

ORDINANCE NO. 2013-03

AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA AMENDING THE CITY CODE BY EXPANDING CHAPTER 62, TRAFFIC AND VEHICLE, THROUGH ADOPTION OF ARTICLE IV, THE "TRAFFIC LIGHT SAFETY ACT"; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature passed CS/CS/HB 7125 during the 2013 Legislative Session authorizing the use of traffic infraction detectors to enforce certain provisions of Chapter 316 of the Florida Statutes; and

WHEREAS, the Governor of the State of Florida signed CS/CS/HB7125 into law on June 12, 2013, amending section 316.0083, Florida Statutes ("Mark Wandall Traffic Safety Act") or the "Act") taking effect on July 1, 2013; and

WHEREAS, the running of red lights continues to be a safety hazard affecting every citizen and traveler in the City of Edgewood; and

WHEREAS, the City wishes to further reduce the running of red lights by amending its Code of Ordinances to be consistent with the CS/CS/HB7125.

NOTE: Underlined words constitute the additions to the existing text of the *Edgewood Code of Ordinances*, ~~strikethroughs~~ constitute deletions to the existing text, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

SECTION 1. Recitals Adopted. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. Chapter 62, Traffic and Vehicle, of the City of Edgewood Code of Ordinances, is hereby amended through the addition of Article IV, the Traffic Light Safety Act to read as follows:

Section 62-60. Legislative findings and Intent.

The purpose of this act 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 red light violations in accord with general law, including section 316.0083, Florida Statutes (the "Mark

Wandall Traffic Safety Act” or “Act”). This division will supplement law enforcement personnel in 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.

Section 62-61. Use of traffic infraction detectors.

The city may utilize traffic infraction detectors pursuant to general law as a means of monitoring compliance with laws related to traffic control signals, in order to assist 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 state laws. The city may utilize traffic infraction detectors as an ancillary deterrent to traffic control signal violations and to hereby reduce accidents and injuries associated with such violations.

Section 62-62. Definitions.

The following definitions shall apply to this division:

Intersection shall mean the area after the stop bar, or in the event of no stop bar, the crosswalk. The vehicle shall be in violation of the ordinance if the frontal plane of the front bumper of the vehicle has crossed over the stop bar after the traffic signal turning red for that lane of travel on a roadway.

Local hearing officer shall mean the person, designated by the city, that elects to authorize traffic infraction officers to issue citations and who is authorized to conduct hearings related to a notice of violation issued pursuant to the Act. The local hearing officer may be the city’s currently appointed code enforcement board or special magistrate.

Motor vehicle shall have the meaning set forth in the definition in section 316.003(21), Florida Statutes, or its successor provision.

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.

Recorded images shall mean images recorded by a traffic infraction detector which is operated in accordance with the Act.

Red zone infraction shall mean a traffic offense whereby a traffic infraction detector indicates a violation of section 62-63.

Traffic infraction detector A vehicle sensor(s) installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two (2) or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light.

Traffic enforcement officer shall mean a person selected by the city, who meets the requirements of Section 62-66 (b) herein, to review recorded images and issue red zone infractions based upon those images.

Section 62-63. 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. If there is no crosswalk, then motor vehicle traffic facing a traffic control signal's steady red light indication shall stop before entering the intersection. All traffic stopped at a traffic control signal's steady red light indication 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, or if none, is approaching 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 light in a careful and prudent manner (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 signals at the intersection.

(b) Pursuant to general law, motor vehicles facing a traffic control signal that is malfunctioning, inoperable or is emitting a flashing red light shall stop 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 to the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign. In the event that only some of the traffic control signals within an intersection are malfunctioning, inoperative or flashing red light traffic control signal shall stop in the above prescribed manner.

Section 62-64. Violation.

A violation of this division, known as a red zone infraction, shall occur when a vehicle does not comply with the requirements of section 62-63. Violations shall be enforced pursuant to section 316.0083, Florida Statutes.

Section 62-65. Implementation of general law.

Within the city, the mayor is authorized to implement the provisions and requirements of section 316.0083, Florida Statutes, as may be amended from time to time, and may take any action which is necessary for such purpose.

Section 62-66. Review of Recorded Image

(a) The owner of the vehicle observed by recorded images committing a red zone infraction shall be issued a notice of infraction no later than thirty (30) days after the red

zone infraction occurs. The recorded image shall be sufficient grounds to issue a city notice of infraction.

(b) The city shall designate one (1) or more traffic infraction officers who shall meet the qualifications set forth in section 316.640, Florida Statutes or any other relevant statute. The traffic infraction enforcement officer shall review recorded images prior to the issuance of notice of violation/infraction to ensure accuracy and the integrity of the recorded images. The traffic infraction enforcement officer shall also verify that the traffic infraction detector that captured the recorded images was functioning properly at the time the recorded images were captured. Once the traffic infraction enforcement officer has verified the accuracy of recorded images and functionality of the traffic infraction detector, he or she shall complete a review of the violation and authorize enforcement action, and 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 any other state's vehicle registration office.

Section 62-67. Notice of violation.

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 section 318.14, Florida Statutes, and that the violator must pay the penalty of \$158.00 to the city or furnish an affidavit supporting an exemption that complies with section 316.0083, Florida Statutes in accordance with paragraph (11) within thirty (30) days following the date of the notification in order to avoid court fees, costs and the issuance of a traffic citation. The violator may also request a hearing within sixty (60) days following the date of notification in order to avoid the issuance of a traffic citation. The notification must be sent via first-class mail. The mailing of the notice constitutes notification. The notification 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 infraction charged is pursuant to this division;
- (5) The location of the intersection where the violation occurred;
- (6) The date and time of the red zone infraction;
- (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 examined and observed;
- (8) Images depicting the infraction, showing the license tag of the offending vehicle and the traffic control device being violated;
- (9) Instructions on all methods of payment of the penalty;
- (10) A statement specifying the remedies available under section 318.14, Florida Statutes;

(11) A statement that the owner must pay a penalty of one hundred fifty-eight dollars (\$158.00) to the city, provide an affidavit that complies with section 316.0083, Florida Statutes, within thirty (30) days of the date the notice is issued or request a hearing within sixty (60) days of the date the notice is issued in order to avoid potential court fees, costs and the issuance of the uniform traffic citation.

(12) A signed statement by the traffic infraction enforcement officer that, based on inspection of recorded images, the vehicle was involved in a red zone infraction.

Section 62-68. Uniform traffic citation.

If an owner receives a notice and fails to pay the penalty imposed under section 316.0083, Florida Statutes within sixty (60) days after the date of the notification, provide an affidavit supporting an exemption that complies with the provisions of section 316.0083, Florida Statutes within thirty (30) days of the date the notice is issued or fails to request a hearing within sixty (60) days of the date the notice is issued, then a Uniform Traffic Citation shall be issued to the owner as provided by general law. If a hearing is initiated, a lack of notice defense is waived. Upon receipt of an affidavit, the person designated as having care, custody or control of the motor vehicle at the time of the violation may be issued a Uniform Traffic Citation under this Article, and shall be responsible and liable for paying the citation. The submission of a false affidavit is a misdemeanor of the second degree, punishable as provided by sections 775.082 and 775.083, Florida Statutes.

Section 62-69. Procedures for a hearing pursuant to section 316.0083, Florida Statutes.

(a) The city shall designate by resolution existing staff to serve as the clerk to the local hearing officer.

(b) Any person, herein referred to as the "petitioner," who elects to request a hearing shall be scheduled for a hearing by the clerk to 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 to the local hearing officer, at least five (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 one hundred and fifty eight dollar (\$158.00) penalty, plus \$50 in administrative costs, before the start of the hearing.

(c) All testimony at the hearing shall be under oath and 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. Formal rules of evidence do not apply but due process shall be observed and govern the proceedings.

(d) At the conclusion of the hearing, the local hearing officer shall determine whether a violation under this section 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 city costs, not to exceed two hundred and fifty dollars (\$250.00). The final administrative order shall be mailed to the petitioner by first-class mail.

(e) An aggrieved party may appeal a final administrative order consistent with the process provided under section 162.11, Florida Statutes.

Section 62-70. Signage.

When the city installs a traffic infraction detector at an intersection, it shall erect signage at the intersection sufficient to notify the public that a traffic infraction detector may be in use at the intersection and shall include specific notification of intersection safety camera enforcement of violations concerning right turns. Such signage shall meet the specifications for uniform signals and devices adopted by the Department of Transportation pursuant to section 316.0745, Florida Statutes.

Section 62-71. Consistency with state law.

(a) This article shall be interpreted and applied so that it is consistent with state law, specifically, the Mark Wandall Traffic Safety Act; CS/CS/HB 7125.

(b) 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 civil penalty or apportionment of the proceeds thereof shall be deemed applied to the enforcement of this article, even prior to a specific amendment to this article to make the article expressly consistent with such change in state law with respect to the amount of the penalty or the apportionment of the proceeds thereof.

SECTION 3: Codification: Section 2 of this Ordinance shall be codified and made part of the City of Edgewood Code of Ordinances.

SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

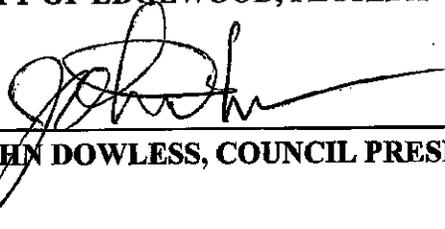
SECTION 5: Severability: It is the intent of the City Council of the City of Edgewood, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such

invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

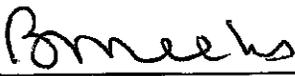
ADOPTED by the City Council of the City of Edgewood, Florida, this **18th** day of **June**, 2013.

CITY OF EDGEWOOD, FLORIDA



JOHN DOWLESS, COUNCIL PRESIDENT

ATTEST:



BEA L. MEEKS, MMC
CITY CLERK