

ORDINANCE NO. 1202

AN ORDINANCE OF THE CITY OF MAITLAND, FLORIDA AMENDING THE CITY CODE BY AMENDING CHAPTER 18, TRAFFIC, ARTICLE II, DIVISION 4, "TRAFFIC LIGHT SAFETY ACT"; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL SIGNALS CONSISTENT WITH GENERAL LAW AS PROVIDED BY CHAPTER 2010-80, LAWS OF FLORIDA (2010); PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature passed 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 certain 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 Maitland; and

WHEREAS, the City wishes to further reduce the running of red lights by amending its Code of Ordinances to implement the Act; and

WHEREAS, the City Council finds that portions of the Traffic Light Safety Act of the City of Maitland Code of Ordinances, which were previously authorized by the City's Home Rule authority and by Sec. 316.008(1)(w), Florida Statutes, have been preempted by the State as provided by Section 3 of the Act; and

WHEREAS, the City Council desires to amend the Traffic Light Safety Act of the City Code so as to conform with and implement the Act.

Section 1. Recitals Adopted. 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. Automated Red Light Enforcement. Chapter 14, Article II, Division 4, Traffic Light Safety Act of the City of Maitland Code of Ordinances is hereby amended to read as follows, with text stricken through deleted from the Code of Ordinances and text underlined added to the Code of Ordinances:

Sec. 18-37. Legislative findings and intent.

- (a) ~~The foregoing recitals (whereas clauses of Ord. No. 1179) are hereby adopted as the legislative findings of the city council of the City of Maitland.~~
- (b) The purpose of this act is to authorize the use of ~~an unmanned camera/monitoring system~~ traffic infraction detectors to promote compliance with red light signal directives, and to adopt a civil enforcement system for red light signal violations in accord with general law, including Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act" or "Act.") This ~~act~~ ordinance will 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 normal statutory traffic enforcement techniques.

Sec. 18-38. Use of traffic infraction detectors ~~image capture technologies~~.

The City shall utilize ~~image capture technologies as a supplemental~~ traffic infraction detectors pursuant to general law as a means of monitoring compliance with laws related to traffic control signals, in order to assist law enforcement personnel in the enforcement of such laws, which laws 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 shall ~~may~~ 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 act shall be addressed using the city's own citation notices and special magistrate and not uniform traffic citations or county courts.~~

Sec. 18-39. Definitions.

The following definitions shall apply to this division.

~~*Enforcement standard* shall mean a speed greater than the actual speed limit at which the city shall issue a speed violation notice.~~

Intersection shall mean the area after the stop bar, or in the event of no stop bar, the crosswalk. The vehicle shall be in violation of the ordinance if the frontal plane of the front bumper of the vehicle has crossed over the stop bar after the traffic signal turning red for that lane of travel on a roadway.

Motor vehicle shall mean ~~any vehicle designated by F.S. Section 320.02 requiring registration and propelled by use of an electrical, gasoline or diesel motor, but not including any bicycle or~~

~~electric personal assisted mobility device— the meaning set forth in the definition in Section 316.003(21), Florida Statutes, or its successor provision.~~

~~Notice of infraction shall mean a citation issued for a red zone infraction.~~

~~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 (6) months or more.~~

~~Recorded images shall mean images recorded by a traffic control signal monitoring system/device: traffic infraction detector which is operated in accordance with the Act.~~

~~(1) On:~~

- ~~a. Two (2) or more photographs; or~~
- ~~b. Two (2) or more electronic images; or~~
- ~~c. Two (2) or more digital images; or~~
- ~~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 (1) image, clearly identifying the license plate number of the vehicle.~~

~~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. traffic infraction detector indicates a violation of Sec. 18-40.~~

~~Special magistrate shall mean the city's code enforcement hearing officer.~~

~~Speed violation shall mean that a vehicle is exceeding the speed limit posted by sign for vehicles to travel on any given roadway.~~

~~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.~~

~~Traffic control Infraction Enforcement Officer shall mean a person selected by the city, who meets the requirements of section 18-43(b) herein, to review recorded images and issue red zone infractions based upon those images. and is familiar with the system/device and has observed the infraction data collected by the system for themselves. This position may be filled by a sworn officer within the police department at the discretion of the City of Maitland.~~

~~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 F.S. Section 316.075.~~

~~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 cameras and video recording device, to capture and produce recorded images of motor vehicles entering an intersection against a steady red light signal indication and/or speeding in violation of the posted limit.~~

Sec. 18-40. Adherence to red light traffic control signals.

(a) Pursuant to general law, 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. If there is no crosswalk, then motor vehicle traffic facing a traffic control signal's steady red light indication shall stop before entering the intersection. All traffic stopped at a traffic control signal's steady red light indication shall remain standing until a green indication is shown on the traffic control signal. However, the driver of a vehicle which is stopped at approaching a clearly marked stop line, or if none, at is approaching the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersection 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.

(b) Pursuant to general law, motor vehicles facing a traffic control signal that is malfunctioning, inoperable or is emitting a flashing red light shall stop 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 to the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign. In the event that only some of the traffic control signals within an intersection are malfunctioning, inoperative or emitting a flashing red light the driver of the vehicle approaching the malfunctioning, inoperative or flashing red traffic control signal shall stop in the above prescribed manner.

Sec. 18-41. Violation.

A violation of this act ordinance, known as a red zone infraction, shall occur when a vehicle does not stop prior to the stop bar and after the light has turned red in accordance with the definitions in section 18-39 comply with the requirements of Section 18-40. A violation known as a speed violation shall occur when a vehicle is captured by use of technology and found to be operating at a speed faster than was posted for the roadway. The city may set an enforcement standard at which vehicles going faster than the standard may be cited. Violations shall be enforced pursuant to section 18-48 herein F.S. §316.0083.

~~Sec. 18-42. Public announcement and public awareness campaign.~~

~~The city must make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least thirty (30) days before commencing the enforcement program.~~

Sec. 18-42. Implementation of General Law.

Within the City, 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.

Sec. 18-43. Review of recorded images.

- (a) The owner of the vehicle observed by recorded images committing a red zone infraction, shall be issued a notice of infraction no later than thirty (30) days after the red zone infraction occurs. The recorded image shall be sufficient grounds to issue a city notice of infraction.
- (b) The city shall designate a one or more traffic control infraction review officer Traffic Infraction Enforcement Officers, who shall be Police Officers of the City and 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~~ Traffic Infraction Enforcement Officer shall review recorded images prior to the issuance of notice of violation/infraction to ensure accuracy and the integrity of the recorded images. The ~~traffic control infraction officer~~ Traffic Infraction Enforcement Officer shall also verify that the ~~traffic control monitoring system/devices~~ infraction detector that captured the recorded images was functioning properly at the time the recorded images were captured. Once the ~~traffic control infraction review officer~~ Traffic Infraction Enforcement Officer has verified the accuracy of the recorded images and functionality of the ~~traffic control monitoring system/devices~~ infraction detector, he or she shall complete a report review of the violation and authorize enforcement action, 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's vehicle registration office.

Sec. 18-44. Notice of violation/~~infraction~~.

~~The notice of violation/infraction shall include:~~

Within thirty (30) days after a violation, notification must be sent to the registered owner of the motor vehicle involved in the violation specifying the remedies available under F.S. § 318.14, and that the violator must pay the penalty of \$158.00 to the City or furnish an affidavit supporting an exemption that complies with F.S. § 316.0083 in accordance with paragraph (11) within thirty (30) days following the date of the notification in order to avoid court fees, costs,

and the issuance of a traffic citation. The notification shall be sent by first-class mail, and shall include:

- (1) The name and address of the vehicle owner;
- (2) The license plate number and registration number of the vehicle;
- (3) The make, model, and year of the vehicle;
- (4) Notice that the ~~violation~~ infraction charged is pursuant to this ~~division~~ 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;~~
- (7) A statement that the owner has the right to review the recorded images that constitute a rebuttable presumption against the owner, together with a statement of the time and place or Internet location where the evidence may be examined and observed;
- ~~(8) The civil penalty imposed;~~ Images depicting the infraction, showing the license tag of the offending vehicle and the traffic control device being violated;
- ~~(9) Images depicting violation including a tag image;~~ Instructions on all methods of payment of the penalty;
- ~~(10) The procedures for payment of the civil penalty and contesting the notice of infraction;~~ A statement specifying the remedies available under F.S. § 318.14;
- ~~(11) A signed statement by the traffic control infraction officer that, based on inspection of recorded images, the vehicle was involved in a red zone infraction;~~ A statement that the owner must pay a penalty of \$158 to the City or provide an affidavit that complies with F.S. § 316.0083 within thirty (30) days of the date the notice is issued in order to avoid court fees, costs, and the issuance of a Uniform Traffic Citation;
- ~~(12) 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.~~ A signed statement by the Traffic Infraction Enforcement Officer that, based on inspection of recorded images, the vehicle was involved in a red zone infraction.

Sec. 18-45. Uniform Traffic Citation.

If an owner receives a notice and fails to pay the penalty imposed by F.S. § 316.0083 or to provide an affidavit supporting an exemption that complies with the provisions of F.S. §

316.0083 within thirty (30) days of the date the notice is issued, then a Uniform Traffic Citation shall be issued to the owner as provided by general law. The Uniform Traffic Citation shall be issued no later than sixty (60) days after the date the red zone infraction occurs. The owner shall be responsible and liable for paying the Uniform Traffic Citation unless the owner furnishes to the City, within thirty (30) days after the date of issuance of the Uniform Traffic Citation, an affidavit supporting an exemption that complies with F.S. § 316.0083. Upon receipt of an affidavit, the person designated as having care, custody, and control of the motor vehicle at the time of the violation may be issued a Uniform Traffic Citation under this Article, and shall be responsible and liable for paying the citation. The submission of a false affidavit is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Sec. 18-46. 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 F.S. § 316.0745.

Sec. 18-47. Consistency with State Law.

- (a) This Article shall be interpreted and applied so that it is consistent with state law, specifically, the Mark Wandall Traffic Safety Act; CS/CS/HB 325.
- (b) Any amendment to an applicable state law shall automatically apply to the enforcement and application of this Article, whether or not this Article or any provision hereof has been amended to specifically address such amendment to state law. Without limitation, any future amendment regarding the amount of the civil penalty or the apportionment of the proceeds thereof shall be deemed applied in the enforcement of this Article, even prior to a specific amendment to this Article to make the Article expressly consistent with such change in state law with respect to the amount of the penalty or the apportionment of proceeds thereof.

Sec. 18-45. Vehicle owner responsibilities.

A vehicle owner receiving a notice of infraction may, within thirty (30) 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 division.
- (3) The failure to comply with the provisions of this section within thirty (30) 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.
- (4) The thirty-day period shall begin on the 3rd business day after mailing the violation notice.

- ~~(5) In the event of a notice being returned unserved, the police department may at its discretion based on availability of an officer, serve the owner of the vehicle with notice in-person.~~

~~Sec. 18-46. Appeal to special magistrate.~~

~~The city's code enforcement special magistrate is authorized to consider appeals under this chapter within thirty (30) 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.~~

- ~~(1) Upon receipt of the appeal, the city shall schedule a hearing before the special magistrate to occur not later than sixty (60) days after city's receipt of the appeal request. Notice of hearing shall be provided to the vehicle owner no less than ten (10) days prior to the hearing, and shall be delivered via certified U.S. mail to the same address to which the notice of infraction was sent.~~
- ~~(2) 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 11-47;
 - b. The motor vehicle driver was issued a citation by a law enforcement officer, which citation 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; or
 - f. Any other reason the Special Magistrate deems appropriate.~~
- ~~(3) The traffic control infraction review officer shall testify at the appeal. The vehicle owner, or his or her representative, may also present testimony and evidence.~~
- ~~(4) 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 magistrate to enforce the provisions of this chapter, and shall constitute prima facie evidence of the violation.~~
- ~~(5) Unless an affidavit is provided pursuant to section 11-47, 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.~~
- ~~(6) Formal rules of evidence shall not apply at the hearing on the appeal and any relevant evidence may be admitted. Hearsay evidence may be admitted, but shall not form the sole basis upon which the Special Magistrate's 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.~~

~~Sec. 18-47. Vehicle owner affidavit of non responsibility.~~

~~In order 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 to complete 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 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~~
- ~~(2) If the vehicle was stolen, the police report indicating the vehicle was stolen at the time of the alleged red zone 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."~~
- ~~(4) If the vehicle passed through the intersection in order to yield right of way to an emergency vehicle or part of a funeral; or~~
- ~~(5) If the vehicle passed through the intersection at the direction of a law enforcement officer; or~~
- ~~(6) If a uniform citation was issued to the driver of the vehicle for the alleged violation of Section 316.075(1)c, Florida Statutes; or~~
- ~~(7) Any other defense provided under the law. The vehicle owner may present an affidavit pursuant to this section, as a defense in any proceeding before the special magistrate.~~

~~Sec. 18-48. Penalties.~~

- ~~(1) A violation of this division whether it be a red zone infraction or a speed violation shall be deemed a non-criminal, non-moving violation for which a civil penalty in the amount of one hundred twenty five dollars (\$125.00) shall be assessed. As the violation relates to this act and not the state statutes, no points as provided in F.S. Section 322.27 shall be recorded on the driving record of the vehicle owner or responsible party.~~
- ~~(2) A civil fine in the amount of one hundred twenty five dollars (\$125.00) shall be assessed for the first two (2) violations and a civil fine in the amount of two hundred fifty dollars (\$250.00) shall be assessed for the third and any subsequent violation by the owner in any three-year period.~~
- ~~(3) Violations which are not paid within a thirty-day period from the date of acceptance indicated on the return receipt of the certified mail, will be subject to an additional penalty and/or administrative fee of thirty dollars (\$30.00) for the cost of additional time and resources applied to the case.~~

~~Sec. 18-49. Administrative charges.~~

~~In addition to the assessment pursuant to section 18-48 herein, administrative charges in the amount of the city's actual costs for the portion of the special magistrate's hearing time shall be assessed in the event of an unsuccessful appeal or the necessity to institute collection procedures.~~

~~Sec. 18-50. Collection of fines.~~

~~The city may establish procedures for the collection of a penalty imposed herein, and may enforce such penalty by civil action in the nature of debt.~~

~~Sec. 18-51. Exceptions.~~

~~This act shall not apply to red zone 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: Codification: Section 2 of this Ordinance shall be codified and made part of the City of Maitland Code of Ordinances.

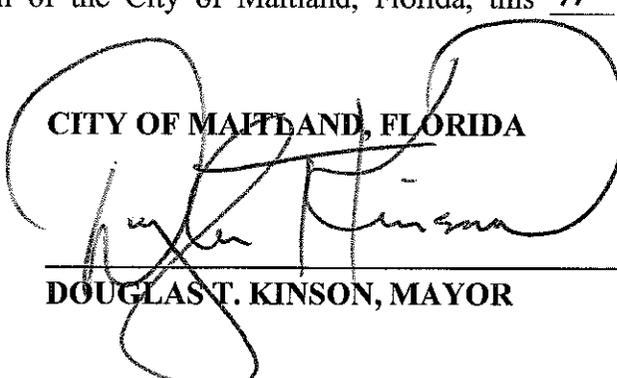
SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 5: Severability: It is the intent of the City Council of the City of Maitland, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

ADOPTED by the City Council of the City of Maitland, Florida, this 11th day of October, 2010.

CITY OF MAITLAND, FLORIDA


DOUGLAST. KINSON, MAYOR

ATTEST:


CITY CLERK