

TAB 1

POINT PAPER
REGULATION OF INTERSECTIONS BY RED LIGHT CAMERAS

PROBLEM:

In 2008 the Board of County Commissioners of Manatee County, Florida enacted County Ordinance 08-39 which provides for the placement of cameras or other image capturing devices at certain intersections within Manatee County. The placement of such cameras or image capture devices would permit the issuance of a uniform traffic citation without requiring that the charging law enforcement officer be present at the intersection at the time of the offense. Certain exceptions are articulated within the ordinance and the method by which a driver or vehicle owner may contest an allegation is also specified within the ordinance.

BACKGROUND:

The City of Palmetto has expressed interest in considering the placement of cameras or image capture devices at certain intersections within the City of Palmetto. While this may greatly enhance the ability of the Palmetto Police Department to enforce certain traffic laws within the City of Palmetto, it is also recognized that circumstances unique to the City of Palmetto must be considered.

ALTERNATIVES:

1. Instruct Staff to examine the merit of installing cameras or other image capture devices at certain intersections within the City of Palmetto, then make a recommendation as to the feasibility of installing and operating such cameras or image capture devices.
2. Discontinue consideration of installing cameras or other image capture devices at certain intersections within the City of Palmetto.

RECOMMENDATIONS:

Instruct Staff to examine the merit of installing cameras or other image capture devices at certain intersections within the City of Palmetto, then make a recommendation as to the feasibility of installing and operating such cameras or image capture devices.

BUDGET IMPACT:

None

ORDINANCE 08-39

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO THE REGULATION OF MOTOR VEHICLES TRAVELING ON THE PUBLIC RIGHTS OF WAY WITHIN MANATEE COUNTY; CREATING A NEW ARTICLE V OF CHAPTER 2-22 OF THE MANATEE COUNTY CODE; PROVIDING FOR PROHIBITION OF RED LIGHT RUNNING BY VEHICLES AND DEFENSES THERETO; PROVIDING FOR ENFORCEMENT PROCEDURES; PROVIDING FOR CIVIL FINES FOR VIOLATIONS AND FOR THE COLLECTION AND DISPOSITION OF SUCH FINES; PROVIDING FOR DELEGATION OF RULEMAKING AUTHORITY; PROVIDING FOR ADMINISTRATION OF REGULATIONS; PROVIDING FOR NOTICE AND PROCEDURES TO CONTEST CITATIONS; PROVIDING FOR COUNTY-WIDE APPLICABILITY AND FOR MUNICIPAL OPT IN; PROVIDING FOR CODIFICATION AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the territorial boundaries of Manatee County include many high density traffic areas which regularly experience traffic incidents or accidents related to the failure of motorists to obey traffic control devices; and

WHEREAS, such incidents or accidents increase costs to taxpayers in the form of increased need for law enforcement and court-related staffing, and exposes County residents and visitors to the dangers of personal injury and property damage; and

WHEREAS, the Board of County Commissioners of Manatee County, Florida recognizes that current law enforcement methods have proven insufficient to enforce current State law prohibiting the running of red lights, in light of the fact that the law requires the contemporaneous personal observation of the violation by a law enforcement officer; and

WHEREAS, all levels of government and private industry are making greater use of modern electronic technology to monitor for safety and enforce compliance with laws, rules and regulations without the need for contemporaneous human observation; 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 in order to effectively and efficiently enforce laws regulating the payment of tolls without the need for cost-prohibitive staff to contemporaneously view such offenses; and

WHEREAS, various other local governments within Florida and in other regions of the Country have successfully integrated "automated image capture" technologies into their traditional traffic management and enforcement methods, and have reported that the use of such technologies has improved vehicular and pedestrian traffic safety; and

WHEREAS, the use of unmanned cameras or similar image capture devices, classified as "traffic infraction detectors," will be effective in preventing red-light-running without the need for law enforcement personnel to contemporaneously view the offenses, thereby freeing such personnel to respond to other, more significant incidents or crimes which require the physical presence of such personnel; and

WHEREAS, Florida Statute § 316.008 authorizes local governments, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, to regulate, monitor and restrict traffic by security devices or personnel, whether by public or private parties; and

WHEREAS, this authority, in conjunction with the home rule authority granted to the County by Florida Statutes Chapter 125, provide sufficient legal authority to adopt this Ordinance and implement and enforce its provisions; and

WHEREAS, in the interest of enhancing intersection safety, the Board desires to have put in place traffic infraction detectors to monitor such intersections, owned or controlled by the County or its agents, as the Manatee County Sheriff certifies as intersections where historical data and/or current experience indicates an enhanced danger of red light running exists; and

WHEREAS, the Board finds that adopting this alternative system of enforcement of red light violations will enhance the health, safety and welfare of those who travel on, over or near intersections in Manatee County outfitted with this system; and

WHEREAS, § 162.21, Florida Statutes, authorizes counties and municipalities to enforce codes and ordinances through the issuance of citations and Manatee County Code § 2-2-25 establishes procedures for the implementation of § 162.21, Florida Statutes; and

WHEREAS, the Board finds that the alternative system of red light violations should be enforced through the issuance of citations.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Manatee County:

Section 1. A new Article V of Chapter 2-22 initially consisting of Sections 2-22-70 through 2-22-74 of the Manatee County Code, is hereby created to read:

ARTICLE V.

RED LIGHT RUNNING

Sec. 2-22-70. Intent.

This article is enacted to protect the health, safety, and welfare of the citizens of Manatee County by authorizing the use of an unmanned camera/traffic infraction detector to promote compliance with red light signal directives, and to adopt a civil enforcement system for red light signal violations. This article will supplement law enforcement personnel in the enforcement of red light signal violations, and shall not prohibit law enforcement officers from issuing a uniform traffic citation for a red light signal violation in accordance with Florida Statutes Chapter 316.

Sec. 2-22-71. Definitions.

The following definitions shall apply to this article:

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. Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the

event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Issuing Officer shall mean either a duly-appointed code enforcement officer, or any deputy sheriff assigned to review images of possible red light violations.

Motor Vehicle shall mean 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.

Owner/Vehicle 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 motor vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.

Traffic Control Signal Device 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 further defined in Florida Statutes § 316.075.

Traffic Infraction Detector shall mean a device that uses a vehicle sensor installed to work in conjunction with a traffic control signal and a camera synchronized to automatically record two 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. 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.

Recorded Images shall mean motor vehicle images recorded by a traffic infraction detector on:

- Two or more photographs;
- Two or more electronic images;
- Two or more digital images;
- Video; or
- Any other visual/photographic recording medium; and

Showing the rear of a motor vehicle and, on at least one image, clearly identifying the registration plate number of the vehicle.

Sec. 2-22-71. Disobeying traffic control signal device prohibited; exceptions.

(a) Motor vehicle traffic facing a traffic control signal 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, 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 the right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection.

(b) Notwithstanding the provisions of subsection (a) of this section, no violation shall be found hereunder where it is found that at the time of the offense:

- (1) The vehicle is involved in a collision regardless of fault;
- (2) The vehicle was not under the care, custody or control of the registered owner, as determined under § 2-22-73(f)(2);
- (3) The vehicle was an authorized emergency vehicle responding to a bona fide emergency;
- (4) The operator of the vehicle was already issued a uniform traffic citation by a law enforcement officer for violating Florida Statute § 316.075(1)(c) for failing to stop at a steady red light indication;
- (5) The motor vehicle driver passed through the intersection at the direction of a law enforcement officer;
- (6) The motor vehicle driver passed through the intersection in order to yield right-of-way to an emergency vehicle or as part of a funeral procession;
- (7) The motor vehicle driver was required to violate the steady red traffic control signal in order to comply with other governing laws;
- (8) 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;
- (9) The steady red traffic control signal was inoperable or malfunctioning.

Sec. 2-22-72. Determination and citation.

(a) Section 2-22-71 shall only be enforced based on recorded images from a traffic infraction detector. Prior to the issuance of a citation for violation of section 2-22-71, the issuing officer shall review recorded images of the alleged violation to ensure the accuracy and integrity of the recorded images. The issuing officer shall also confirm the traffic infraction detector which captured the images was functioning properly at the time the recorded images were captured.

(b) Once the issuing officer has verified the accuracy of the recorded images and functionality of the traffic infraction detector, the issuing officer shall ensure that a report is completed, and that a citation is sent by certified mail, return receipt requested, to the registered vehicle owner at the address on record with the department of motor vehicles of the state where the motor vehicle is registered. A citation shall be issued by an issuing officer who has reasonable cause to believe that the person cited has committed an act in violation of section 2-22-71.

(c) The citation shall be postmarked no later than fourteen (14) days after the date of the alleged violation, and shall contain:

- (1) The date and time the citation was issued;
- (2) The name of the issuing officer and name and address of the vehicle owner;
- (3) The license plate number and registration number of the vehicle;

- (4) The make, model, year and color of the vehicle;
- (5) The location of the intersection where the violation occurred;
- (6) The date and time of the red light infraction;
- (7) Reference to section 2-22-71 as the code section alleged to have been violated;
- (8) A statement from the issuing officer of the facts constituting reasonable cause, including at a minimum that the recorded images relating to the vehicle are evidence of the red light infraction;
- (9) A statement electronically signed by the issuing officer to the effect that based on an inspection of recorded images, the vehicle violated section 2-22-71;
- (10) The civil fine imposed if the vehicle owner does not elect to contest the citation, and the civil fine imposed, if different, should the vehicle owner unsuccessfully contest the citation;
- (11) The procedures for payment of the fine, including the date by which the fine must be paid and the penalties for failure to comply or contest;
- (12) Information advising the registered owner of the procedures and time limits to contest the citation;
- (13) A conspicuous statement that if the registered owner fails to pay the civil fine within the time allowed, or fails to appear in court to contest the citation, the registered owner shall be deemed to have waived the right to contest the citation and that, in such case, judgment may be entered against the registered owner for an amount up to the maximum civil fine.

(d) Where a registered owner appears to the issuing officer to be avoiding signing for the certified mail, the issuing officer may cause notice to be provided to the owner in accordance with any other notice procedures specified in § 162.12, Florida Statutes, or any other manner as the law may permit notice of ordinance violations to be served.

Sec. 2-22-73. Payment or contest of citation.

(a) Within twenty-one (21) calendar days of receiving a citation, a registered owner shall either:

- (1) Pay the civil fine pursuant to the citation; or
- (2) Request a hearing in court to contest the citation.

(b) If the vehicle owner does not contest the citation, the owner shall pay the applicable civil fine specified in section 2-22-74 within twenty-one (21) days from the date of receipt of the citation. If the vehicle owner cited pays the fine, the owner shall be deemed to have admitted the violation and to have waived the right to a non-jury trial on that issue.

(c) After the passage of twenty-one (21) days from the date of receipt of the citation, the registered owner shall have no further right to contest the citation.

(d) A vehicle owner desiring to contest a citation shall file a written request for hearing with the Manatee County Clerk of the Circuit Court. The request for hearing shall provide a short and plain statement of why the citation should not have been issued. The clerk may promulgate a standard request for hearing form, and may also design an on-line request for hearing option, but written requests for hearing which fail to use any such standard forms or sites shall still be accepted so long as they contain the required statement and are timely filed.

(e) A citation shall be contested in county court. If a vehicle owner cited contests the citation, the clerk shall set a hearing in county court and provide notice by regular and certified mail to the owner cited and the issuing officer no less than ten (10) days prior to the hearing.

(f) The following shall be the sole permissible grounds for contesting a citation:

- (1) The violation is excepted under one or more of the list of exceptions located at section 2-22-71(b).
- (2) Where the citation is contested based upon the exception that at the time of the infraction the vehicle was not under the care, custody, or control of the vehicle owner, such exception, to be successful, must include a sworn affidavit by the owner indicating the name, address, and, if available, the driver license number of the person who leased, rented, or otherwise had been given or taken care, custody or control of the motor vehicle at the time of the alleged infraction. If the assertion is that at the time the vehicle was stolen, the owner cited shall provide a copy of the police report indicating the vehicle was reported stolen at the time of the alleged infraction, or within a reasonable time thereafter.

(g) At the hearing, the burden of proof shall be upon the county to show by a preponderance of the evidence that the violation occurred as alleged in the citation.

(h) A record of the proceedings shall be maintained by the clerk of the court for periods as may be required by law. The decision of the county court shall be reduced to writing, and shall include findings of fact and conclusions of law. The county court's decision shall be final. Appeals from the county court's order shall be by appeal to the Circuit Court in and for Manatee County, as provided for in the Florida Rules of Appellate Procedure.

Sec. 2-22-74. Fines.

A violation of section 2-22-71 shall be deemed a non-moving civil infraction. A civil fine in the amount of \$150.00 shall be assessed for the first violation. Upon a second violation, a civil fine shall again be assessed in the amount of \$150.00. If subsequent violations occur within two years of the occurrence of a second or subsequent violation, a civil fine of \$225.00 shall be assessed for each such violation. In no case shall the maximum civil fine assessed be greater than \$500.00. In addition to the civil fine, court fees and costs shall be assessed by the court against any vehicle owner who contests a citation and is found in violation. No points as provided in Florida Statutes § 322.27 shall be recorded on the driving record of the registered vehicle owner or responsible party for any violation of section 2-22-71. If the cited owner fails to pay the civil fine within the time allowed, or fails to appear in court to contest the citation, judgment may be entered against the person for an amount of the fine noted in the citation plus court fees and costs. The county may, either through staff or third party vendors, employ such collection efforts as may be available under Florida law to enforce the court judgment. Where such action is required, the county may recover the actual costs associated with such efforts as are authorized by law.

Section 2. The county administrator shall, within the resources available to the County at the time of certification, ensure traffic infraction detectors are placed at all intersections

certified by the Manatee County Sheriff as intersections where historical data and/or current experience indicate an enhanced danger of red light running exists.

Section 3. The county administrator shall work with the Manatee County Sheriff to develop and implement driver-education efforts to inform the public of the county's red light running enforcement efforts. In conjunction with these efforts, for the first sixty (60) days after the first traffic infraction detector has been installed by the county and certified by the Manatee County Sheriff to be operational, where a vehicle owner is found to have violated section 2-22-71, the vehicle owner shall receive only a courtesy warning of the violation.

Section 4. The county administrator is authorized to implement the provisions of this ordinance in the most cost effective and efficient manner as the administrator deems necessary. This may include full implementation by county and sheriff employees, or performance of some or all of the work through one or more vendors. However, any agreement negotiated with any vendor(s) related to implementing the terms of this ordinance shall be subject to review and approval by the County Commission, and no final determination of violation shall be made by any person or entity not authorized under Florida law to issue a citation for violation.

Section 5. This ordinance shall be effective throughout Manatee County, except as otherwise stated herein, or if a section or provision hereof conflicts with any pre-existing or subsequently adopted provision of a municipal ordinance or any general or special act of the Legislature regarding such municipality, in which case that conflicting section or provision will have no effect within that municipality. Nothing herein shall be read or interpreted so as to prevent any municipality from making such enforcement decisions within its jurisdictional borders as it so desires, and neither Manatee County nor any agent thereof will undertake any

installation of equipment or enforcement actions regarding any intersection under the sole jurisdiction of a municipality unless pursuant to an interlocal agreement providing for such County installation or enforcement within such municipality.

Section 6. If any section, subsection, sentence, clause, provision or word of this ordinance is held unconstitutional or invalid, same shall be severable and the remainder of this ordinance shall not be affected thereby. The Manatee County Board of County Commissioners expressly indicates that it desires any remainder of the ordinance to withstand any severed provision, as it would have adopted the ordinance and its regulatory scheme even absent the unconstitutional or invalid part.

Section 7. The provisions of newly-created Article V of Chapter 2-22, as contained in Section 2 of this ordinance, shall be codified as indicated. The codifier shall not codify any other findings or sections of this ordinance.

Section 8. This ordinance shall take effect immediately upon filing with the Department of State in Tallahassee, Florida.

PASSED AND DULY ADOPTED in open session, with a quorum present and voting this ____ day of June, 2008.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Jane von Hahmann—Chairman

ATTEST: R. B. SHORE

By: _____
Clerk of the Circuit Court