

**ORDINANCE NO. 2757-09**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA  
RELATING TO TRAFFIC LIGHT SAFETY; ADDING A NEW ARTICLE  
VI TO CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY  
OF WINTER PARK ENTITLED "TRAFFIC LIGHT SAFETY ACT";  
PROVIDING DEFINITIONS, INTRODUCTORY PERIOD, NOTICE OF  
VIOLATION/INFRACTION, APPEAL PROCEDURE; PENALTIES;  
EXCEPTIONS; PROVIDING FOR EXCEPTIONS; PROVIDING AN  
EFFECTIVE DATE.**

**BE IT ENACTED** by the people of the City of Winter Park, Florida as follows:

**Section 1.** A new Article VI, Traffic Light Safety Act, is hereby added to Article II of Chapter 98 of the Code of Ordinances of the City of Winter Park to read as follows:

CHAPTER 98  
Traffic and Vehicles

**Article VI. Traffic Light Safety Act**

Sec. 98-192. Intent.

The purpose of this act is to authorize the use of an unmanned camera/monitoring system to promote compliance with red light signal directives as proscribed by this act, and to adopt a civil enforcement system for red light signal violations. This act 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. 98-193. Use of image capture technologies.

The city shall utilize image capture technologies as a supplemental 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 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 utilize image capture technologies 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 hearing officer and not uniform traffic citations or county courts.

Sec. 98-194. Definitions.

The following definitions shall apply to this act.

- (a) *Hearing officer* shall mean the city's code enforcement hearing officer.

(b) *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.

(c) *Motor vehicle* shall mean any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assisted mobility device, or moped.

(d) *Notice of infraction* shall mean a citation issued for a red zone infraction.

(e) *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.

(f) *Recorded images* shall mean images recorded by a traffic control signal monitoring system/device:

(1) On:

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

(2) Showing the rear of a motor vehicle and on at least one image, clearly identifying the license plate number of the vehicle.

(g) *Red zone in fraction* 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.

(h) *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. § 316.075.

(i) *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.

Sec. 98-194. Adherence to red light traffic control signals.

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 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 intersection 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-at-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection.

Sec. 98-195. Violation.

A violation of this act known as a red zone infraction shall occur. When a vehicle does not comply with the requirements of section 98-194. Violations shall be enforced pursuant to section 98-197\_herein.

Sec. 98-196. Six-month notice; introductory period.

For the first six months of this article, 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 six months after the effective date of the act, the vehicle owner is subject to the enforcement provision as provided herein.

Sec. 98-197. 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. The recorded image shall be sufficient grounds to issue a city notice of infraction.

(b) The city shall designate a traffic control infraction *review* officer, 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 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 shall also verify that the traffic control monitoring system/device that captured the recorded images was functioning properly at the time the recorded images were captured. Once the traffic control infraction review officer has verified the accuracy of the recorded images and functionality of the traffic control monitoring system/device, 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.

Sec. 98-198. Notice of violation/infraction.

The notice of violation/infraction 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 charged is pursuant to this act;
- (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) 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. 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.

#### Sec. 98-199. Vehicle owner responsibilities.

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 act.

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.

#### Sec. 98-200. Appeal to hearing officer.

The city's code enforcement hearing officer is authorized to consider appeals under this chapter within 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.

- (1) Upon receipt of the appeal, the city shall schedule a hearing before the hearing officer to occur not later than 60 days after city's receipt of the appeal request. Notice of hearing shall be provided to the vehicle owner no less than ten 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 78. .91;
- 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; or
- f. Any other reason the hearing officer 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 hearing officer 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 78-91, 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.

Sec. 98-201. 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, I declare that I have read the foregoing affidavit and that the facts stated in it are true."

The vehicle owner may present an affidavit pursuant to this section, as a defense in any proceeding before the hearing officer.

Sec. 98-202. Penalties.

A violation of this act 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 act and not the state statutes, no points as provided in F. S. § 322.27 shall be recorded on the driving record of the vehicle owner or responsible party.

Sec. 98-203. Administrative charges.

In addition to the assessment pursuant to section 98-202 herein, administrative charges in the amount of the city's actual costs shall be assessed in the event of an unsuccessful appeal or the necessity to institute collection procedures.

Sec. 98-204. 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. 98-205. 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 2.** Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Winter Park.

**Section 3.** All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

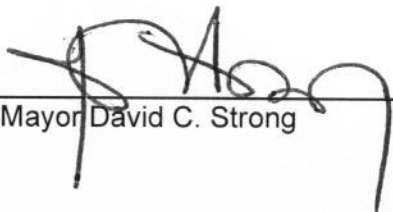
**Section 4.** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses or phrases under application shall not be affected thereby.

**Section 5.** This ordinance shall take effect immediately upon its passage and adoption.

Adopted at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 12<sup>th</sup> day of January 2009.

Attest:

  
City Clerk Cynthia Bonham

  
Mayor David C. Strong