

PROPOSED
ORDINANCE NO. 23-23

ORDINANCE NO. 02-24

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING SECTION 11-2-11, 11-2-12, 11-2-13, 11-2-14, 11-2-15, 11-2-16, 11-2-17, 11-2-18, 11-2-19, OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR A TRAFFIC INFRACTION DETECTION PROGRAM IN ACCORDANCE WITH FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 11-2-11 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-11 - Purpose and Intent

The purpose of this article is to specifically authorize the use of traffic infraction detectors as permitted by general law within the City's jurisdictional limits.

SECTION 2. Section 11-2-12 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-12 – Use of traffic infraction detectors.

Pursuant to the authority granted by F.S. §316.008(8) and F.S. §166.021, the City of Pensacola exercises its option to use traffic infraction detectors within its jurisdiction to enforce F.S. §316.074(1) or F. S. §316.075(1)(c)(1). Use of traffic infraction detectors shall be a supplemental means of assisting law enforcement personnel in the enforcement and monitoring of compliance with laws related to traffic control signals as permitted and provided for by state laws that are designed to protect and improve the public health, safety, and welfare of the community and thereby reduce accidents, injuries and disruption of traffic when a driver fails to stop at a traffic signal on streets and highways under the city's jurisdiction. The mayor is authorized to take all steps necessary to implement the provisions and requirements of traffic infraction detectors within this jurisdiction in conjunction with the Pensacola Police Department as described in F.S. §166.021 and F.S. §316.0083, The Mark Wandall Traffic Safety Act.

SECTION 3. Section 11-2-13 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-13 – Adherence to red light traffic control signals

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 or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal; as more fully described in F.S. §316.074(1) and F.S. §316.075(1)(c)(1), as may be amended from time to time; however, the driver of a vehicle which is stopped at a clearly marked stop line, or if none, 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 (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, as described more fully in F.S. §316.075, as may be amended from time to time.

SECTION 4. Section 11-2-14 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-14 – Violation

A violation of this article shall occur when a motor vehicle does not comply with the requirements of section 11-2-13 of this Code. This article supplements enforcement of F.S. §316.074(1) or F.S. §316.075(1)(c)(1) by law enforcement officers and shall not prohibit law enforcement personnel from issuing a citation for a red-light signal violation in accordance with normal statutory enforcement techniques.

SECTION 5. Section 11-2-15 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-15 – Review of recorded images

- (a) Recorded images shall be reviewed by sworn officers of the Pensacola Police Department prior to the issuance of a notice of violation to ensure accuracy and the integrity of the recorded images. Once the officer has verified the accuracy of the recorded images a notice of violation shall be sent to the vehicle owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles or with the appropriate agency having such information in another state.
- (b) The owner of the vehicle observed by recorded images committing a violation of F.S. §316.074(1) or F.S. §316.075(1)(c)(1), shall be issued a notice of violation no later than thirty (30) days after the violation occurs. The recorded image shall be sufficient grounds to issue a notice of violation.

SECTION 6. Section 11-2-16 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-16. – Notice of violation

- (a) 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 do one of the following within 60 days in order to avoid the issuance of a uniform traffic citation:
- (1) Pay one hundred fifty-eight dollars (\$158.00) pursuant to instructions on the notice of violation;
 - (2) Provide an affidavit that complies with F.S. §316.0083(d) that establishes one of the following:
 - (a) The motor vehicle passed through the intersection in order to yield right-of-way to an emergency vehicle or as part of a funeral procession;
 - (b) The motor vehicle passed through the intersection at the direction of a law enforcement officer;
 - (c) The motor vehicle was, at the time of the violation, in the care, custody, or control of another person;
 - (d) A uniform traffic citation was issued by a law enforcement officer to the driver of the motor vehicle for the alleged violation of F.S. §316.074(1) or F.S. §316.075(1)(c)(1) or
 - (e) The motor vehicle's owner was deceased on or before the date that the uniform traffic citation was issued, as established by an affidavit submitted by the representative of the motor vehicle owner's estate or other designated person or family member.
 - (3) Submit a request for a hearing.
- (b) Any owner who does not comply with this section within sixty (60) days following the notification of violation shall be issued a uniform traffic citation in accordance with F.S. §316.0083.
- (c) The mailing of the notice of violation constitutes notification. The notification must be sent by first-class mail and shall include:
- (1) The name and address of the vehicle owner;
 - (2) The license plate number of the vehicle;
 - (3) The make, model, and year of the vehicle;
 - (4) Notice that the violation charged is pursuant to this article and F.S. §316.074(1) and F.S. §316.075(1)(c)(1);
 - (5) The intersection where the violation occurred;
 - (6) The date and time of the violation;
 - (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 observed;

- (8) A statement that the owner must pay a penalty of one hundred fifty-eight dollars (\$158.00) to the city, or furnish an affidavit in accordance with F.S. §316.0083(d), or request a hearing within sixty (60) days following the date of the notification in order to avoid fees, court costs, and the issuance of a uniform traffic citation;
- (9) A statement providing information on the person's right to request a hearing and directing interested persons to a website that provides a form to request a hearing along with information regarding all court costs related thereto;
- (10) Images depicting violation;
- (11) Instructions on all methods of payment of the penalty.

SECTION 7. Section 11-2-17 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-17. - Creation of Traffic Infraction Detector Special Magistrate

- (a) The City of Pensacola shall utilize a Special Magistrate as its local hearing officer, as defined by Florida Statute in accordance with the provisions of F.S. §316.0083. The City Council is authorized to create the position of Special Magistrate to enforce City codes and ordinances pursuant to Sec. 13-2-3, and Sec. 13-2-4(d) and hereby creates the position of the Traffic Infraction Detector Special Magistrate.
- (b) The Traffic Infraction Detector Special Magistrate shall have the authority to hold hearings, command compliance and impose administrative fines and other non-criminal penalties and otherwise provide an equitable, expeditious and cost-effective method of enforcing codes and ordinances as provided and described in F.S. §316.0083.
- (c) The clerk(s) to the Traffic Infraction Detector Special Magistrate shall consist of designated existing city staff members who shall ensure all obligations regarding matters delegated to the clerk under F.S. §316.0083 occur. This includes but is not limited to scheduling and required notifications to The Department of Highway Motor Vehicles.

SECTION 8. Section 11-2-18 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-18. –Procedures for a hearing

- (a) Notwithstanding any other provision of law, a person who receives a notice of violation under this section may request a hearing within sixty (60) days following the notification of violation. Payment or fee shall not be required before the hearing requested by the person.

- (b) If the registered owner or co-owner of the motor vehicle, or an authorized representative of the owner, co-owner, or person identified on an affidavit as having care, custody, or control of the motor vehicle at the time of the violation initiates a proceeding to challenge the violation pursuant to this paragraph, such person waives any challenge or dispute as to the delivery of the notice of violation. Any person who elects to request a hearing pursuant to this section shall be referred to as the petitioner.
- (c) Pursuant to F.S. § 316.0083, a local hearing procedure is established for individuals wishing to contest any notice of violation. The city hereby adopts the procedure for local hearings as provided by F.S. § 316.0083(5), as amended from time to time.
- (d) Hearings shall be held at City Hall or any other properly noticed facility.
- (e) Any petitioner who elects to request a hearing under this section shall be scheduled for a hearing by the clerk to the Traffic Infraction Detector Special Magistrate to appear before a Traffic Infraction Detector Special Magistrate with notice to be sent by first-class mail. Upon receipt of the notice, the petitioner may reschedule the hearing once by submitting a written request to reschedule to the clerk to the Traffic Infraction Detector Special Magistrate at least five (5) calendar days before the day of the originally scheduled hearing. The petitioner may cancel his or her appearance before the Traffic Infraction Detector Special Magistrate by paying the penalty assessed under section 11-2-16 of this Code, plus fifty dollars (\$50.00) in administrative costs, before the start of the hearing.
- (f) If a person who is mailed a notice of violation for a violation of F.S. §316.074(1) or F.S. §316.075(1)(c)(1), as enforced by a law enforcement officer under F.S. §316.0083, presents documentation from the appropriate governmental entity that the notice of violation was in error, the clerk to the Traffic Infraction Special Magistrate may dismiss the case. There shall not be a charge for this service.
- (g) The Traffic Infraction Detector Special Magistrate may take testimony from a sworn Pensacola Police Department officer and the petitioner and may take testimony from others. Pursuant to F.S. §316.0083, photographic images, electronic images, and streaming video are admissible as evidence in any proceeding to enforce this section and raises a rebuttable presumption that the motor vehicle named in the report or shown in the photographic or electronic images or streaming video evidence was used in violation of F.S. §316.074(1) or F.S. §316.075(1)(c)(1) when the driver failed to stop at a traffic signal. All testimony shall be under oath and digitally recorded. Although the formal rules of evidence do not apply, due process shall be observed and govern the proceedings.
- (h) At the conclusion of the hearing the Traffic Infraction Detector Special Magistrate shall determine whether a violation has occurred and shall uphold or dismiss the violation. If the Traffic Infraction Detector Special Magistrate finds a violation occurred and upholds the notice of violation, in addition to the one hundred fifty-eight dollars (\$158.00) penalty provided by statute, the Traffic Infraction Detector Special Magistrate may also require the petitioner to pay municipal court costs, not to exceed two hundred fifty dollars (\$250.00). The final administrative order shall be mailed to the petitioner by first-class mail.

- (i) Payment of all penalties and court costs must be paid within sixty (60) days of the entry of an order finding that a violation has occurred by the Traffic Infraction Detector Special Magistrate.
- (j) An aggrieved party may appeal a final administrative order consistent with the process provided under F.S. §162.11.

SECTION 9. Section 11-2-19 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-19. – Consistency with state law.

This article shall be interpreted and applied so that it is consistent with state law, specifically, the Mark Wandall Traffic Safety Act, (Florida Statute 316.0083). 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 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 in order to make this article expressly consistent with such change in state law with respect to the amount of the penalty or the apportionment of proceeds thereof.

SECTION 10. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 11. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 12. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: January 18, 2024

Approved: s/Casey Jones
President of City Council

Attest:

s/Ericka L. Burnett
City Clerk