

ORDINANCE NO. 2008- 101

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING CHAPTER 54 OF THE TOWN CODE “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES” BY CREATING ARTICLE V “DANGEROUS INTERSECTION SAFETY”, PROVIDING AUTHORITY; PROVIDING PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT INFRACTIONS, AND FOR RELATED PROCEDURES AND PROVISIONS; AMENDING CHAPTER 8CC-10 CODE COMPLIANCE “SCHEDULE OF CIVIL PENALTIES” TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the “Town”) 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, which exposes its citizens to the dangers of personal injury and property damage; and

WHEREAS, the Town Council is concerned with the inability to sufficiently enforce the existing state statutes prohibiting running of red lights, due mainly to the requirement that enforcement requires the personal observation of police officers, affecting the ability to effectively reduce the significant dangers presented to motorists and pedestrians by the failure to stop for a red light; and

WHEREAS, the use of unmanned cameras to enforce toll violations on the state’s toll roads has been determined to be fair, reasonable and sufficient by the State of Florida 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 vehicles to stop for red lights; therefore freeing Town police personnel to respond to other, and sometimes more, significant incidents as well as serious crime; and

WHEREAS, local governments in different parts of the state and country have demonstrated the enhancement of vehicular and pedestrian traffic safety attributable to the integration of unmanned cameras with traditional traffic law enforcement methodology; and

WHEREAS, the Town is authorized under its home rule powers pursuant to Article VIII, Section 2(b) of the Florida Constitution and Chapter 166, Florida Statutes to enact municipal regulations through Chapter 316, Florida Statutes, to monitor traffic and through Chapter 8CC of the Town Code and Chapter 162, Florida Statutes to provide for enforcement of the Town Code through a civil infraction process with the use of a hearing officer; and

WHEREAS, unless and until the Florida Legislature adopts regulations allowing the use of a uniform traffic citation by the Town's police officers for red light violations using unmanned cameras without direct observation by the police officer, the Town is authorized to regulate red light infractions as a civil violation through its code compliance procedures; and

WHEREAS, the Town Council of the Town finds that implementation of the enforcement program as set forth herein will promote, protect and improve the health, safety and welfare of its citizens, consistent with the authority of and limitations on the Town pursuant to the Florida Constitution and Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Town Code Amended. That Chapter 54 of the Town Code is hereby amended by creating Article V “Dangerous Intersection Safety,” to read as follows:

Chapter 54 Streets, Sidewalks and other Public Places

Article V. Dangerous Intersection Safety

Section 54-5.1 Authority.

(1) Article VIII, Section 2(b) of the Florida Constitution and Chapters 166, and 316, Florida Statutes.

Section 54-5.2 Purpose.

(1) To authorize the use of an unmanned camera monitoring system to promote compliance with red light signal directives as an ancillary deterrent to traffic control signal violations and to reduce accidents and injuries associated with such violations through adoption of a civil enforcement system for red light signal violations.

Section 54-5.3 Image Capture Technologies.

(1) The Town may utilize image capture technologies through use of a traffic control signal monitoring system/device or unmanned camera as a supplemental means of monitoring compliance with this Article and laws related to traffic control signals.

Section 54-5.4 Definitions.

The following definitions shall apply to this Article:

(1) **Civil Violation Notice** means a citation issued for a red zone infraction pursuant to this Article in accordance with Chapter 8CC of the Town Code.

(2) **Hearing Officer** means the Town's Code Compliance Hearing Officer, as described in Chapter 8CC of the Town Code.

(3) **Intersection** means 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.

(4) **Motor Vehicle or Vehicle** means any self-propelled vehicle not operated upon rails or guide way, but not including any bicycle, motorized scooter, electric personal assisted mobility device or moped or any subsequent definition of motor vehicle in Chapter 316, Florida Statutes.

(5) **Owner/Vehicle Owner** means 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.

(6) **Recorded Image** means images recorded by a traffic control signal monitoring system/device:

(a) On:

(1) Two or more photographs;

(2) Two or more electronic images;

(3) Two or more digital images;

(4) Digital or video movies; or

(5) 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.

(7) **Red Zone Infraction** means a traffic offense whereby a traffic control signal monitoring system established that a motor vehicle entered an intersection controlled by a duly erected traffic control device at a time when the traffic control signal for such motor vehicle's direction of travel was emitting a steady red signal.

(8) **Traffic Control Infraction Review Officer or Officer** means the Town's officer defined in Section 316.640(5)(a), Florida Statutes, or any subsequent amendments, designated pursuant to Section 54-5.8 to review recorded images and issue red zone infractions based upon those images.

(9) **Traffic Control Signal** means 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 Chapter 316, Florida Statutes.

(10) *Traffic Control Signal Monitoring System/Device or Unmanned Camera* means 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.

Section. 54-5.5 Adherence to Red Light Traffic Control Signals.

(1) 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.

(2) Notwithstanding the provisions of Section 54-5.5(1) the driver of a motor vehicle which is stopped at a clearly marked stop line, or 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 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.

Section 54-5.6 Violations.

(1) A violation of this Article, known as a “red zone infraction,” shall occur when a motor vehicle does not comply with the requirements of Section 54-5.5(1).

Section 54-5.7 Introductory Notice Period.

(1) For the first 90 days following the date that the first unmanned camera is operational in the Town, unless the driver of a motor vehicle received a citation from a law enforcement officer at the time of a red zone infraction in accordance with routine traffic enforcement techniques, the vehicle owner shall receive a warning in the form of a courtesy notice of the violation.

(2) Commencing 91 days after the introductory notification period in Section 54-5.7(1), the motor vehicle owner is subject to the enforcement provisions of this Article.

Section 54-5.8 Citation/Officer/Review of Recorded Images.

(1) The owner of the motor vehicle that is observed by recorded images committing a red zone infraction shall be issued a Civil Violation Notice (hereinafter also known as a “Citation”). The recorded image shall be sufficient grounds to issue a Citation.

(2) The Town Manager shall designate Traffic Control Infraction Review Officer(s) (“Officer”) to enforce this Article.

(3) The Officer shall review recorded images prior to the issuance of a Citation to ensure the accuracy and integrity of the recorded images. The Officer shall also verify that the

Traffic Control Monitoring System/Device which captured the Recorded Images was functioning properly at the time the Recorded Images were captured.

(4) Once the Officer has verified the accuracy of the recorded images and the functionality of the Traffic Control Monitoring System/Devices, he or she shall complete a report, and shall send a Citation to the motor 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.

Section 54-5.9 Civil Violation Notice.

(1) The Citation for a red zone infraction shall be in the form as set forth in the applicable provisions of Section 8CC-3(f) of the Town Code and shall also include the following information:

- (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 there are recorded images relating to the motor vehicle and a statement that the recorded images are evidence of a red zone infraction;
- (e) Image(s) depicting the infraction; and

(f) A signed statement by the Officer that, based on inspection of recorded images, the motor vehicle was involved in and was utilized to commit a red zone infraction.

Section 54-5.10 Vehicle Owner Responsibilities

(1) A motor vehicle owner receiving a Citation may:

(a) Pay the assessed civil penalty pursuant to instructions on the Citation; or

(b) File an appeal pursuant to the instructions on the Citation and appear before the Hearing Officer to contest the Citation.

(2) The failure to timely pay the assessed civil penalty or to timely request an appeal and appear before the Hearing Officer to contest the Citation will be considered an admission of liability and in such case an order may be entered against the violator for the civil penalty, plus any administrative costs.

Section 54-5.11 Proceedings before the Hearing Officer.

(1) The Town's Hearing Officers are authorized to hold appeal hearings related to the enforcement of this Article.

(2) A hearing shall be scheduled for all Citations appealed pursuant to Section 54-5.10(1)(b), except those in which the motor vehicle owner submits an affidavit pursuant to Section 54-5.12.

(3) Upon receipt of the named violator's timely request for an appeal, the Town shall schedule a hearing before the Special Master and provide the vehicle owner with notice pursuant to Section 8CC-6 of the Town Code.

(4) The hearing shall be held pursuant to the procedures set forth in Chapter 8CC of the Town Code. The Officer may testify at the hearing. The motor vehicle owner may present testimony and evidence.

(5) Recorded images indicating a red zone infraction, verified by the Officer, are admissible in any proceeding before the Town's Special Master to enforce the provisions of this Article, and shall constitute prima facie evidence of the violation.

(6) Unless an affidavit is provided pursuant to Section 54-5.12, it is presumed that the person registered as the motor 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 motor vehicle at the time of a red zone infraction.

Section 54-5.12 Motor Vehicle Owner Affidavit of Non-Responsibility.

(1) Upon timely receipt by the Town of a sufficient Affidavit of Non-Responsibility meeting the provisions of this section, any prosecution of the Citation issued to the motor vehicle owner shall be terminated.

(2) In order to satisfy the provisions of this section, the motor vehicle owner is required, within 20 days from the date listed on the Citation, to furnish to the Town with an

affidavit setting forth the circumstances demonstrating that at the time of the red zone infraction that either:

(a) the motor vehicle was not in the vehicle owner's care, custody, or control, and was not in the care, custody or control of another person with the vehicle owner's consent or

(b) the motor vehicle was subject to a short term (less than six months) rental agreement between the car rental agency receiving the Citation and the vehicle operator and provide a true and correct copy of the short term car rental agreement, as applicable.

(3) The affidavit must be executed in the presence of a notary, and shall include:

(a) If known to the motor vehicle owner, the name, address, and the driver's license number of the person who had care, custody, or control of the motor vehicle, without the motor vehicle owner's consent, at the time of the alleged red zone infraction; or

(b) The name, address and drivers license number of the person who, at the time of the alleged red zone infraction, rented the motor vehicle from the car rental agency that has received the Citation; or

(c) If the vehicle was stolen, the police report indicating the motor vehicle was stolen at the time of the alleged red zone infraction.

(4) The affidavit shall include 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."

(5) Proceedings may be commenced by the Town against the responsible person identified in the affidavit, and in such event, the responsible person shall be subject to the same process and procedures which are applicable to motor vehicle owners.

Section 54-5.13 Administrative Charges.

(1) In addition to the penalties set forth in Section 8CC-10, administrative fees may be assessed pursuant to Chapter 8CC of the Town Code in the event of a hearing and/or the need to institute collection procedures arises.

Section 54-5.14 Collection of outstanding fines.

(1) Collection of outstanding fines shall be accomplished pursuant to the provisions of Section 8CC-7 of the Town Code, or any other lawful means available to the Town pursuant to law.

Section. 54-5.15 Exceptions/Regulations Supplemental.

(1) This Article shall not apply to red zone infractions involving vehicle collisions (unless no citation or charge is issued for a violation of a state statute related to said collision) or to any authorized emergency vehicle responding to a bona fide emergency; nor shall a citation be issued in any case where the operator of the motor vehicle was issued a citation for violating

Chapter 316, Florida Statutes regarding the failure to stop at a red light for the same event or incident.

(2) This Article shall supplement the Town's enforcement of red light signal violations and shall not prohibit Town's law enforcement officers from issuing a uniform traffic citation for a red light signal violation in accordance with Chapter 316, Florida Statutes, or other routine statutory traffic enforcement techniques.

(3) This Article shall not be meant to conflict with Miami-Dade County's primary jurisdiction to install and maintain traffic signal devices countywide.

(4) This Article shall not be meant to conflict with Chapter 316, Florida Statutes pertaining to uniform traffic control.

Section 54-5.16 Penalty.

(1) A violation of this Article shall be deemed a non-criminal, non-moving violation for which a civil penalty, as set forth in Section 8CC-10 of the Town Code, shall be assessed.

(2) As the violation relates to this Article and not to the Florida Statutes pertaining to Uniform Traffic Citations, no points as otherwise provided in Section 322.27, Florida Statutes, shall be recorded on the driving record of the motor vehicle owner or responsible party.

Section 54-5.17 Enforcement.

(1) This Article shall be enforced through the Town's Code Compliance procedures specified in Chapter 8CC of the Town Code and any supplemental provisions of this Article.

Section 3. Schedule of Violations and Civil Penalties Amended. That Chapter 8CC of the Town Code is amended to include the additional civil penalties specified below:

Sec. 8CC-10. Schedule of civil penalties.

* * *

Code Sec.	Description of Violation	Civil Penalty
***	***	***
<u>54-5.5, et seq.</u>	<u>Violation of the Dangerous Intersection Safety Provisions</u>	<u>\$125.00 first violation</u> <u>\$250.00 second violation/repeat violation</u>
***	****	***

Section 4. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion In The Code. That it is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Town of Miami Lakes, Florida Code of Ordinances; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember Mary Collins, who moved for its adoption on first reading. This motion was seconded by Councilmember Roberto Alonso, and upon being put to a vote, the vote was as follows:

Mayor Wayne Slaton	yes
Vice Mayor Nancy Simon	yes
Councilmember Roberto Alonso	yes
Councilmember Mary Collins	yes
Councilmember Robert Meador, II	yes
Councilmember Michael Pizzi	yes
Councilmember Richard Pulido	yes

PASSED AND ADOPTED on first reading this 8th day of April, 2008.

The foregoing Ordinance was offered by Councilmember Mary Collins, who moved for its adoption on second reading. The motion was seconded by Councilmember Richard Pulido, and upon being put to a vote, the vote was as follows:

Mayor Wayne Slaton	yes
Vice Mayor Nancy Simon	no
Councilmember Roberto Alonso	absent
Councilmember Mary Collins	yes
Councilmember Robert Meador, II	yes
Councilmember Michael Pizzi	yes
Councilmember Richard Pulido	yes

PASSED AND ADOPTED this 13th day of May, 2008.

ATTEST:

Debra Eastman
DEBRA EASTMAN, MMC TOWN CLERK

Wayne Slaton
Wayne Slaton
MAYOR

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR USE ONLY BY THE
TOWN OF MIAMI LAKES:

[Signature]
WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
TOWN ATTORNEY