enacted by Chapter 2010-80, Laws of Florida (2010), including but not limited to any right, power, authority, benefit and/or exemption vested in City or City's Program as having been established prior to July 1, 2010 or before other deadlines established by the Mark Wandall Traffic Safety Act.

Section 7. EFFECTIVE DATE: This Ordinance shall become effective on July 1, 2010.

PASSED ON FIRST READING ON THE 9TH DAY OF JUNE, 2010.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 23RD DAY OF JUNE, 2010.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: DR. DANNY CREW, CITY MANAGER

Moved by: Councilman William
Second by: Councilman Bratton

VOTE: 5-1

Mayor Shirley Gibson	<u> X </u> (Yes)	<u> </u> (No)
Vice Mayor Aaron Campbell	<u> </u> (Yes)	<u> </u> (No) (not present)
Councilman Melvin L. Bratton	<u> X </u> (Yes)	<u> </u> (No)
Councilman Oliver Gilbert, III	<u> X </u> (Yes)	<u> </u> (No)
Councilman Andre' Williams	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> </u> (Yes)	<u> X </u> (No)
Councilwoman Barbara Watson	<u> X </u> (Yes)	<u> </u> (No)



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	June 23, 2010		Item Type: <i>(Enter X in box)</i>	Resolution		Ordinance		Other	
						X			
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading				2nd Reading	
		X						X	
				Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes	No	
					X				
Funding Source:	N/A		Advertising Requirement:	Yes				No	
				X					
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A					
		X							
Sponsor Name	Dr. Danny Crew, City Manager		Department:	City Manager					

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2007-26-132, REGULATING INTERSECTIONS DETERMINED TO BE DANGEROUS; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL SIGNALS CONSISTENT WITH CHAPTER 2010-80, LAWS OF FLORIDA (2010) ("THE MARK WANDALL TRAFFIC SAFETY ACT"); PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

On May 13, 2010, Governor Charlie Crist signed the Mark Wandall Traffic Safety Act resulting in Chapter 2010-80, Laws of Florida (2010). The new law becomes effective on July 1, 2010. Therefore, it is necessary to amend Ordinance No. 2007-26-132, commonly known as the "Dangerous Intersections Ordinance" to make the provisions consistent with general law. The following is a summary of the major changes in the new law:

- The civil penalty will increase from \$125.00 to \$158.00. However, the amount of money paid to the City will decrease because of violations committed within the City's
- ITEM I-2) ORDINANCE
SECOND READING/PUBLIC HEARING
Amending Ord. 2007-26-132
Red Light Program**

boundaries, the fee will be apportioned between the City, the State's General Revenue Fund and the State's Brain and Spinal Injury Cord Trust Fund.

- All due process procedures associated with a red light camera infractions will be handled by the Miami-Dade County Clerk of Courts.
- The general oversight of the red light camera program has been preempted to the State of Florida.
- Red light cameras are permitted on state roadways and rights-of way through a permitting process governed by Florida Department of Transportation (FDOT).
- The new legislation also permits the use of traffic infraction enforcement officers, instead of police officers, to review video images to determine whether a red light camera infraction has occurred.

As a result of the new legislation, in the upcoming weeks, staff will bring before Council a contract amendment with the City's current Red Light Camera System vendor, American Traffic Solutions (ATS). This contract amendment will revise the current compensation structure to put the City's third party vendor contract with ATS in line with new statutory requirements.

Proposed Action:

That the City Council approve an amendment to Ordinance No. 2007-26-132 , as amended, commonly referred to as the "Dangerous Intersections Ordinance".

Attachment:

- 1- Chapter 2010-80, Laws of Florida