

City Commission
Susan Gottlieb, Mayor

Enbar Cohen
Teri Holzberg
Billy Joel
Michael Stern
Howard Weinberg
Luz Urbáez Weinberg

The City of Aventura



City Manager
Eric M. Soroka, ICMA-CM

City Clerk
Teresa M. Soroka, MMC

City Attorney
Weiss Serota Helfman
Pastoriza Cole & Boniske

JUNE 19, 2013 9 AM

Government Center
19200 West Country Club Drive
Aventura, Florida 33180

1. CALL TO ORDER/ROLL CALL

2. ORDINANCE: SECOND READING—PUBLIC HEARING:

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE CITY OF AVENTURA CODE OF ORDINANCES, BY AMENDING SECTION 2-348 "CIVIL PENALTIES" OF ARTICLE V "CODE ENFORCEMENT" OF CHAPTER 2 "ADMINISTRATION", AND BY AMENDING ARTICLE III "DANGEROUS INTERSECTION SAFETY" OF CHAPTER 48 "VEHICLES, USE OF RIGHT-OF-WAY, PARKING AND OTHER REGULATIONS", TO ENSURE CONSISTENCY WITH SECTION 316.0083, "THE MARK WANDALL TRAFFIC SAFETY ACT", AS AMENDED BY THE FLORIDA LEGISLATURE THROUGH THE ENACTMENT OF CS/CS/ HOUSE BILL 7125 DURING THE 2013 LEGISLATIVE SESSION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CLERK DESIGNATED; PROVIDING FOR SAVINGS; PROVIDING FOR AN EFFECTIVE DATE.

3. ADJOURNMENT

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Office of the City Clerk, 305-466-8901, not later than two days prior to such proceeding. One or more members of the City of Aventura Advisory Boards may be in attendance and may participate at the meeting. Anyone wishing to appeal any decision made by the Aventura City Commission with respect to any matter considered at such meeting or hearing will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Agenda items may be viewed at the Office of the City Clerk, City of Aventura Government Center, 19200 W. Country Club Drive, Aventura, Florida, 33180. Anyone wishing to obtain a copy of any agenda item should contact the City Clerk at 305-466-8901.

CITY OF AVENTURA

OFFICE OF THE CITY MANAGER

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM, City Manager 

DATE: May 29, 2013

SUBJECT: **Ordinance Amending Dangerous Intersection Safety Section of the City Code to Incorporate Revisions Adopted During the 2013 Legislative Session**

1st Reading June 4, 2013 City Commission Meeting Agenda Item 7A
2nd Reading June 19, 2013 City Commission Meeting Agenda Item 2

RECOMMENDATION

It is recommended that the City Commission adopt the attached Ordinance amending Chapter 48 of the City Code entitled "Dangerous Intersection Safety" to comply with the provisions of House Bill 7125 and to further revise and update the City Code to conform with the 2013 legislation.

BACKGROUND

This past legislative session, the Florida Legislature enacted House Bill 7125 which in part reformed the Mark Wandall Traffic Safety Act as follows:

1. A new two-step process for enforcing red light violations with intersection safety cameras was adopted. The first step is sending a notification of the violation. The violator now has 60 days (30 more than the previous legislation) following the notification to either pay the \$158 statutory penalty or request a hearing before a local hearing officer appointed by the City. If the violator fails to pay the penalty or request a hearing, then a uniform traffic citation will be issued and enforced in the County Court. The hearings will be held at the Aventura Government Center and conducted by the City's Special Master. At the conclusion of the hearing, the Special Master shall determine whether a violation occurred and can uphold or dismiss the violation. If the violation is upheld, the Special Master may require the petitioner to pay municipal costs not to exceed \$250.00.

2. The standard changed for finding a red light camera violation when a car is making a right hand turn at a red light. A violation will not have occurred when a driver fails to stop at the red light if the driver is making a right-hand turn in a careful and prudent manner provided the driver comes to a complete stop before turning right. A violation may not be issued if the driver comes to a complete stop after crossing the stop line and before turning right if permissible at a red light, but failed to stop before crossing over the stop line or other point at which a stop is required.

The amendment and revisions are effective July 1, 2013.

If you have any questions, please feel free to contact me.

Attachment

CCO1801-13

ORDINANCE NO. 2013-_____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE CITY OF AVENTURA CODE OF ORDINANCES, BY AMENDING SECTION 2-348 "CIVIL PENALTIES" OF ARTICLE V "CODE ENFORCEMENT" OF CHAPTER 2 "ADMINISTRATION", AND BY AMENDING ARTICLE III "DANGEROUS INTERSECTION SAFETY" OF CHAPTER 48 "VEHICLES, USE OF RIGHT-OF-WAY, PARKING AND OTHER REGULATIONS", TO ENSURE CONSISTENCY WITH SECTION 316.0083, "THE MARK WANDALL TRAFFIC SAFETY ACT", AS AMENDED BY THE FLORIDA LEGISLATURE THROUGH THE ENACTMENT OF CS/CS/ HOUSE BILL 7125 DURING THE 2013 LEGISLATIVE SESSION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CLERK DESIGNATED; PROVIDING FOR SAVINGS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 18, 2007 the City Commission enacted Ordinance No. 2007-15 creating Article III "Dangerous Intersection Safety" of Chapter 48 "Vehicles, Use of Right-of-Way, Parking, And Other Regulations" (the "Ordinance") ; and

WHEREAS, in accordance with applicable law, the Ordinance designated the running of red traffic lights as a violation of the City Code and provided for the use of traffic safety cameras as a supplemental means of enforcement; and

WHEREAS, during the 2010 legislative session, the Florida Legislature enacted House Bill 325 establishing uniform procedures for the use of red light traffic safety cameras throughout the State of Florida and, for the first time, preempting the use of traffic safety cameras for enforcement purposes ; and

WHEREAS, on June 17, 2010 the City Commission enacted Ordinance No. 2010-06 amending Chapter 48 of the City Code in order to comply with criteria established in HB 325; and

WHEREAS, during the 2013 legislative session, the Florida Legislature enacted CS/CS/HB7125 ("House Bill 7125"), amending the statutory uniform procedures for the use of red light cameras throughout the State of Florida; and

WHEREAS, the City Commission desires to further amend Chapter 48 of the City Code to comply with the provisions of House Bill 7125, and to further revise and update the City Code to conform with the 2013 legislation.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA AS FOLLOWS: ¹

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. City Code Amended. That Article V “Code Enforcement” of Chapter 2 “Administration” of the City of Aventura Code of Ordinances is hereby amended by amending Section 2-348 “Schedule of civil penalties” to delete obsolete reference:

Section 2-348. Schedule of civil penalties.

(a) The following table outlines the sections of the Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this article, and the dollar amount of civil penalty for the violation of these sections as they may be amended. These penalties shall be in addition to any and all other legal remedies which may be available to the City. Each description of violation in the schedule is for informational purposes only and is not meant to limit or define the nature of the violation or the subject matter of the listed Code sections. To determine the exact nature of the activity proscribed or required by the Code, the relevant Code section must be examined.

(b) The following is the schedule of civil penalties:

* * *

48-25, et seq.	Violation of the dangerous intersection safety	\$125.00 first offense \$250.00 second offense \$500.00 each additional offense
---------------------------	--	--

* * *

Section 3. City Code Amended. That Article III “Dangerous Intersection Safety” of Chapter 48 “Vehicles, Right-of-Way, Parking, And Other Regulations” of the City of Aventura Code Of Ordinances is hereby amended by amending Section 48-25 “Intent” to read as follows:

Sec. 48-25. – Intent.

The purpose of this article is to authorize the use of traffic infraction detectors to promote compliance with red light signal directives and to adopt a civil enforcement system for

¹ Additions to existing text in the City Code shall be indicated by underline, deletions from existing text in the City Code shall be indicated by ~~strikethrough~~.

red light signal violations, all in accord with general law, including Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act" or the "Act") as amended by CS/CS/HB 7125 (2013) ("House Bill 7125"). This article will also 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 other routine statutory traffic enforcement techniques.

Section 4. City Code Amended. That Article III "Dangerous Intersection Safety" of Chapter 48 "Vehicles, Right-of-Way, Parking, And Other Regulations" of the City of Aventura Code Of Ordinances is hereby amended by amending Section 48-26 "Use of image capture technologies" to read as follows:

Section 48-26 Use of image capture technologies.

The city shall utilize traffic infraction detectors pursuant to general law as a 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 or county laws related to red light signal violations or conflict with such laws. Nothing herein shall conflict with the primary jurisdiction of Miami-Dade County to install and maintain traffic signal devices. This article shall serve to enable the City to provide enhanced enforcement and respect for authorized traffic signal devices pursuant to F.S., §§ 316.008 and 316.0083 (2010), as amended by House Bill 7125 (2013). The city may utilize traffic infraction detectors as an ancillary deterrent to traffic control signal violations and to thereby reduce accidents and injuries associated with such violations.

Section 5. City Code Amended. That Article III "Dangerous Intersection Safety" of Chapter 48 "Vehicles, Right-of -Way, Parking, And Other Regulations" of the City of Aventura Code of Ordinances is hereby amended by amending Section 48-27 "Definitions" to read as follows:

Section 48-27. Definitions.

The following definitions shall apply to this article:

* * *

Local Hearing Officer. The person(s), appointed by the City Manager and approved by the City Commission to serve as code enforcement special master (the "Special Magistrate") pursuant to City Code Section 2-334. The Special Magistrate is hereby authorized to conduct hearings related to a notice of violation issued pursuant to Section

316.0083, Florida Statutes, and this Article. The City Manager, if desired, may designate a specific Special Magistrate(s) to serve as the Local Hearing Officer .

* * *

Petitioner. Any person that has received a Notice of Violation and has requested a hearing before the Local Hearing Officer for the purpose of determining whether the alleged violation has occurred.

Section 6. City Code Amended. That Article III “Dangerous Intersection Safety” of Chapter 48 “Vehicles, Right-of -Way, Parking, And Other Regulations” of the City of Aventura Code of Ordinances is hereby amended by amending Section 48-28 “Adherence to red light traffic control signals” to read as follows:

Section 48-28. 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 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 approaching a clearly marked stop line, but if none, is approaching the crosswalk on the near side of the intersection or, if none, then is approaching 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 in a careful and prudent manner provided the driver comes to a complete stop before turning right (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. A notice of violation and a traffic citation may not be issued if the driver of a vehicle comes to a complete stop after crossing the stop line and before turning right if permissible at a red light, but failed to stop before crossing over the stop line or other point at which a stop is required.

* * *

Section 7. City Code Amended. That Article III “Dangerous Intersection Safety” of Chapter 48 “Vehicles, Right-of -Way, Parking, And Other Regulations” of the City of Aventura Code of Ordinances is hereby amended by amending Section 48-31 “Review of recorded images” to read as follows:

Section 48-31. Review of recorded images.

- (a) The owner of the vehicle which is observed by recorded images committing a red zone infraction, shall be issued a notice of violation (hereinafter also known as a "notice") no later than 30 days after the red zone infraction occurs. The recorded image shall be sufficient grounds to issue a notice.
- (b) The City's Chief of Police shall designate one or more 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 Infraction Enforcement Officer shall review recorded images prior to the issuance of a notice to ensure the accuracy and integrity of the recorded images. Once the Traffic Infraction Enforcement Officer has verified the accuracy of the recorded images, he or she shall complete a report, and a notice shall be sent to the 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.
- (c) If a vehicle owner receiving a notice fails to pay the penalty imposed by F.S. § 316.0083, ~~or~~ to provide an affidavit that complies with the provisions of F.S. § 316.0083, or request a hearing within ~~30~~ 60 days of the date the notice is issued, then a Uniform Traffic Citation shall be issued to the vehicle owner as provided by general law. ~~The Uniform Traffic Citation shall be issued no later than 60 days after the red zone infraction occurs.~~

Section 8. City Code Amended. That Article III “Dangerous Intersection Safety” of Chapter 48 “Vehicles, Right-of -Way, Parking, And Other Regulations” of the City of Aventura Code of Ordinances is hereby amended by amending Section 48-32 “Notice of violation” to read as follows:

Section 48-32. Notice of violation.

The notice of a red zone infraction shall be served via first class mail and shall include:

* * *

(11) A statement that the owner must pay a penalty of \$158.00 to the City, ~~or~~ provide an affidavit that complies with F.S. § 316.0083, or request a hearing within ~~thirty (30)~~ sixty (60) days of the date the notice is issued in order to avoid ~~court fees, costs, and the~~ issuance of a Uniform Traffic Citation;

* * *

(13) Information on the person’s right to request a hearing and on all court costs related thereto and a form to use to request a hearing or shall direct the person to a web address for a website that provides that information .

Section 9. City Code Amended. That Article III “Dangerous Intersection Safety” of Chapter 48 “Vehicles, Right-of -Way, Parking, And Other Regulations” of the City of Aventura Code of Ordinances is hereby amended by creating Section 48-33 “Notice of violation hearing procedure” which shall read as follows:

Section 48-33. Notice of violation hearing procedure.

- (a) A Petitioner who elects to request a hearing shall be scheduled for a hearing by the clerk of the Local Hearing Officer to appear before a Local Hearing Officer 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 of the Local Hearing Officer, at least 5 calendar days before the day of the originally scheduled hearing. The Petitioner may cancel his or her appearance before the Local Hearing Officer by paying the penalty assessed by s. 316.0083(1)(b), Fla. Stat., as amended, plus \$50 in administrative costs, before the start of the hearing.
- (b) All testimony at the hearing shall be under oath and shall be recorded. The Local Hearing Officer shall take testimony from a traffic infraction enforcement officer and the Petitioner, and may take testimony from others. The Local Hearing Officer shall review the photographic or electronic images or the streaming video made available under s. 316.0083(1)(b)1.b., Fla. Stat., as amended. Formal rules of evidence do not apply, but due process shall be observed and govern the proceedings.
- (c) At the conclusion of the hearing, the Local Hearing Officer shall determine whether a violation under s. 316.0083, Fla. Stat., as amended, has occurred, in which case the hearing officer shall uphold or dismiss the violation. The Local Hearing Officer shall issue a final administrative order including the determination and, if the notice of violation is upheld, require the Petitioner to pay the penalty assessed under s. 316.0083(1)(b), Fla. Stat. as amended, and may also require the petitioner to pay municipal costs, not to exceed \$250. The final administrative order shall be mailed to the Petitioner by first-class mail.
- (d) An aggrieved party may appeal a final administrative order consistent with the process provided under s. 162.11, Fla. Stat.

Section 10. Implementation. That the City Manager shall take any and all action necessary to implement the amended Red Light Camera Safety Program including, but not limited to, the appointment or designation of a Local Hearing Officer(s), and amendment of the City’s agreement with American Traffic Solutions and other service providers to the extent

necessary, if any, to comply with Chapter 316; Fla. Stat., as amended through the enactment of HB 7125 (2013).

Section 11. Clerk Designated. That the Office of the City Clerk of the City of Aventura is hereby designated as the clerk to the Local Hearing Officer.

Section 12. 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 13. Inclusion in the Code. That it is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura, 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 14. Savings. That all fines, penalties, fees and costs imposed pursuant to the provisions of Article III of Chapter 48 of the City Code, which provisions existed immediately prior to July 1, 2013, are hereby authorized, approved, ratified and confirmed, and shall continue to be due and owing until paid to City.

Section 15. Effective Date. That following adoption of this Ordinance on second reading, this Ordinance shall be in full force and effect from and after July 1, 2013, except that the provisions of Section 10 of this Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Vice Mayor Stern, who moved its adoption on first reading. This motion was seconded by Commissioner Cohen, and upon being put to a vote, the vote was as follows:

Commissioner Enbar Cohen	yes
Commissioner Teri Holzberg	yes
Commissioner Billy Joel	yes
Commissioner Howard Weinberg	yes
Commissioner Luz Urbaez Weinberg	yes
Vice Mayor Michael Stern	yes
Mayor Susan Gottlieb	yes

The foregoing Ordinance was offered by Commissioner _____ who moved its adoption on second reading. This motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Commissioner Enbar Cohen	_____
Commissioner Teri Holzberg	_____
Commissioner Billy Joel	_____
Commissioner Howard Weinberg	_____
Commissioner Luz Urbaez Weinberg	_____
Vice Mayor Michael Stern	_____
Mayor Susan Gottlieb	_____

Ordinance No. _____

Page 8

PASSED AND ADOPTED on first reading this 4th day of June, 2013.

PASSED AND ADOPTED on second reading this 19th day of June 2013.

SUSAN GOTTLIEB, MAYOR

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY