

ORDINANCE NO. 2013-43

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE VII, TRAFFIC AND VEHICLES, CHAPTER 75, DANGEROUS INTERSECTION SAFETY ACT, AS PROVIDED FOR IN CHAPTER 2013-160, LAWS OF FLORIDA; BY INCLUDING ADDITIONAL DEFINITIONS; UPDATING PROCEDURES FOR NOTICE OF VIOLATION; IMPLEMENTING HEARING PROCEDURES; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.02, Intent, is hereby amended and shall henceforth read as follows:

“Section 75.02 INTENT.

The purpose of this chapter is to authorize the use of traffic infraction detectors to promote compliance with red light signal directives as proscribed by this chapter, and to adopt an enforcement system for 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 “Act”) [and the amendments to the Act as set forth in Chapter 2013-160, Laws of Florida](#). This chapter 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 normal statutory traffic enforcement techniques.”

SECTION 2. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.04, Definitions, is hereby amended and shall henceforth read as follows:

“Section 75.04 DEFINITIONS.

The following definitions shall apply to this chapter.

* * *

LOCAL HEARING OFFICER. The person designated by resolution of the City Council, who is authorized to conduct hearings related to a notice of violation issued pursuant to F.S. § 316.0083. The local hearing officer may be the Code Enforcement Board, a special magistrate or the city may enter into an interlocal agreement to use the local hearing officer of a county or municipality.

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PETITIONER. The person who requests a hearing before the Local Hearing Officer for a violation issued pursuant to F.S. § 316.0083.

* * *”

SECTION 3. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.05, Adherence to Red Light Traffic Control Signals, is hereby amended and shall henceforth read as follows:

“Section 75.05 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, the crosswalk on the near side of the intersection or, if none, 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 (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 under this section if the driver of the vehicle came 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 4. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.07, Implementation of General Law, is hereby amended and shall henceforth read as follows:

“Section 75.07 IMPLEMENTATION OF GENERAL LAW.

Within the city, the City Manager is authorized to implement the provisions and requirements of Chapters 2010-80 and 2013-160, Laws of Florida ~~(2010)~~, as may be amended from time to time, and may take any action which is necessary for such purpose except the City Council, by resolution, shall appoint a Local Hearing Officer and shall set the amount of the city’s administrative costs, in accordance with the provisions of the Mark Wandall Traffic Safety Act.”

SECTION 5. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.09, Notice of Violation, is hereby amended and shall henceforth read as follows:

“Section 75.09 NOTICE OF VIOLATION.

(A) 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 F.S. § 318.14, and that the violator must pay the penalty of one hundred fifty-eight dollars (\$158.00) to the city, or furnish an affidavit supporting an exemption ~~that complies in accordance with F.S. § 316.0083(1)(d), in accordance with paragraph (11) or request a hearing within thirty sixty (3060) days following the date of the notification in order to avoid court fees, costs, and the issuance of a traffic citation.~~ The notification ~~shall~~ must be sent by first-class mail. The mailing of the notice of violation constitutes notification. The following items and shall be included at a minimum with the notification:

* * *

(10) A statement that the owner must pay a penalty of one hundred fifty-eight dollars (\$158.00) to the city, or provide an affidavit that complies with F.S. § 316.0083(1)(d), or request a hearing within thirty sixty (3060) days of the date the notice is issued in order to avoid court fees, costs, and the issuance of a Uniform Traffic Citation;

(11) 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 constituting a violation of F.S. § 316.074(1) or F.S. § 316.075(1)(c)(1).

(12) Information on the person's right to request a hearing, all court costs related to the hearing and a form to request a hearing or the internet location where the information may be found.

(B) If the registered owner or co-owner of the motor vehicle, or the person designated as having care, custody, or control of the motor vehicle at the time of the violation, or an authorized representative of the owner, co-owner, or designated person, initiates a proceeding to challenge the violation, such person waives any challenge or dispute as to the delivery of the notice of violation."

SECTION 6. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.10, Uniform Traffic Citation, is hereby amended and shall henceforth read as follows:

"Section 75.10 UNIFORM TRAFFIC CITATION.

(A) If an owner receives a notice and fails to pay the penalty imposed by F.S. § 316.0083, to request a hearing, or to provide an affidavit supporting an exemption that complies with the provisions of F.S. § 316.0083(1)(d) within ~~thirty sixty (3060)~~ days of the date the notice is issued, then a Uniform Traffic Citation shall be issued to the owner as provided by general law. ~~The Uniform Traffic Citation shall be issued no later than sixty (60) days after the date the red zone infraction occurs.~~ The owner shall be responsible and liable for paying the Uniform Traffic Citation unless the owner furnishes to the city, within thirty (30) days after the date of issuance of the Uniform Traffic Citation, an affidavit supporting an exemption that complies with F.S. § 316.0083. Upon receipt of an affidavit, the person designated as having care, custody, ~~and or~~ control of the motor vehicle at the time of the violation may be issued a ~~Uniform Traffic Citation notice of violation~~ under this ~~Article chapter~~, and shall ~~be responsible and liable for paying the citation~~ have the ability to request a hearing or the pay the one hundred fifty-eight dollar (\$158.00) penalty within sixty (60) days of receipt of the notice as provided for in Section 75.09. The submission of a false affidavit is a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.

(B) If the registered owner or co-owner of the motor vehicle, or the person designated as having care, custody, or control of the motor vehicle at the time of the violation, or an authorized representative of the owner, co-owner, or designated person, initiates a proceeding to challenge the violation, such person waives any challenge or dispute as to the delivery of the notice of violation."

SECTION 7. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, is hereby amended by including as Section 75.11, the following language:

"Section 75.11 HEARING PROCEDURES.

(A) Upon receipt of petitioner's request for hearing on the required form, submitted to the clerk of the local hearing officer no later than 5:00 p.m. on the sixtieth day following notification, the clerk to the local hearing officer shall schedule the petitioner for a hearing. The notice of hearing shall be sent by first class mail.

(B) The petitioner may reschedule the hearing once by submitting a written request to the clerk to the local hearing officer to reschedule the hearing at least five (5) calendar days before the date of the originally scheduled hearing. The petitioner may cancel his or her appearance before the local hearing officer by paying the one hundred fifty-eight dollar (\$158) penalty plus fifty dollars (\$50) in administrative costs before the start of the hearing.

(C) All testimony at the hearing shall be under oath and shall be recorded. The local hearing officer shall take testimony from the traffic enforcement officer and the petitioner, and may take testimony from others. The local traffic enforcement officer shall review the photographic or electronic images or streaming video of the violation. Formal rules of evidence do not apply, but due process must be observed and govern the proceedings.

(D) At the conclusion of the hearing, the local hearing officer shall determine whether a violation occurred and either uphold or dismiss the violation. The local hearing officer shall issue a final administrative order including the determination and if the violation is upheld, require the petitioner to pay the one hundred fifty-eight dollar (\$158) penalty and may require the petitioner to pay municipal costs not to exceed two hundred fifty dollars (\$250).

(E) The final administrative order must be mailed to the petitioner by first-class mail.

(F) An aggrieved party may appeal the final administrative order consistent with the process provided under F.S. § 162.11."

SECTION 8. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.11, Signage, is hereby amended and shall henceforth read as follows:

"Section 75.1~~4~~2 SIGNAGE.

At any intersection at which the city has installed a traffic infraction detector, 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 F.S. § 316.0745.”

SECTION 9. The City of Palm Bay Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 75, Dangerous Intersection Safety Act, Section 75.12, Consistency with State Law, is hereby amended and shall henceforth read as follows:

“Section 75.123 CONSISTENCY WITH STATE LAW.

(A) This chapter shall be interpreted and applied so that it is consistent with state law, specifically, the Mark Wandall Traffic Safety Act; CS/CS/HB 325 [and the amendments to the Mark Wandall Traffic Safety Act as set forth in CS/CS/HB 7125.](#)

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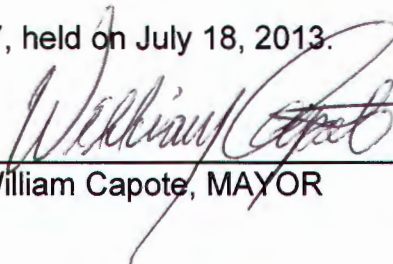
SECTION 10. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 11. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of Ordinances and the sections may be renumbered to accomplish such intention.

SECTION 12. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 13. The provisions within this ordinance shall take effect immediately upon the enactment date.


Read in title only at Meeting No. 2013-16, held on July 2, 2013; and read in title only and duly enacted at Meeting No. 2013-17, held on July 18, 2013.



William Capote, MAYOR

ATTEST:



Alice Passmore, CITY CLERK
Reviewed by CAO: 

Words *stricken* through shall be deleted; *underscored* words shall be included. Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.