

ORDINANCE 2010-06-214

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2007-26-132, REGULATING INTERSECTIONS DETERMINED TO BE DANGEROUS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 14, 2007, the City Council adopted Ordinance No. 2007-26-132, to regulate dangerous intersections within the City of Miami Gardens, and

WHEREAS, the Ordinance authorizes the City to utilize unmanned cameras to monitor and enforce red light infractions, and

WHEREAS, since adopting the Ordinance and implementing enforcement procedures, several inconsistencies have been noted, and

WHEREAS, the City Attorney proposes several amendments to reconcile the inconsistencies in the current Ordinance,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Section G of Ordinance No. 2007-26-132 is hereby amended as follows:

- G. Review of Recorded Images.
  - 1. The owner of the vehicle, which is observed by Recorded Images committing a Red Zone Infraction, shall be issued a Notice of Infraction. The Recorded Image shall be sufficient grounds to issue a City Notice of

Infraction.

2. The City shall designate a Traffic Control Infraction Review Officer(s), who shall meet the qualifications set forth in §316.640(5)(A), Florida Statutes, or any other relevant statute. The Traffic Control Infraction Review Officer(s) shall review Recorded Images prior to the issuance of a Notice of Violation/Infraction to ensure accuracy and the integrity of the Recorded Images. The Traffic Control Infraction Officer(s), or the City's agent, shall also verify that the Traffic Control Monitoring System/Devices that captured the Recorded Images was functioning properly at the time the Recorded Images were captured. Once the Traffic Control Infraction Review Officer has verified the accuracy of the Recorded Images and functionality of the Traffic Control Monitoring System/Devices, ~~he or she shall complete a report, and~~ a Notice of Violation/Infraction shall be sent to the Vehicle Owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles.

Section 3. AMENDMENT: Section H of Ordinance No. 2007-26-132 is hereby amended as follows:

H. Notice of Violation/Infraction.

The Notice of Violation/Infraction shall include:

1. The name and address of the vehicle owner, and the current address as listed on the vehicle registration with the Department of Highway Safety and Motor Vehicles;
2. The license Plate number and registration number of the vehicle;
3. ~~The make, model, and year of the vehicle~~ The make and year of the vehicle;
4. Notice that the violation charged is pursuant to this Ordinance;
5. The location of the intersection where the violation occurred;
6. The date and time of the red zone infraction;
7. Notice that the Recorded Images relating to the vehicle and a statement that the recorded images are evidence of a red zone infraction;
8. The civil penalty imposed;
9. Images depicting violation;

10. The procedures for payment of the civil penalty and contesting the notice of infraction;
11. ~~A signed statement by~~ The name of the Traffic Control Infraction Officer(s) that, based on inspection of recorded images, the vehicle was involved in a Red Zone Infraction;
12. Information advising the person alleged to be liable under this Section, of the manner and time in which liability as alleged in the Notice of Infraction may be appealed, and warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability.

Section 4. AMENDMENT: Section J of Ordinance No. 2007-26-132 is hereby amended as follows:

- J. Appeal to Special Master.
  1. The City's Code Enforcement ~~Special Magistrates~~ Masters are authorized to consider appeals under this Chapter within twenty one (21) days of the date of the Notice of Infraction; the Vehicle Owner may file an appeal with the City pursuant to the directions in the Notice of Infraction. A hearing on the appeal shall be scheduled for all appeals except those in which the Vehicle Owner submits an affidavit pursuant to Section K of this Ordinance in which the Vehicle Owner affirms under penalty of perjury that the vehicle was not under his or her care, custody or control, or that of someone with Vehicle Owner's consent.
  2. Upon receipt of the appeal, the City shall schedule a hearing before the Special Master but in no event shall a hearing be scheduled for a date that is more than six (6) months from the date that the Notice of Appeal was received. ~~to occur not later than sixty (60) days after City's receipt of the appeal.~~ A Notice of Hearing shall be provided to the Vehicle Owner no less than ~~ten (10)~~ five (5) days prior to the hearing, and shall be provided by ~~certified and U.S. mail to the same address to which the Notice of Infraction was sent to the current address as listed on the vehicle registration with the Department of Highway Safety and Motor Vehicles~~
  3. The following shall be permissible grounds for an appeal:
    - a. At the time of the infraction, the vehicle was not under the care, custody, or control of the Vehicle Owner or an individual with Vehicle Owner's consent, established pursuant to affidavit as provided in Section K of this Ordinance;

- b. The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the citation issued under this Section, for violating the steady red traffic control signal;
  - c. The motor vehicle driver was required to violate the steady red traffic control signal in order to comply with other governing laws;
  - d. 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'
  - e. The steady red traffic control signal was inoperable or malfunctioning.
  - f. ~~Any other reason the Special Master deems appropriate~~ The Special Master determines that the City violated a provision of the Ordinance.
4. The hearing shall be conducted in accordance with Ordinance No. 2004-11-27, as amended.
  5. Recorded Images indicating a Red Zone Infraction, verified by the Traffic Control Infraction Review Officer, are admissible in any proceeding before the City's Special Master to enforce the provisions of this Chapter and shall constitute prima facie evidence of the violation.
  6. Unless an affidavit is provided pursuant to Section K of this Ordinance, it is presumed the person registered as the vehicle owner with the Florida Department of Motor Vehicles or any other state vehicle registration office, or an individual having the owner's consent, was operating the vehicle at the time of a Red Zone Infraction.

Section 5. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 6. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered ore relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

Section 8. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 27TH DAY OF JANUARY, 2010.

PASSED ON SECOND READING ON THE 10TH DAY OF FEBRUARY, 2010.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 10TH DAY OF FEBRUARY, 2010.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

Ordinance No. 2010-06-214

Moved by: Councilman Campbell  
Second by: Vice Mayor Gilbert

**VOTE:** 6-1

Mayor Shirley Gibson	<u>  X  </u> (Yes)	____(No)
Vice Mayor Oliver Gilbert III	<u>  X  </u> (Yes)	____(No)
Councilman Melvin L. Bratton	<u>  X  </u> (Yes)	____(No)
Councilman Aaron Campbell	<u>  X  </u> (Yes)	____(No)
Councilman Andre' Williams	<u>  X  </u> (Yes)	____(No)
Councilwoman Sharon Pritchett	____ (Yes)	<u>  X  </u> (No)
Councilwoman Barbara Watson	<u>  X  </u> (Yes)	____(No)



## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	February 10, 2010		<b>Item Type:</b>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
			<i>(Enter X in box)</i>		X		
<b>Fiscal Impact:</b>	Yes	No	<b>Ordinance Reading:</b>	<b>1<sup>st</sup> Reading</b>		<b>2<sup>nd</sup> Reading</b>	
<i>(Enter X in box)</i>				<i>(Enter X in box)</i>			
		X	<b>Public Hearing:</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
				<i>(Enter X in box)</i>			X
<b>Funding Source:</b>	N/A		<b>Advertising Requirement:</b>	<b>Yes</b>		<b>No</b>	
				<i>(Enter X in box)</i>		X	
<b>Contract/P.O. Required:</b>	Yes	No	<b>RFP/RFQ/Bid #:</b>	N/A			
<i>(Enter X in box)</i>		X					
<b>Sponsor Name</b>	Sonja K. Dickens, Esq., City Attorney		<b>Department:</b>	City Attorney's Office			

**Short Title:**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ORDINANCE NO. 2007-26-132, REGULATING INTERSECTIONS DETERMINED TO BE DANGEROUS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

**Staff Summary:**

On November 14, 2007, the City Council adopted Ordinance No. 2007-26-132, to regulate dangerous intersections. The Ordinance authorizes the City to utilize unmanned cameras to monitor drivers who commit red light infractions. Since the implementation of the Red Light Camera program, some minor

**ITEM I-2) ORDINANCE  
SECOND READING/PUBLIC HEARING  
Amending Ord. 2007-26-132**

inconsistencies in how the program is operating and the language of the Ordinance have been noted. The City Attorney proposes several amendments to reconcile inconsistencies in the current Ordinance.

**Proposed Action:**

It is recommended that the City Council approve the amendments to the “Dangerous Intersections” Ordinance.

**Attachment:**