

ORDINANCE NO. 2008 - ____

AN ORDINANCE OF SARASOTA COUNTY CREATING SECTIONS 112-200 THROUGH 112-206 OF THE SARASOTA COUNTY CODE; REQUIRING MOTOR VEHICLE TRAFFIC TO ADHERE TO TRAFFIC CONTROL SIGNALS; PROVIDING FOR AUTOMATED ENFORCEMENT OF CERTAIN TRAFFIC VIOLATIONS; REQUIRING A MOTOR VEHICLE OWNER TO PAY A CIVIL FINE FOR A MOTOR VEHICLE THAT RUNS A RED LIGHT; ALLOWING TRAFFIC ENFORCEMENT PHOTOGRAPHIC SYSTEMS TO RECORD VIOLATIONS OF RED LIGHT TRAFFIC CONTROL SIGNALS; PROVIDING FOR ISSUANCE OF NOTICES OF CODE VIOLATION; PROVIDING FOR APPEAL OF A NOTICE OF CODE VIOLATION; PROVIDING FOR LIENS FOR UNPAID FINES, AUTHORIZING THE FORECLOSURE OF LIENS, PROVIDING FOR SEVERABILITY; ADDRESSING POTENTIAL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sarasota County is a high density traffic area and regularly experiences traffic incidents related to the failure of drivers of vehicles to obey traffic control devices, including traffic lights, which failures expose individuals to the dangers of personal injury or death and damage to property; and

WHEREAS, Sarasota County desires to reduce the number of violations of steady red traffic light signals within the County by installing and implementing traffic control photographic systems and corresponding enforcement procedures;

WHEREAS, Sarasota County is a charter county with home rule authority, pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125, Florida Statutes, to enact an ordinance to monitor violations of red light traffic signals, to use traffic infraction detectors to monitor these infractions, and to use the recorded images of the traffic infraction detector to advise the registered vehicle owner of their recorded violations at intersections;

WHEREAS, Florida Statutes §316.006 provides Sarasota County with original jurisdiction over all streets and highways with the boundaries of Sarasota County with the exception of all state roads as well as streets and highways within chartered municipalities;

WHEREAS, Florida Statutes §316.008 grants Sarasota County the authority to regulate and monitor traffic on streets and highways under their jurisdiction by means of police officers and official traffic control devices;

WHEREAS, Florida Statutes §316.075 requires vehicular traffic to stop at a steady red light signal;

WHEREAS, the Board of County Commissioners of Sarasota County is concerned with the inability to sufficiently enforce Florida Statutes §316.075 due to the requirement for personal observation of violations by law enforcement officers. Violations that occur outside the presence of law enforcement officers are no less dangerous. Therefore, to protect the health, safety, and welfare of people of Sarasota County, it is necessary to provide an additional means to insure intersection safety rather than rely solely on the personal observation of law enforcement;

WHEREAS, red light violations are irreparable and irreversible violations that are a serious threat to public health, safety, and welfare;

WHEREAS, red light legislation penalizing or assessing civil fines against the owner of a motor vehicle has proven extremely effective at reducing red light violations and traffic accidents;

WHEREAS, this Ordinance does not conflict with any state law; and

WHEREAS, Sarasota County desires to improve and further protect public health, safety, and welfare by implementing an automated photographic red light traffic enforcement system in efforts to reduce violations of steady red traffic signals at intersections in Sarasota County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. A new Division 3 in Chapter 122 of the Sarasota County Code, entitled the Red Light Camera Enforcement Ordinance, is hereby created.

SECTION 2. Section 122-200 of the Sarasota County Code is hereby created to read as follows:

SECTION 122-200. DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except when the context clearly indicates a different meaning:

- (a) *Clerk* shall mean the Clerk of the Circuit Court or such other agency as the Board of County Commissioners may designate, which shall be responsible for the records of red light camera violation proceedings and such other matters as provided for herein.
- (b) *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.

- (c) *Motor 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.
- (d) *Notice of Code Violation* shall mean a citation issued for a red light 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 including any rental car company. 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 infraction detector on:
 - 1. One or more of the following:
 - i. Two or more photographs;
 - ii. Two or more electronic images;
 - iii. Two or more digital images;
 - iv. Video; or
 - v. Any other medium; and
 - 2. Showing the rear of a motor vehicle and, on at least one image, clearly identifying the registration plate number of the vehicle.
- (g) *Red Light Infraction* shall mean a traffic offense whereby a traffic infraction detector 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. Such violations are hereby deemed irreparable and irreversible violations that are a serious threat to public health, safety, and welfare.
- (h) *Special Magistrate* shall mean an unbiased hearing officer selected by Sarasota County pursuant to Section 2-345 of the Sarasota County Code.
- (i) *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 Florida Statutes § 316.075.
- (j) *Traffic Infraction Detector* means a device using a vehicle sensor installed to work in conjunction with a traffic control signal and a camera that are synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of a motor vehicle traveling through an intersection in violation of a traffic control signal's steady red light indication. Any notice of violation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated.

- (k) *Traffic Infraction Enforcement Officer* means either a Sarasota County Deputy Sheriff, a Traffic Infraction Enforcement Officer as provided in Florida Statutes §316.640(5) or a designated code enforcement officer.

SECTION 3. Section 122-201 of the Sarasota County Code is hereby created to read as follows:

SECTION 122-201. TRAFFIC ENFORCEMENT PHOTOGRAPHIC SYSTEMS.

Any traffic enforcement photographic system must be capable of recording at least two colored digital images such that the images record the rear of a motor vehicle, with at least one of the images clearly recording both the motor vehicle behind the stop bar for a traffic control signal during the time the light is a steady red and the steady red traffic control signal, at least one image clearly recording both the motor vehicle entering the intersection in violation of the steady red traffic control signal and the steady red traffic signal. Additionally, at least one of the images must clearly identify the registration plate of the motor vehicle.

SECTION 4. Section 122-202 of the Sarasota County Code is hereby created to read as follows:

SECTION 122-202. 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, but 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. Except as provided in this Article, it shall be the responsibility of each owner of a motor vehicle to make certain that his or her motor vehicle adheres to the requirements of this Section.

SECTION 5. Section 122-203 of the Sarasota County Code is hereby created to read as follows:

SECTION 122-203. PENALTY FOR VIOLATION AND EXCEPTIONS.

A violation of Section 122-202 by any motor vehicle entering an intersection while facing a steady red traffic control signal may be cited as a violation under this section when the violation is recorded by a traffic enforcement photographic system or when personally observed by a law enforcement officer. A violation of this section shall be deemed a civil, noncriminal violation for which a \$125.00 civil fine will be assessed against the motor vehicle owner.

The owner of a motor vehicle under this section shall be responsible for paying the civil fine for the violation, except under the following circumstances:

- (a) The owner of a motor vehicle cited under this section which was being operated without the permission of the owner shall not be responsible for paying the fine for the violation. This exception applies only if the motor vehicle owner signs and submits a notarized affidavit that specifically provides that the operator of the motor vehicle was operating the motor vehicle without the permission of the motor vehicle owner and lists the full name, current address, and driver's license number of the operator of the motor vehicle and how the operator came into possession of the motor vehicle, or the affidavit has attached thereto a stolen motor vehicle report that has been filed with a law enforcement agency. The Affidavit shall contain the following affirmation directly above the signature line: "Under the Penalties of Perjury or Making a False Statement, I declare that I have read the foregoing affidavit and that the facts presented are true and correct." The affidavit shall be filed into the record of the hearing and the affiant shall be subject to cross examination at the hearing as to the veracity of the statements made in the affidavit;
- (b) If the driver of a motor vehicle is issued a Notice of Code Violation or Uniform Traffic Citation by a law enforcement officer for violating a steady red light traffic control signal, the motor vehicle owner may not be issued a separate Notice of Code Violation pursuant to this section as a result of the traffic enforcement photographic system recording the same violation;
- (c) If the vehicle was an authorized emergency vehicle or other vehicle owned or controlled by a federal, state, or local government and such vehicle's driver was authorized by applicable law, rule, or regulation to disregard the traffic light at that time and place;
- (d) If the asserted defense would have excused the noticed violation as if such violation had been cited as a Uniform Traffic Citation pursuant to Florida Statutes;
- (e) If the driver was required to violate the applicable traffic control device in order to comply with another applicable law the supersedes the respective traffic control regulation;
- (f) If the vehicle driver was reasonably required to violate the applicable traffic control device to protect valuable tangible property and/or to prevent physical injury to any individual;
- (g) The traffic control device was inoperable or malfunctioning at the time of the recording that is the basis for the Notice of Violation; and

- (h) If, upon appeal, the Special Magistrate voids the violation based upon the facts and circumstances presented at the hearing.

SECTION 6. Section 122-204 of the Sarasota County Code is hereby created to read as follows:

SECTION 122-204. NOTICES OF CODE VIOLATIONS.

- (a) *Issuance of Notice of Code Violation.*

A notice of any violation of the provisions of this Article shall be issued by or under the direction of a Traffic Infraction Enforcement Officer. The decision to issue or not issue the notice of violation to the vehicle's owner pursuant to this Article shall be made by a Traffic Infraction Enforcement Officer, or designee, after his or her review of recorded images as recorded by the Traffic violation photographic system and a determination that the traffic control device was working properly at the time of the violation.

- (b) *Contents of Notice.*

A notice issued for any violation provisions of this Article shall be in a form prescribed by the County and shall contain the following information:

- (1) The name and address of the owner of the motor vehicle involved in the violation;
- (2) The make, model and registration number of the motor vehicle involved in the violation;
- (3) The number or section of the Sarasota County Code that was violated;
- (4) The location of the intersection where the violation occurred;
- (5) The date and time of the violation;
- (6) A copy of the recorded images of the violation as recorded by the traffic violation photographic system, including a recorded image that identifies the vehicle's license plate;
- (7) The amount of the fine and charges imposed and the deadline by which the fine and charges must be paid or appealed;
- (8) A statement that the reviewing officer (who shall be identified by name, title, and employee badge or identification number) has reviewed and observed the recorded images evidencing a red light infraction and has found reasonable and probable grounds to believe that an offense has been committed and can identify the license tag number of the violating vehicle;

- (9) A statement of the time limit within which to file an appeal and describing the procedures for appealing the Notice of Code Violation;
- (10) A conspicuous statement that if the owner of the violating motor vehicle fails to pay the civil fine within the time allowed, or fails to timely appeal the violation, the owner shall be deemed to have (i) waived his or her right to contest the Notice of Code Violation, (ii) admitted to the violation reflected in the Notice of Code Violation, (iii) failure to pay all applicable fees and costs can result in a loss of privileges pursuant to this Article, and (iv) that the failure to pay all applicable fees and costs can result in a lien against the vehicle owner's property.

(c) *Manner of Delivery of Notice.*

The Notice of Code Violation shall be sent by certified mail with return receipt requested, and postmarked no later than (14) days after the date of the alleged violation, to the address of the motor vehicle owner that is listed as the titled owner of the motor vehicle with the appropriate agency of the state in which the motor vehicle is registered. If there is more than one motor vehicle owner, the Notice of Code Violation shall be sent to the first named motor vehicle owner as listed with said agency as the titled owner of the motor vehicle. If service by certified mail fails for any reason, the County may effect service upon the registered owner by any means specified in Florida Statutes §162.12 or as otherwise authorized by law.

SECTION 7. Section 122-205 of the Sarasota County Code is hereby created to read as follows:

SECTION 122-205. RESPONSIBILITIES OF REGISTERED OWNER

(a) *Payment of Fine or Contest the Notice of Code Violation*

A registered owner shall either pay the fine or request a hearing to contest the citation within thirty (30) days of receipt of the Notice of Code Violation. Failure to either pay the fine or request a hearing shall result in a default against the registered owner resulting in the forfeiture of any right to challenge the basis for the citation, shall constitute an admission of the violation, and may result in the filing of a lien against the property of the registered owner. In addition, the registered owner shall be responsible for all costs and attorneys fees required to collect the fine. If the registered owner contests the citation and is unsuccessful, the motor vehicle owner shall be responsible for paying the costs incurred by the County as a result of contesting the citation.

(b) *Filing and Foreclosure of Lien against Property*

Failure to pay any amounts provide for under this article may result in the filing of a lien against the property of the registered owner pursuant to §162.09(3)

Florida Statutes and §2-349 of the Sarasota County Code. Such lien shall be subject to foreclosure as provided by law.

(c) *Suspension of County Privileges.*

Any motor vehicle owner who fails to pay a fine for a Notice of Code Violation issued pursuant to the provisions of this Article shall be suspended, refused and denied any rights and privileges that such person may otherwise be entitled to enjoy, receive, or benefit from the County of Sarasota including, without limiting the generality of the foregoing, the right to obtain and maintain an occupational license, the right to utilize County facilities, the right to obtain any licenses or permits contemplated in the Code. Any person whose rights and privileges with or from the County of Sarasota have been suspended, refused, and/or denied pursuant to the provisions of this Article may purge the suspension and regain entitlement to any rights or benefits that have been refused or denied by this Article by paying all fine and charges contemplated in this Article associated with a violation hereof.

SECTION 8. Section 122-206 of the Sarasota County Code is hereby created to read as follows:

SECTION 122-206. CONTESTING THE NOTICE OF CODE VIOLATION BEFORE THE SPECIAL MAGISTRATE

- (a) Upon issuance of a Notice of Code Violation the alleged violator may contest the Notice by filing a Notice of Contest and Request for Hearing with the Clerk within thirty (30) days after receipt of the Notice of Code Violation by the registered motor vehicle owner. Failure to file the notice of appeal within this time period shall constitute a default against the registered owner that waives any right to contest the Notice of Code Violation as well as an admission of the violation.
- (b) The Notice of Contest and Request for Hearing must set forth the factual basis upon which the motor vehicle owner is contesting the Notice of Code Violation as provided in §122-203 (a) through (h) of this article.
- (c) The hearing on the Notice of Code Violation shall occur before a Special Magistrate appointed in conformity with Section 2-345 of the Sarasota County Code. The County shall schedule a hearing of the appeal to be heard within Sixty (60) days of the County's receipt of the Notice of Contest and Request for Hearing, provided that the notice was timely filed with the Clerk. A Notice of Hearing shall be provided to the Vehicle Owner no less than ten (10) days prior to the hearing, and shall be provided by first class mail to the same address to which the Notice of Violation was sent.
- (d) During a hearing upon any appeal filed pursuant to this Section, the recorded images of the violation shall be admissible as evidence of the violation and shall constitute prima facie evidence of the violation.

- (e) If the appeal is rejected or denied, the registered motor vehicle owner shall be responsible for payment of the fine as well as all costs incurred by Sarasota County in responding to the appeal. Based on the evidence presented by the County as to costs incurred, the Special Magistrate shall determine the costs charged to the motor vehicle owner. The motor vehicle owner must pay the fine and costs to the Clerk within thirty (30) days of the Special Master's decision. Failure to pay the fine and all associated costs as ordered by the Special Magistrate may result in the filing of a lien against the property of the registered owner pursuant to §162.09(3) Florida Statutes and §2-349 of the Sarasota County Code. Such lien shall be subject to foreclosure as provided by law.

SECTION 9. Severability.

If any section, paragraph, sentence, clause, phrase or word of the Ordinance is for any reason held by any Court to be unconstitutional, inoperative, invalid or void, such holding shall in no manner effect the validity of the remaining portions of this Ordinance.

SECTION 10. Conflict.

The provisions of this Ordinance shall be deemed to control and prevail over any ordinance or portion thereof in conflict with the terms hereof.

SECTION 11. Effective Date.

This Ordinance shall become effective upon receipt of official acknowledgement from the Office of Secretary of State of Florida that this Ordinance has been filed with said office.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, THIS _____ DAY OF AUGUST, 2008.

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

BY: _____
CHAIR

ATTEST:
KAREN E. RUSHING, Clerk of
the Circuit Court and Ex-officio
Clerk of the Board of County
Commissioners of Sarasota County
Florida

BY: _____
Deputy Clerk