

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2007-35

AN ORDINANCE AMENDING THE CODE OF THE CITY OF CORAL GABLES, FLORIDA, BY AMENDING CHAPTER 74 ENTITLED "TRAFFIC AND VEHICLES" BY CREATING ARTICLE VIII ENTITLED "DANGEROUS INTERSECTION SAFETY", PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT INFRACTIONS, AND FOR RELATED PROCEDURES AND PROVISIONS; AMENDING CHAPTER 101, "ADMINISTRATION AND ENFORCEMENT", ARTICLE VI, "CODE ENFORCEMENT", BY CREATING SECTION 101.91 ENTITLED "ADMINISTRATIVE CHARGES; COLLECTION OF FINES; PENALTY", TO FACILITATE USE OF CODE ENFORCEMENT MECHANISM FOR DANGEROUS INTERSECTION SAFETY; PROVIDING FOR A SEVERABILITY CLAUSE, REPEALER PROVISION, CODIFICATION AND PROVISION FOR AN EFFECTIVE DATE

WHEREAS, the City of Coral Gables is located in a high density traffic area and regularly experiences traffic incidents related to the failure of motorists to obey duly erected traffic control devices; and

WHEREAS, the running of red lights causes a safety hazard affecting every citizen and traveler in the City of Coral Gables; and

WHEREAS, the violation of red light traffic signals is recognized as the number one cause of urban motor vehicle collisions; and

WHEREAS, the National Highway Traffic Safety Administration recognizes the act of violating a red light traffic signal as the most dangerous form of aggressive driving; and

WHEREAS, the apprehension of violators of red light traffic signal through means of law enforcement observance, chase and citation is difficult, dangerous and expensive; and

WHEREAS, the installation and use of traffic control photographic systems permit law enforcement resources to be more efficiently utilized in responding to other serious criminal and traffic offenses; and

WHEREAS, red light legislation penalizing or assessing civil fees against the owner of a motor vehicle has proven extremely effective at reducing red light violation and traffic accidents; and

WHEREAS, the use of unmanned cameras to enforce toll violations on the State's system of toll roads has been determined to be fair, reasonable and sufficient by the State in order to effectively enforce laws regulating the payment of tolls

without the need to commit the extreme amount of personnel that would be necessary without the use of unmanned cameras; and

WHEREAS, similarly, the use of unmanned cameras will be effective in enforcing laws requiring drivers of motor vehicles to stop for red lights and will have the effect of freeing law enforcement personnel to respond to other, and sometimes more significant, incidents as well as serious crime; and

WHEREAS, Section 316.008, *Florida Statutes*, grants municipalities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, the authority to regulate and monitor traffic by means of law enforcement officers and security devices; and

WHEREAS, the City of Coral Gables is vested with home rule authority pursuant to Article VII, Section 2 of the *Constitution of the State of Florida* and Chapter 166, *Florida Statutes*, to enact an ordinance making the failure to stop for a red light indication a code violation, and to provide for enforcement of such violations; and

WHEREAS, Opinion 05-41 of the Attorney General of the State of Florida, dated July 12, 2005, issued to Samuel S. Goren, City Attorney for the City of Pembroke Pines, confirms the authority of the City to enact an ordinance making the failure to stop at a red light indication a code violation, to use unmanned cameras to monitor intersections in the City for such code violations, and to record the license tag numbers of vehicles involved in such violations; and

WHEREAS, the Attorney General has opined that the cities may not issue traffic citations under the State law to drivers for violations observed by the use of unmanned cameras and not otherwise observed by law enforcement officers; and

WHEREAS, in order to be consistent with State law and the referenced Attorney General Opinion, the City will issue the uniform traffic citation prescribed by Chapter 316, *Florida Statutes*, and will not prosecute offenses of this Ordinance through the County Court, but, rather, through the City's code enforcement program, procedures and processes; and

WHEREAS, the City wishes to reduce the running of red lights by creating an additional enforcement mechanism to protect the public health, safety and welfare by implementing an automated photographic red light traffic enforcement system in efforts to reduce violations of steady red traffic signals at intersections in the City of Coral Gables;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA THAT:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

SECTION 2. The Code of the City of Coral Gables, Florida is hereby amended to add a section to Chapter 74, entitled "Traffic and Vehicles" by creating Article VIII, entitled "Dangerous Intersection Safety" providing for recorded image monitoring and enforcement of red light infractions, as follows:

CHAPTER 74 TRAFFIC AND VEHICLES

ARTICLE VIII DANGEROUS INTERSECTION SAFETY

-1 INTENT

The purpose of this chapter is to authorize the use of an unmanned cameras/monitoring system to promote compliance with red light signal indicators as described by this chapter, and to adopt a civil enforcement system for red light signal violations. Failing to stop at steady red-light signal places the offending vehicle in violation of the City of Coral Gables intersection safety ordinance. This ordinance, to be known as the Intersection Safety Ordinance prohibits vehicles from obstructing, occupying or passing into an intersection when a steady red light is projected from a traffic control device. This chapter will also supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit County, State or Local law enforcement officers from issuing a citation for a red light signal violation in accordance with normal statutory traffic enforcement techniques.

- 2 USE OF IMAGE CAPTURE TECHNOLOGIES

City shall utilize image capture technologies as a supplemental means of monitoring compliance with State 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 section shall not supersede, infringe, curtail or impinge upon state laws related to red light signal violations or conflict with such laws. The City of Coral Gables shall utilize image capture technologies as an ancillary deterrent to traffic control signal violations and to thereby reduce accidents and injuries associated with such violations to drivers of all states who legally transverse the roadways within the City of Coral Gables. This ordinance pertains to the safety of pedestrians as well those drivers who use the roadways within the City of Coral Gables in vehicles. The use of image capturing of the offending automobile only relates to the area the vehicle occupies, contrary to a steady red indication of a traffic control signal, and the associated roadway markings that are used in conjunction with the signal.

- 3 DEFINITIONS

The following definitions shall apply to this chapter:

INTERSECTION

(a) 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) roads or

highways which join or intersect one another at, or approximately at right angles; or the area within which vehicles traveling upon different roads or highways joining at any other angle may come in conflict.

(b) 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

Every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. The term shall include but not be limited to boats mounted on trailers, recreational vehicles and motor homes.

OWNER

A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner, for the purposes of this chapter.

TRAFFIC CONTROL INFRACTION REVIEW OFFICER, OR DESIGNEE

The City Police Department employee designated by the City's Police Chief who shall be a police officer of the City, to review recorded images and issue red zone infractions based upon those images.

TRAFFIC CONTROL SIGNAL

A device exhibiting different colored lights or colored lighted arrows, successively, one (1) at a time, or in combination, using only the colors green, yellow, or red which apply to drivers of motor vehicles.

TRAFFIC CONTROL SIGNAL MONITORING SYSTEM/DEVICE

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 obstructing, occupying or passing into an intersection against a steady red light signal indication.

RECORDED IMAGES

Images recorded by a traffic control signal monitoring system/device:

(1) On:

- (a) Two or more photographs;
- (b) Two or more electronic images;
- (c) Two or more digital images;

- (d) Digital or video movies; or
- (e) Any other medium that can display a violation; and

(2) Showing the rear of a motor vehicle and on at least one image, clearly identifying the license plate number of the vehicle. This image must clearly identify that offending vehicle was in violation of this Chapter.

- 4 ADHERENCE TO RED LIGHT TRAFFIC CONTROL SIGNALS

Whenever traffic, including municipal traffic, is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one (1) at a time or in combination, only the colors green, red and yellow shall be used.

(1) Steady red indication.

(a) Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown; provided, however:

1. The driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none then 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 to a steady red signal may make a right turn, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at said intersection, except that municipal and County authorities may prohibit any such right turn against a steady red signal at any intersection, which prohibition shall be effective when a sign giving notice thereof is attached to the traffic control signal device at said intersection.

2. The driver of a vehicle on a one-way street which intersects another one-way street on which traffic moves to the left shall stop in obedience to a steady red signal, but may then make a left turn into the one-way street, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that municipal and County authorities may prohibit any such left turn as described, which prohibition shall be effective when a sign giving notice thereof is attached to the traffic control signal device at the intersection.

(2) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(3) (a) No traffic control signal device shall be used which does not exhibit a yellow or "caution" light between the green or "go" signal and the red or "stop" signal.

(b) No traffic control signal device shall display other than the color red at the top of the vertical signal, nor shall it display other than the color red at the extreme left of the horizontal signal

- 5 VIOLATION

A violation of this chapter, known as the Intersection Safety Ordinance, shall occur when a vehicle does not comply with the requirements of -4. Violations shall be enforced pursuant to -9.

- 6 SIX-MONTH NOTICE; INTRODUCTORY PERIOD

For the first six (6) months of this chapter, unless the driver of a vehicle received a citation from a police officer in accordance with normal traffic enforcement techniques, the vehicle owner shall receive a courtesy notice of the violation. Commencing six (6) months after the effective date of the chapter, the vehicle owner is subject to the enforcement provision as provided herein.

-7 REVIEW OF RECORDED IMAGES

(A) The Owner of the vehicle, regardless of who the driver is at the time of the infraction which is observed by recorded images committing an Intersection Safety Ordinance violation shall be issued a notice of infraction. The recorded image shall be sufficient grounds to issue a City of Coral Gables notice of infraction.

(B) The City of Coral Gables shall designate a Traffic Control Infraction Review Officer, or designee, within the Police Department who shall meet the qualifications set forth in F.S. § 316.640(5)(a), or any other relevant statute. The Traffic Control Infraction Review Officer, or designee, 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 Review Officer, or designee, shall also verify that the traffic control monitoring system/devices which captured the recorded images was functioning properly at the time the recorded images were captured.

(C) Once the Traffic Control Infraction Review Officer, or designee, has verified the accuracy of the recorded images and functionality of the traffic control monitoring system/devices, he or she shall complete a report, and 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 any other state vehicle registration office.

- 8 NOTICE OF VIOLATION/INFRACTION

The notice of violation/infraction shall include:

- (A) The name and address of the motor vehicle owner;
- (B) The license plate number and registration number of the motor vehicle;
- (C) The make, model, and year of the motor vehicle;
- (D) Notice that the violation charged is pursuant to this chapter;
- (E) The location of the intersection where the violation occurred;
- (F) The date and time of the Intersection Safety Ordinance infraction;
- (G) Notice that the recorded images relating to the vehicle and a statement that the recorded images are evidence of an Intersection Safety Ordinance infraction;
- (H) The civil penalty imposed;
- (I) Images depicting violation;
- (J) The procedures for payment of the civil penalty and contesting the notice of infraction;
- (K) A signed statement by the Traffic Control Infraction Review Officer, or designee, that based on inspection of recorded images, the motor vehicle was involved in an Intersection Safety Ordinance infraction;
- (L) Information advising the person alleged to be liable under this section, 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.

- 9 VEHICLE OWNER RESPONSIBILITIES

(A) A vehicle owner receiving a notice of infraction may, within 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 chapter.

(B) The failure to comply with the provisions of this section within 21 days from the date of the notice of infraction shall constitute a waiver of the right to contest the notice of infraction and will be considered an admission of liability.

- 10 APPEAL TO HEARING OFFICER

The City's Code Enforcement Hearing Officers are authorized to consider appeals under this chapter, as set forth in Sec 101-181 through 101-190 of the City Code.

(A) The following shall be permissible grounds for an appeal:

- (1) At the time of the infraction, the motor vehicle was not under the care, custody, or control of the motor vehicle owner or an individual with owner's consent, established pursuant to affidavit as provided in ____ -11
- (2) The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the civil violation issued under this section, for violating the steady red traffic control signal;

- (3) The motor vehicle driver was required to violate the steady red traffic control signal in order to comply with other governing laws;
- (4) 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;
- (5) The steady red traffic control signal was inoperable or malfunctioning; or
- (6) Any other reason the Hearing Officer deems appropriate.

(B) The Traffic Control Infraction Review Officer, or designee, shall testify at the appeal. Then, the motor vehicle owner may present testimony and evidence.

(C) Recorded images indicating an Intersection Safety Ordinance infraction, verified by the Traffic Control Infraction Review Officer, or designee, are admissible in any proceeding before the City's Hearing Officer to enforce the provisions of this chapter, and shall constitute prima facie evidence of the violation.

(D) Unless an affidavit is provided pursuant to -11 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 an Intersection Safety Ordinance infraction.

- 11 VEHICLE OWNER AFFIDAVIT OF NON-RESPONSIBILITY

(A) In order for the vehicle owner to establish that the motor vehicle was at the time of the Intersection Safety Ordinance infraction, in the care, custody, or control of another person without the consent of the registered owner, the vehicle owner is required, within 21 days from the date listed on the notice of infraction, to furnish to the City of Coral Gables, 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:

(1) If known to the motor 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 Intersection Safety Ordinance infraction;
or

(2) If the vehicle was stolen, the police report indicating the vehicle was stolen at the time of the alleged Intersection Safety Ordinance infraction.

(3) The following language 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.'"

(B) Upon receipt of an affidavit pursuant to this section, any civil action of the notice of infraction issued to the vehicle owner shall be terminated.

- 12 EXCEPTIONS

This chapter shall not apply to Intersection Safety Ordinance infractions involving vehicle collisions or to any authorized emergency vehicle responding to a bona fide

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 indication.

SECTION 3. That Chapter 101 of the City Code of the City of Coral Gables entitled "Administration and Enforcement" is hereby amended under Article VI, "Code Enforcement", to add Section 101.191 entitled "Administrative Charges; Collection of Fines; Penalty", to facilitate use of Code Enforcement mechanism for dangerous intersection safety violations, as follows:

Sec. 101.191 Administrative Charges; Collection of Fines; Penalty

The violation of any provision under Chapter 74, Article VIII, "Dangerous Intersection Safety" shall be deemed a non-criminal, non-moving violation for which a civil penalty shall be assessed as follows:

(a) Administration Charges

In addition to the assessment pursuant to Sec. 101.191 (c), administrative charges may be assessed in the event of an appeal or the necessity to institute collection procedures.

(b) Collection of Fines

The City of Coral Gables may establish procedures for the collection of any penalty or charge imposed herein, and may enforce such penalty or charge by civil action in the nature of debt.

(c) Penalty:

A violation of this chapter shall be assessed a civil penalty in the amount of \$125.00. As the violation relates to this chapter and not the state statutes, no points as provided in F.S. § 322.27, shall be recorded on the driving record of the motor vehicle owner or responsible party.

SECTION 4. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Repealer.

All ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

SECTION 6. Codification.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 7. Effective Date.

This ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED AND ADOPTED THIS THIRTEENTH DAY OF NOVEMBER,
A.D., 2007.

(Moved: Withers / Seconded: Anderson)

(Yeas: Anderson, Cabrera, Kerdyk, Withers, Slesnick)

(Unanimous: 5-0 Vote)

(Agenda Item: E-1)

APPROVED:



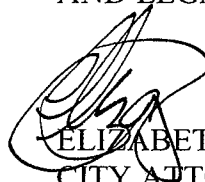
DONALD D. SLESNICK II
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY