

4-D

## AGENDA ITEM SUMMARY

**Meeting Date:** September 14, 2010      ☐ **Consent**      ☐ **Regular**  
**Department:**      ☐ **Workshop**      ☒ **Public Hearing**

## I. EXECUTIVE BRIEF

**Motion and Title: Staff recommends motion to adopt:** an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Palm Beach County Code Chapter 19, Article IV, Red Light Cameras; (Ordinance 2008-013), relating to the use of unmanned cameras at traffic signals to promote traffic safety; providing for title and purpose; deleting use of image capture technologies; providing for traffic infraction detectors; deleting definitions; providing for adherence to red light traffic control signals; providing for violation; providing for signs at monitored intersections; providing for review of recorded images; providing for notice of violation; deleting vehicle owner responsibilities; providing for issuance of a traffic citation; providing for owners defenses; providing for penalties; providing for administrative costs; no commissions; deleting civil penalties; deleting exceptions; deleting three-month notice; introductory period; providing for accounting for program revenues and expenditures; providing for consistency with state law; providing for applicability; providing for severability; providing for inclusion in the code of laws and ordinances; providing for captions; providing for savings, ratification and reservation of rights; and providing for effective date.

**Summary:** This Ordinance was before the Board of County Commissioners (Board) on August 17, 2010 for preliminary reading and permission to advertise. It amends the Red Light Camera Ordinance that was adopted on May 20, 2008. During the 2010 Legislative Session, the Legislature authorized the use of red light cameras as traffic infraction detectors to enforce Chapter 316, the State Uniform Traffic Code, and established the requirements for use of such devices by local governmental entities. This amendment is necessary to comply with the legislation. Countywide (MRE)

**Background and Policy Issues:** On May 20, 2008, with adoption of Ordinance No. 2008-013, the Board approved the use of unmanned cameras in Palm Beach County and established a program to enforce such violations.

During the 2010 Legislative Session, the Florida Legislature passed CS/CS/HB325, authorizing the use of red light cameras as traffic infraction detectors. This legislation was signed into law by the Governor resulting in "Mark Wandall Traffic Safety Act" or "Act" (2010-80, Laws of Florida) and took effect on July 1, 2010. Pursuant to the Act, the regulation and use of cameras is expressly preempted by the State.

**Attachments:**

1. Proposed Ordinance Amendment: Strike-through/underlined version
2. Proposed Ordinance Amendment: Clean version
3. Current Red Light Camera Safety Ordinance (R2008-013)

**Recommended by:**

9/8/10  
Date

Date \_\_\_\_\_

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

| <b>Fiscal Years</b>            | <b>2010</b>   | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> |
|--------------------------------|---------------|-------------|-------------|-------------|-------------|
| <b>Capital Expenditures</b>    | <b>\$ -0-</b> | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  |
| <b>Operating Costs</b>         | <b>-0-</b>    | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  |
| <b>External Revenues</b>       | <b>-0-</b>    | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  |
| <b>Program Income (County)</b> | <b>-0-</b>    | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  |
| <b>In-Kind Match (County)</b>  | <b>-0-</b>    | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  |
| <b>NET FISCAL IMPACT</b>       | <b>\$ -0-</b> | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  | <b>-0-</b>  |

# ADDITIONAL FTE

### POSITIONS (Cumulative)

**Is Item Included in Current Budget?**

**Yes**

**No.** \_\_\_\_\_

**Budget Acct No.: Fund**\_\_\_\_ **Dept.**\_\_\_\_ **Unit**\_\_\_\_ **Object**\_\_\_\_  
Program

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Fiscal impact is indeterminable at this time. The fee has changed in order to be consistent with the adopted Senate Bill. However, the terms have also changed whereby there will not be a delay in the time a citation will be issued. A separate fund has been established in FY 2011 in order to collect citation fines and to pay the contractor.

### C. Departmental Fiscal Review:

### III. REVIEW COMMENTS

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

OFMB

In. J. Swales 9/8/10  
Contract Dev. and Control

**B. Approved as Form and Legal Sufficiency:**

Marlene R. Pitts 9/9/10  
Assistant County Attorney

**C. Other Department Review:**

**Department Director**

**This summary is not to be used as a basis for payment.**

ORDINANCE NO. 2010 - \_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 19, ARTICLE IV, RED LIGHT CAMERAS; (ORDINANCE 2008-013), RELATING TO THE USE OF UNMANNED CAMERAS AT TRAFFIC SIGNALS TO PROMOTE TRAFFIC SAFETY; PROVIDING FOR TITLE AND PURPOSE; DELETING USE OF IMAGE CAPTURE TECHNOLOGIES; PROVIDING FOR TRAFFIC INFRACTION DETECTORS; DELETING DEFINITIONS; PROVIDING FOR ADHERENCE TO RED LIGHT TRAFFIC CONTROL SIGNALS; PROVIDING FOR VIOLATION; PROVIDING FOR SIGNS AT MONITORED INTERSECTIONS; PROVIDING FOR REVIEW OF RECORDED IMAGES; PROVIDING FOR NOTICE OF VIOLATION; DELETING VEHICLE OWNER RESPONSIBILITIES; PROVIDING FOR ISSUANCE OF A TRAFFIC CITATION; PROVIDING FOR OWNERS DEFENSES; PROVIDING FOR PENALTIES; PROVIDING FOR ADMINISTRATIVE COSTS; NO COMMISSIONS; DELETING CIVIL PENALTIES; DELETING EXCEPTIONS; DELETING THREE-MONTH NOTICE; INTRODUCTORY PERIOD; PROVIDING FOR ACCOUNTING FOR PROGRAM REVENUES AND EXPENDITURES; PROVIDING FOR CONSISTENCY WITH STATE LAW; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS; AND PROVIDING FOR EFFECTIVE DATE.

**WHEREAS**, Palm Beach County is located in a high density traffic area and regularly experiences traffic incidents related to the failure of motorists to obey duly erected traffic control devices, which exposes its citizens and visitors to the dangers of personal injury and property damages; and

1           **WHEREAS**, the Board of County Commissioners determined that the use of  
2 unmanned cameras would be effective in enforcing laws requiring vehicles to stop for  
3 red lights, thereby freeing law enforcement officers to respond to other, often more  
4 significant incidents and crime; and

5           **WHEREAS**, on May 20, 2008 the Board of County Commissioners enacted  
6 Ordinance 2008-013 to promote compliance with red light directives and to use traffic  
7 infractions to establish red light violations; and

8           **WHEREAS**, the Florida Legislature passed CS/CS/HB325 during the 2010  
9 Legislative Session authorizing the use of red light cameras as traffic infraction  
10 detectors to enforce Chapter 316, the State of Florida Uniform Traffic Code; and

11           **WHEREAS**, the Governor of the State of Florida signed CS/CS/HB325 into  
12 law on May 13, 2010, resulting in the Law of Florida 2010-80 taking effect on July 1,  
13 2010; and

14           **WHEREAS**, implementation of Chapter 2010-80, Laws of Florida, requires  
15 amendments to the County Code;

16           **WHEREAS**, the running of red lights continues to be a safety hazard affecting  
17 every citizen and traveler in Palm Beach County; and

18           **WHEREAS**, the Board of County Commissioners finds that establishing a local  
19 traffic infraction detection program and implementing such a program will result in the  
20 enhanced health, safety and welfare of those who travel on, over or near those  
21 intersections in Palm Beach County that are outfitted with traffic infraction detectors;  
22 and

1           **WHEREAS**, the Board of County Commissioners wishes to reduce the running  
2 of red lights by amending its Code of Ordinances to implement 2010-80 Laws of  
3 Florida.

4           **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
5 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

6   **Section 1. Recitals**

7           The foregoing recitals are hereby ~~adopted~~ ratified and confirmed as being true  
8 and correct and are hereby made a specific part of this Ordinance.

9   **Section 2.**

10           Chapter 19 (Motor Vehicles and Traffic) Article IV (Red Light Cameras) of the  
11 Palm Beach County code is hereby amended as follows:

12   **Sec. 19-111. Title and Purpose**

13           This Article shall be known as the "Red Light Camera Safety Article" (Article).  
14           The purpose of this Article is to authorize the use of ~~Image Capture Technology~~  
15 traffic infraction detectors, in accordance with general law, including Chapter 2010-  
16 80, Laws of Florida (2010), the "Mark Wandall Traffic Safety Act" or "Act" within the  
17 County's jurisdiction and to promote compliance with red light signals as proscribed  
18 by this Article, and to ~~adopt a civil enforcement system for red light signal violations.~~

19   **Sec. 19-112. Use of ~~Image Capture Technologies~~ Traffic Infraction Detectors**

20           The Palm Beach County exercises its option under s.316.008, Florida  
21 Statutes, to use traffic infraction detectors within its jurisdiction to enforce  
22 s.316.074(1) or s.316.075(1)(c)(1), Florida Statutes and to utilize traffic infraction  
23 detectors as a supplemental means of assisting law enforcement personnel in the

1 enforcement and monitoring of laws related to traffic control signals as permitted and  
2 provided for by state laws that are designed to protect and improve the public health,  
3 safety and welfare of the community and thereby reduce accidents, injuries and  
4 disruption of traffic when a driver fails to stop at a traffic signal on streets and  
5 highways under the County's jurisdiction. ~~owns, operates and maintains county~~  
6 ~~roads and therefore the County is authorized to utilize image capture technologies to~~  
7 ~~promote the safe, efficient and orderly use of county roads to protect and improve~~  
8 ~~the public health, safety and welfare of the community and thereby reduce accidents,~~  
9 ~~injuries and disruption of traffic. The Department of Engineering and Public Works~~  
10 ~~shall be responsible for coordinating and establishing administrative policies~~  
11 ~~germane to the effective and timely implementation of provisions set forth in the~~  
12 ~~Article.~~

13 **Sec. 19-113. Definitions**

14 ~~\_\_\_\_\_ The following definitions shall apply to this Article:~~

15 ~~\_\_\_\_\_ (a) *Intersection* shall mean the area embraced within the prolongation~~  
16 ~~or connection of the lateral curb line or, if none, then the lateral boundary lines, of the~~  
17 ~~roadways of two roads which join or intersect one another at, or approximately at,~~  
18 ~~right angles or the area within which vehicles traveling upon different roads joining at~~  
19 ~~any other angle may come in conflict.~~

20 ~~\_\_\_\_\_ (b) *Motor Vehicle* shall mean any self-propelled vehicle not operated~~  
21 ~~upon rails or guide ways. Motor Vehicles shall not include any bicycle, motorized~~  
22 ~~scooter, electric personal assisted mobility device or moped.~~

1 ~~\_\_\_\_\_ (c) Notice of Infraction shall mean a Palm Beach County citation issued~~  
2 ~~for a Red Zone Infraction.~~

3 ~~\_\_\_\_\_ (d) Owner/Vehicle Owner shall mean the person or entity identified by~~  
4 ~~the Florida Department of Motor Vehicles or other state vehicle registration office, as~~  
5 ~~the registered Owner of a Vehicle. Such term shall also mean a lessee of a Motor~~  
6 ~~Vehicle pursuant to a lease of six months or more.~~

7 ~~\_\_\_\_\_ (e) Recorded Images shall mean images recorded by a Traffic Control~~  
8 ~~Signal Monitoring System/Device presented on:~~

9 ~~\_\_\_\_\_ (1) A photograph;~~  
10 ~~\_\_\_\_\_ (2) An electronic image;~~  
11 ~~\_\_\_\_\_ (3) A digital image;~~  
12 ~~\_\_\_\_\_ (4) A video recording; or~~  
13 ~~\_\_\_\_\_ (5) Any other medium; and~~

14 ~~which shows the rear of a Motor Vehicle and on at least one image clearly identifies~~  
15 ~~the license plate number of the Motor Vehicle.~~

16 ~~\_\_\_\_\_ (f) Image Capture Technology/Traffic Control Signal Monitoring~~  
17 ~~System/Device shall mean an electronic system consisting of one or more Motor~~  
18 ~~Vehicle sensors, working in conjunction with a Traffic Control Signal, still camera~~  
19 ~~and/or video recording device, to capture and produce Recorded Images of Motor~~  
20 ~~Vehicles entering an Intersection against a steady red light signal indication.~~

21 ~~\_\_\_\_\_ (g) Red Zone Infraction shall mean a traffic offense whereby a Traffic~~  
22 ~~Control Signal Monitoring System establishes that a Motor Vehicle entering and~~  
23 ~~proceeding through the Intersection controlled by a duly erected traffic control device~~

1 at a time when the Traffic Control Signal for such Motor Vehicle's direction was  
2 emitting a steady red signal.

3 ~~\_\_\_\_\_ (h) Palm Beach County Hearing Officer shall mean an individual~~  
4 ~~appointed by the County Administrator from a pool of either the Hearing Officer or~~  
5 ~~Special Master Candidates selected by the Board of County Commissioners to~~  
6 ~~conduct hearings pursuant to Article 17 of the ULDC.~~

7 ~~\_\_\_\_\_ (i) Traffic Control Signal shall mean a device exhibiting different~~  
8 ~~colored lights or lighted arrows, successively one at a time or in combination, using~~  
9 ~~only the colors green, yellow and red that indicate and apply to drivers of Motor~~  
10 ~~Vehicles as provided in Florida Statutes §316.075.~~

11 **Sec. 19-113. Adherence to Red Light Traffic Control Signals**

12 Pursuant to general law, a Motor Vehicle traffic facing a traffic control  
13 signal's steady red light indication shall stop before: (1) Entering the crosswalk on  
14 the near side of an intersection; or, (2) if none, crosswalk exists, then before  
15 entering the intersection. ~~Once stopped, the motor vehicle and~~ shall remain  
16 standing until a green indication is shown on the traffic control device signal.  
17 However, the driver of a motor vehicle may not receive a notice of violation or traffic  
18 citation for failure to stop at a red light if the driver is making a right-hand turn in a  
19 careful and prudent manner where right-hand turns are permissible. ~~which is~~  
20 ~~stopped in obedience of a steady red traffic control signal, may make a right turn~~  
21 ~~unless such turn is otherwise prohibited by posted sign or other traffic control device.~~

22  
23 **Sec. 19-114. Violation**



1           A violation of this Article, known as a red zone violation ~~infraction~~, shall occur  
2   when ~~the operator of~~ a motor vehicle does not comply with the requirements of  
3   section 19-113. ~~Violations shall be enforced pursuant to this Article. This Article~~  
4   supplements enforcement of s.316.074(1) or s.316.075(1)(c)(1), Florida Statutes by  
5   law enforcement officers, and shall not prohibit law enforcement personnel from  
6   issuing a citation for a red light signal violation in accordance with normal statutory  
7   enforcement techniques. ~~This section shall not supersede, infringe, curtail or~~  
8   ~~impinge upon state laws related to red light signal violations or conflict with such~~  
9   ~~laws. Notices of Infraction issued pursuant to this Article shall not be by Florida~~  
10   ~~Uniform Traffic Citation and shall not be subject to prosecution or appeal in the~~  
11   ~~county courts.~~

12   **Sec. 19-115. Warning Signs at Monitored Intersections**

13           ~~At Eeach I~~ntersection which has a ~~T~~raffic infraction Control Signal Monitoring  
14   ~~detector D~~evice installed, the County shall notify the public that a traffic infraction  
15   ~~detector may be in use at the intersection. Such signage shall meet the~~  
16   specifications for uniform signals and devices adopted by the Department of  
17   Transportation. ~~shall be identified as a "Monitored Intersection" by appropriate~~  
18   ~~signage to be posted no less than 300 feet before the Intersection, unless conditions~~  
19   ~~exist which necessitate placement of the signs closer to the Intersection. The~~  
20   ~~warning signs may indicate the operation of the Traffic Control Signal Monitoring~~  
21   ~~Device at the Intersection and that failure to obey the red light in accordance with this~~  
22   ~~Article will result in the issuance of a Notice of Infraction. The absence of warning~~  
23   ~~signs at any particular Monitored Intersection will not affect the validity of a Notice of~~

1 ~~Infraction issued for a Red Zone Infraction at that Intersection. The absence of~~  
2 ~~warning signs at a Monitored Intersection shall not constitute grounds for an appeal~~  
3 ~~of a Notice of Infraction issued pursuant to this Article.~~

4 **Sec. 19-116. Review of Recorded Images**

5 The owner of a motor vehicle that is shown by photographs or electronic  
6 images or streaming video, (recorded images) to have been operated so as to have  
7 committed a violation ~~red zone infraction~~ shall be issued a notice of infraction no later  
8 than thirty (30) days after the violation occurs. The recorded image shall be  
9 sufficient grounds to issue a notice of infraction.

10 One, or more, traffic control infraction reviewer(s) enforcement officer(s) shall  
11 be designated who meet the qualifications set forth in the Act or any other relevant  
12 statute. A traffic control infraction reviewer enforcement officer(s) shall review  
13 recorded images prior to the issuance of a notice of infraction to ensure accuracy  
14 and the integrity of the recorded images. Once a the traffic control infraction  
15 reviewer enforcement officer has verified the accuracy and integrity of the recorded  
16 images and determined that a ~~red zone infraction~~ violation occurred, he or she shall  
17 approve complete a review of the violation and authorize enforcement action, and a  
18 the notice of infraction and provide such notice to the Vehicle the violation shall be  
19 sent to the Owner in compliance with Part I, Chapter 162.12, Florida Statute. at the  
20 address on record with the Florida Department of Highway Safety and Motor Vehicles  
21 or any other state's vehicle registration office.

22 **Sec. 19-117. Notice of Infraction Violation**

- 1        1. A violation shall occur when a motor vehicle does not comply with the  
2        requirements of section 19-113 of this code.
- 3        2. Within thirty (30) days after a violation, notification must be sent to the  
4        registered owner of the motor vehicle involved in the violation  
5        specifying the remedies available under s.318.14, Florida Statutes, and  
6        that the violator must pay the penalty of \$158.00 to Palm Beach  
7        County's Notice of Infraction shall include: or furnish an affidavit  
8        supporting an exemption that complies with s.316.0083 in accordance  
9        with section 19.119, within thirty (30) days following the date of the  
10       notification in order to avoid court fees, costs, and the issuance of a  
11       traffic citation. The Notification shall be sent by first-class mail and  
12       shall include:
- 13       (1)(a) The name and address of the vehicle owner;
- 14       (2)(b) The license plate number and registration number of the motor  
15       vehicle involved in the infraction;
- 16       (3)(c) The make, model, year and color of the motor vehicle;
- 17       (4)(d) Notice that the ~~red zone Infraction~~ violation is pursuant to  
18       s.316.074(1) or s.316.075(1)(c)(1), Florida Statutes as codified  
19       in this Article;
- 20       (5)(e) The location of the intersection ~~or roadway~~ where the violation  
21       ~~red zone Infraction~~ occurred;
- 22       (6)(f) The date and time of the ~~red zone Infraction~~ violation;

- 1                   ~~(7)(g) Notice of the recorded images relating to the motor vehicle~~ A  
2                                   ~~statement that the owner has the right to review the recorded~~  
3                                   ~~images that constitute a rebuttable presumption against the~~  
4                                   ~~owner, together with~~ and a statement that the recorded images  
5                                   are of the time and place or internet location where the  
6                                   evidence of a red zone infraction may be examined;
- 7                   ~~(8)(h)~~ A statement that the owner must pay a ~~The civil penalty of \$158~~  
8                                   to the county or provide an affidavit within thirty (30) days of  
9                                   the date the notice is issued in order to avoid court fees, costs,  
10                                  and the issuance of a Uniform Traffic Citation to be imposed;
- 11                   ~~(9)(i)~~ Instructions on all methods of ~~T~~the procedures for payment of  
12                                   the civil penalty; and ~~contesting the Notice of Infraction~~;
- 13                   ~~(10)~~ A signed statement by the Traffic Control Infraction Reviewer  
14                                   ~~that, based on inspection of the recorded images, the motor~~  
15                                   ~~vehicle was involved in a red zone infraction~~;
- 16                   ~~(11)~~ Information advising the vehicle owner of the manner and time  
17                                   ~~in which the Notice of Infraction may be appealed and warning~~  
18                                   ~~that a failure to pay the civil penalty or to contest the Notice of~~  
19                                   ~~Infraction in a timely manner is an admission of the red zone~~  
20                                   ~~infraction and will result in the entry of a judgment against the~~  
21                                   ~~Vehicle Owner.~~

22    **Sec. 19-118 Vehicle Owner Responsibilities Issuance of a Traffic Citation**

1        1. When payment has not been made within thirty (30) days after  
2 notification under subparagraph 2 of Sec. 19-117, a traffic citation issued under this  
3 section shall be issued by mailing the traffic citation by certified mail to the address of  
4 the registered owner of the motor vehicle involved in the violation.

5        2. Delivery of the traffic citation constitutes notification under this section.

6        3. In the case of joint ownership of a motor vehicle, the traffic citation  
7 shall be mailed to the first name appearing on the registration, unless  
8 the first name appearing on the registration is a business organization,  
9 in which case the second name appearing on the registration may be  
10 used.

11       4. The traffic citation shall be mailed to the registered owner of the motor  
12 vehicle involved in the violation no later than sixty (60) days after the  
13 date of the violation.

14       5. Included with the notification to the registered owner of the motor  
15 vehicle involved in the infraction, shall be a notice that the owner has  
16 the right to review, either in person or remotely, the photographic or  
17 electronic images or the streaming video evidence that constitutes a  
18 rebuttable presumption against the owner of the vehicle. The notice  
19 must state the time and place or internet location where the evidence  
20 may be examined and observed.

21       6. If a traffic citation is issued under s.316.0083, Florida Statutes, and this  
22 section, the traffic infraction enforcement officer shall provide by  
23 electronic transmission a replica of the traffic citation data to the court

1                    having jurisdiction over the alleged offense or its traffic violations  
2                    bureau within five (5) days after the date of issuance of the traffic  
3                    citation to the violator.

4                    A Vehicle Owner receiving a Notice of Infraction may, within thirty (30) days of  
5                    the date of the Notice of Infraction:

6                    (a) — Pay the assessed civil penalty pursuant to instructions on the  
7                    Notice of Infraction; or

8                    (b) — Request an appeal pursuant with procedures as outlined in this  
9                    Article.

10                  The failure to comply with the provisions of this Section within thirty (30) days  
11                  from the date of Notice of Infraction shall constitute a waiver of the right to contest  
12                  the Notice of Infraction and will be considered an admission and will result in the  
13                  entry of a judgment against the Vehicle Owner as provided for in Part I, Chapter 162,  
14                  Florida Statutes.

15                  **Sec. 19-119. Appeal to Palm Beach County's Hearing Officer Owners Defenses**

16                  1.        The owner of the motor vehicle involved in the violation is responsible  
17                  and liable for paying the violation and traffic citation issued for a  
18                  violation of s.316.074(1) or s.316.075(1)(c)1, Florida Statutes, when  
19                  the driver failed to stop at a traffic signal, unless the owner can  
20                  establish that:

21                  Palm Beach County's Hearing Officer is authorized to consider appeals under  
22                  this Article. Within thirty (30) days of the date of the Notice of Infraction, the Vehicle  
23                  Owner may file an appeal with Palm Beach County pursuant to the directions in the

1 ~~Notice of Infraction. A hearing on the appeal shall be scheduled for all appeals.~~

2

3 ~~Upon receipt of this appeal, Palm Beach County shall schedule a hearing~~  
4 ~~before Palm Beach County's Hearing Officer. Notice of the hearing shall be~~  
5 ~~provided to the Vehicle Owner no less than ten (10) days prior to the hearing and~~  
6 ~~shall be provided by certified and U.S. Mail to the same address to which the Notice~~  
7 ~~of Infraction was sent.~~

8 ~~The following shall be permissible grounds for an appeal:~~

9 ~~(1)(a) Tthe motor vehicle was, Aat the time of the infraction violation,~~  
10 ~~the motor vehicle was not under in the care, custody, or control~~  
11 ~~of the Vehicle Owner or an individual with the Vehicle Owner's~~  
12 ~~consent another person.~~

13 ~~(2)(b) The motor vehicle driver A uniform traffic citation was issued -a~~  
14 ~~citation for violating a traffic signal by a law enforcement~~  
15 ~~officer to the driver of the motor vehicle for the alleged violation~~  
16 ~~of s.316.074(1) or s.316.075(1)(c)1, Florida Statute. which was~~  
17 ~~separate and distinct from the Notice of Infraction issued under~~  
18 ~~this Article for violating the steady red Traffic Control Signal;~~

19 ~~(3)(c) The motor vehicle driver passed through the intersection in~~  
20 ~~order to yield right-of-way to an emergency vehicle or as part of~~  
21 ~~a funeral procession was required to violate the steady red~~  
22 ~~Traffic Control Signal in order to comply with other governing~~  
23 ~~laws ;~~

1                   (4)(d) The motor vehicle passed through the intersection at the  
2                               direction of a law enforcement officer ~~driver was required to~~  
3                               ~~violate the steady red Traffic Control Signal in order to~~  
4                               reasonably protect the property or person of another;

5                   (5) ~~The steady red Traffic Control Signal was inoperable or~~  
6                               malfunctioning;

7               2.     In order to establish facts to support his/her defense as provided above,  
8     the owner of the motor vehicle shall, within thirty (30) days after the date of issuance  
9     of the notice of violation or traffic citation, furnish to the appropriate governmental  
10    entity an affidavit setting forth detailed information supporting an exemption as  
11    provided in this paragraph.

12               (a) An affidavit supporting an exemption under paragraph 1.(a) above  
13                       must include the name, address, date of birth, and if known, the  
14                       driver's license number of the person who leased, rented, or  
15                       otherwise had care, custody, or control of the motor vehicle at the  
16                       time of the alleged violation. If the vehicle was stolen at the time  
17                       of the alleged offence, the affidavit must include the police report  
18                       indicating that the vehicle was stolen.

19               (b)    If a traffic citation for a violation of s.316.074(1) or  
20                       s.316.075(1)(c)1, Florida Statutes, was issued at the location of  
21                       the violation by a law enforcement officer, the affidavit must  
22                       include the serial number of the uniform traffic citation.



1                   (c) Upon receipt of an affidavit, the person designated as having care,  
2                   custody, and control of the motor vehicle at the time of the  
3                   violation may be issued a traffic citation for a violation of  
4                   s.316.074(1) or s.316.075(1)(c)1, Florida Statutes, when the driver  
5                   failed to stop at a traffic signal. The affidavit is admissible in a  
6                   proceeding pursuant to this section for the purpose of providing  
7                   proof that the person identified in the affidavit was in actual care,  
8                   custody, and control of the motor vehicle. The owner of a leased  
9                   vehicle for which a traffic citation is issued for a violation of  
10                  s.316.074(1) or s.316.075(1)(c)1, Florida Statutes, when the driver  
11                  failed to stop at a traffic signal is not responsible for paying the  
12                  traffic citation and is not required to submit an affidavit as specified  
13                  in this subsection if the motor vehicle involved in the violation is  
14                  registered in the name of the lessee of such motor vehicle.  
15                  (d) The submission of a false affidavit is a misdemeanor of the second  
16                  degree, punishable as provided in s.775.082 or s.775.083, Florida  
17                  Statutes.

18  
19                  ~~All testimony before the Hearing Officer shall be under oath and shall be~~  
20                  ~~recorded. The Traffic Control Infraction Reviewer who issued the Notice of Infraction~~  
21                  ~~shall testify at the appeal. Then, the Vehicle Owner may present evidence and~~  
22                  ~~testimony and cross-examine witnesses. The formal rules of evidence shall not~~  
23                  ~~apply, but fundamental due process shall be observed and shall govern the~~

1 ~~proceedings. Upon determination of the Hearing Officer, irrelevant, immaterial and~~  
2 ~~unduly repetitious evidence may be excluded, but all other evidence of a type~~  
3 ~~commonly relied upon by reasonable prudent persons in the conduct of their affairs~~  
4 ~~shall be admissible. Any part of the evidence may be received in written form. The~~  
5 ~~Hearing Officer may inquire of or question any witness present at the hearing. The~~  
6 ~~Vehicle Owner or his/her attorney and the Traffic Control Infraction Reviewer or~~  
7 ~~his/her attorney shall be permitted to inquire of any witness present at the hearing.~~  
8 ~~The Hearing Officer may consider testimony presented by the Vehicle Owner, the~~  
9 ~~Traffic Control Infraction Reviewer or any other witness. All decisions by the Hearing~~  
10 ~~Officer shall be final and reviewable by writ of certiorari to Palm Beach County Circuit~~  
11 ~~Court.~~

12 ~~Recorded Images indicating a red zone infraction verified by a Traffic Control~~  
13 ~~Infraction Reviewer are admissible in any proceeding before Palm Beach County's~~  
14 ~~Hearing officer to enforce the provisions of this Article.~~

15 **Sec. 19-120. Penalties**

16 Penalties to be assessed by the County for a violation of this Article shall be in  
17 the amount of one hundred fifty-eight dollars (\$158.00) when a driver has failed to  
18 stop at a traffic signal if enforcement is by a County traffic infraction enforcement  
19 officer. ~~A red zone Infraction, in violation of this Article shall be deemed a non-~~  
20 ~~criminal, civil infraction for which a civil penalty in the amount of \$125.00 shall be~~  
21 ~~assessed.~~

22 ~~As the violation relates to this Article and not the State Statutes, No points~~  
23 ~~shall be imposed for a violation of s.316.074(1) or s.316.075(1)(c)1, Florida Statutes,~~

1 when a driver has failed to stop at a traffic signal and when enforced by a traffic  
2 infraction enforcement officer. In addition, when a driver has failed to stop at a traffic  
3 signal in violation of s.316.074(1) or s.316.075(1)(c)1, Florida Statutes, and when  
4 enforced by a traffic infraction enforcement officer, the violation may not be used for  
5 purposes of setting motor vehicle insurance rates, as provided in F.S. §322.27 shall  
6 be recorded on the driving record of the Vehicle Owner or responsible party.

7 **Sec. 19-121. Administrative Costs; No Commissions**

8 An individual may not receive a commission or per ticket fee from any revenue  
9 collected from violations detected through the use of a traffic infraction detector. A  
10 manufacturer or vendor may not receive a fee or remuneration based upon the  
11 number of violations detected through the use of a traffic infraction detector.

12 ~~In addition to the civil penalty assessed pursuant to Section 12, there shall be~~  
13 ~~imposed and assessed against the Vehicle Owner an administrative cost of \$25.00 in~~  
14 ~~the event of an unsuccessful appeal of the Notice of Infraction.~~

15 **Sec. 19-123. Collection of Civil Penalties**

16 ~~— Palm Beach County may establish procedures for the collection of civil~~  
17 ~~penalties and administrative costs imposed herein and may enforce such penalty by~~  
18 ~~civil action in the nature of debt collection.~~

19 **Sec. 19-124. Exceptions**

20 ~~— This Article shall not apply to Red Zone Infractions involving vehicle collisions~~  
21 ~~investigated by a law enforcement officer or to any authorized emergency vehicle~~  
22 ~~responding to a *bona fide* emergency.~~

23 **Sec. 19-125. Three-Month Notice; Introductory Period**

1       ~~For the first three months after the first installation is installed and this Article~~  
2       ~~is in effect, the Vehicle Owner shall receive a courtesy Notice of Infraction.~~  
3       ~~Subsequently, the Vehicle Owner is subject to the enforcement provisions as~~  
4       ~~provided herein.~~

5       **Sec. 19-122. Accounting for Program Revenues and Expenditures**

6           1. Penalties assessed and collected by the County for a violation of this  
7       Article is one hundred fifty eight dollars (\$158.00) when a driver has failed to stop at  
8       a traffic signal if enforcement is by a County traffic infraction enforcement officer.  
9       Seventy dollars (\$70.00) shall be remitted by the County to the Department of  
10       Revenue for deposit into the General Revenue Fund, ten dollars (\$10.00) shall be  
11       remitted to the Department of Revenue for deposit into the Department of Health  
12       Administrative Trust Fund, three dollars (\$3.00) shall be remitted to the Department  
13       of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund, and  
14       seventy-five dollars (\$75.00) shall be retained by the County pursuant to law.

15           2. Penalties assessed and collected by the County less the amount  
16       retained by the County pursuant to this section shall be paid to the state Department  
17       of Revenue weekly by electronic funds transfers. In addition to the payment,  
18       summary detail of the penalties remitted shall be reported to the Department of  
19       Revenue.

20           3. If a person who is cited for a violation of s.316.074(1) or  
21       s.316.075(1)(c)1, Florida Statutes, as enforced by a traffic infraction enforcement  
22       officer under s.316.0083, Florida Statutes, presents documentation from the  
23       appropriate governmental entity that the traffic citation was in error, the clerk of court

1 may dismiss the case. Pursuant to s.318.18(5), Florida Statutes, the clerk of court  
2 may not charge for this service. ~~Revenue and expenditures derived from this activity~~  
3 ~~shall be accounted for in the County's general fund and deposited and segregated in~~  
4 ~~a county special revenue fund.~~

5 **Sec. 19-123. Consistency with State Law**

6 1. This Article shall be interpreted and applied so that it is consistent with  
7 state law, specifically, the Mark Wandall Traffic Safety Act, (Chapter 2010-08, Laws  
8 of Florida).

9 2. Any amendment to an applicable state law shall automatically apply to  
10 the enforcement and application of this Article, whether or not this Article or any  
11 provision hereof has been amended to specifically address such amendment to state  
12 law. Without limitation, any future amendment regarding the amount of the penalty or  
13 the apportionment of the proceeds thereof shall be deemed applied in the  
14 enforcement of this Article, even prior to a specific amendment to this Article in order  
15 to make this Article expressly consistent with such change in state law with respect to  
16 the amount of the penalty or the apportionment of proceeds thereof.

17 **Sec. 19-1247. Applicability**

18 This Article shall apply to streets and highways under Palm Beach County  
19 jurisdiction pursuant to s.316.0083, Florida Statutes and in the unincorporated area  
20 of Palm Beach County. Municipalities may by interlocal agreement with the County  
21 and by Ordinance or resolution, authorize the enforcement of this Article within their  
22 municipality.

23 **Section 3. Severability**

1           If any section, paragraph, sentence, clause, phrase or word of this Ordinance  
2 is for any reason held by a Court of competent jurisdiction to be unconstitutional,  
3 inoperative or void, such holding shall not affect the remainder of this Ordinance.

4   **Section 4. Inclusion in the Code of Laws and Ordinances**

5           The provisions of this Ordinance shall become and be made a part of the Palm  
6 Beach County Code. The sections of this Ordinance may be renumbered or re-  
7 lettered to accomplish such and the word "ordinance" may be changed to "section,"  
8 "article," or other appropriate word.

9   **Section 5. Captions**

10          The captions, section headings and section designations used in this  
11 Ordinance are for convenience only and shall have no effect on the interpretation of  
12 the provisions of this Ordinance.

13   **Section 6. Savings, Ratification and Reservation of Rights.**

14          Notwithstanding any other provision of this Ordinance, the provisions of the  
15 Chapter 19, Article IV, of the County Code, which existed immediately prior to July 1,  
16 2010, shall remain in full force and effect to the extent necessary to give effect to the  
17 Contract by and between the County and ATS entered into July 21, 2009, R 2009-  
18 1133 as amended (Contract) and to preserve and reserve each and every right,  
19 power, authority, benefit and exemption to which the County is entitled relating to the  
20 right to contract, including those rights, powers, authority, benefits and exemptions  
21 established by the Contract.

1    **Section 7.   Effective Date**

2           The provisions of this Ordinance shall become effective upon filing with the  
3   Department of State.

4

5           APPROVED and ADOPTED by the Board of County Commissioners of Palm  
6   Beach County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

7

8   **SHARON R. BOCK, CLERK &**  
9   **COMPTROLLER**

10

11   **By:\_\_\_\_\_**  
12       **Deputy Clerk**

13

14

**PALM BEACH COUNTY, FLORIDA,**  
**BY ITS BOARD OF COUNTY**  
**COMMISSIONERS**

**By:\_\_\_\_\_**  
**Burt Aaronson, Chair**

15   **APPROVED AS TO FORM AND**  
16   **LEGAL SUFFICIENCY**

17

18   **By:\_\_\_\_\_**  
19       **County Attorney**

20

21

22           **EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_ day of**  
23   **\_\_\_\_\_, 20\_\_\_\_.**

24           **G:\WPDATA\ENG\MRE\Agenda\Red Light Camera Ordinance\Final Red Light Camera**  
25   **Ordinance\Amendment 1 Red Light Camera Ordinance.doc**

ORDINANCE NO. 2010 - \_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 19, ARTICLE IV, RED LIGHT CAMERAS; (ORDINANCE 2008-013), RELATING TO THE USE OF UNMANNED CAMERAS AT TRAFFIC SIGNALS TO PROMOTE TRAFFIC SAFETY; PROVIDING FOR TITLE AND PURPOSE; DELETING USE OF IMAGE CAPTURE TECHNOLOGIES; PROVIDING FOR TRAFFIC INFRACTION DETECTORS; DELETING DEFINITIONS; PROVIDING FOR ADHERENCE TO RED LIGHT TRAFFIC CONTROL SIGNALS; PROVIDING FOR VIOLATION; PROVIDING FOR SIGNS AT MONITORED INTERSECTIONS; PROVIDING FOR REVIEW OF RECORDED IMAGES; PROVIDING FOR NOTICE OF VIOLATION; DELETING VEHICLE OWNER RESPONSIBILITIES; PROVIDING FOR ISSUANCE OF A TRAFFIC CITATION; PROVIDING FOR OWNERS DEFENSES; PROVIDING FOR PENALTIES; PROVIDING FOR ADMINISTRATIVE COSTS; NO COMMISSIONS; DELETING CIVIL PENALTIES; DELETING EXCEPTIONS; DELETING THREE-MONTH NOTICE; INTRODUCTORY PERIOD; PROVIDING FOR ACCOUNTING FOR PROGRAM REVENUES AND EXPENDITURES; PROVIDING FOR CONSISTENCY WITH STATE LAW; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR SAVINGS, RATIFICATION AND RESERVATION OF RIGHTS; AND PROVIDING FOR EFFECTIVE DATE.

**WHEREAS**, Palm Beach County is located in a high density traffic area and regularly experiences traffic incidents related to the failure of motorists to obey duly erected traffic control devices, which exposes its citizens and visitors to the dangers of personal injury and property damages; and



1       **WHEREAS**, the Board of County Commissioners determined that the use of  
2       unmanned cameras would be effective in enforcing laws requiring vehicles to stop for  
3       red lights, thereby freeing law enforcement officers to respond to other, often more  
4       significant incidents and crime; and

5       **WHEREAS**, on May 20, 2008 the Board of County Commissioners enacted  
6       Ordinance 2008-013 to promote compliance with red light directives and to use traffic  
7       infractions to establish red light violations; and

8       **WHEREAS**, the Florida Legislature passed CS/CS/HB325 during the 2010  
9       Legislative Session authorizing the use of red light cameras as traffic infraction  
10      detectors to enforce Chapter 316, the State of Florida Uniform Traffic Code; and

11      **WHEREAS**, the Governor of the State of Florida signed CS/CS/HB325 into  
12      law on May 13, 2010, resulting in the Law of Florida 2010-80 taking effect on July 1,  
13      2010; and

14      **WHEREAS**, implementation of Chapter 2010-80, Laws of Florida, requires  
15      amendments to the County Code;

16      **WHEREAS**, the running of red lights continues to be a safety hazard affecting  
17      every citizen and traveler in Palm Beach County; and

18      **WHEREAS**, the Board of County Commissioners finds that establishing a local  
19      traffic infraction detection program and implementing such a program will result in the  
20      enhanced health, safety and welfare of those who travel on, over or near those  
21      intersections in Palm Beach County that are outfitted with traffic infraction detectors;  
22      and

1       **WHEREAS**, the Board of County Commissioners wishes to reduce the running  
2 of red lights by amending its Code of Ordinances to implement 2010-80 Laws of  
3 Florida.

4       **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
5 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

6       **Section 1.**

7       The foregoing recitals are hereby ratified and confirmed as being true and  
8 correct and are hereby made a specific part of this Ordinance.

9       **Section 2.**

10       Chapter 19 (Motor Vehicles and Traffic) Article IV (Red Light Cameras) of the  
11 Palm Beach County code is hereby amended as follows:

12       **Sec. 19-111. Title and Purpose**

13       This Article shall be known as the "Red Light Camera Safety Article" (Article).

14       The purpose of this Article is to authorize the use of traffic infraction detectors, in  
15 accordance with general law, including Chapter 2010-80, Laws of Florida (2010), the  
16 "Mark Wandall Traffic Safety Act" or "Act" within the County's jurisdiction and to  
17 promote compliance with red light signals as proscribed by this Article.

18       **Sec. 19-112. Use of Traffic Infraction Detectors**

19       Palm Beach County exercises its option under s.316.008, Florida Statutes, to  
20 use traffic infraction detectors within its jurisdiction to enforce s.316.074(1) or  
21 s.316.075(1)(c)(1), Florida Statutes and to utilize traffic infraction detectors as a  
22 supplemental means of assisting law enforcement personnel in the enforcement and  
23 monitoring of laws related to traffic control signals as permitted and provided for by

1 state laws that are designed to protect and improve the public health, safety and  
2 welfare of the community and thereby reduce accidents, injuries and disruption of  
3 traffic when a driver fails to stop at a traffic signal on streets and highways under the  
4 County's jurisdiction.

5 **Sec. 19-113. Adherence to Red Light Traffic Control Signals**

6 Pursuant to general law, a motor vehicle facing a traffic control signal's steady  
7 red light indication shall stop before entering the crosswalk on the near side of the  
8 intersection or, if none, then before entering the intersection and shall remain  
9 standing until a green indication is shown on the traffic control signal. However, the  
10 driver of a motor vehicle may not receive a notice of violation or traffic citation for  
11 failure to stop at a red light if the driver is making a right-hand turn in a careful and  
12 prudent manner where right-hand turns are permissible.

13 **Sec. 19-114. Violation**

14 A violation of this Article, known as a red zone violation, shall occur when a  
15 motor vehicle does not comply with the requirements of section 19-113. This Article  
16 supplements enforcement of s.316.074(1) or s.316.075(1)(c)(1), Florida Statutes by  
17 law enforcement officers, and shall not prohibit law enforcement personnel from  
18 issuing a citation for a red light signal violation in accordance with normal statutory  
19 enforcement techniques.

20 **Sec. 19-115. Signs at Monitored Intersections**

21 At each intersection which has a traffic infraction detector installed, the County  
22 shall notify the public that a traffic infraction detector may be in use at the

1 intersection. Such signage shall meet the specifications for uniform signals and  
2 devices adopted by the Department of Transportation.

3 **Sec. 19-116. Review of Recorded Images**

4 The owner of a motor vehicle that is shown by photographs or electronic  
5 images or streaming video, (recorded images) to have committed a violation shall be  
6 issued a notice of infraction no later than thirty (30) days after the violation occurs.  
7 The recorded image shall be sufficient grounds to issue a notice of infraction.

8 One, or more, traffic infraction enforcement officer(s) shall be designated who  
9 meet the qualifications set forth in the Act or any other relevant statute. A traffic  
10 infraction enforcement officer(s) shall review recorded images prior to the issuance of  
11 a notice of infraction to ensure accuracy and the integrity of the recorded images.  
12 Once the traffic infraction enforcement officer has verified the accuracy and integrity  
13 of the recorded images and determined that a violation occurred, he or she shall  
14 complete a review of the violation and authorize enforcement action, and a notice of  
15 the violation shall be sent to the Owner at the address on record with the Florida  
16 Department of Highway Safety and Motor Vehicles or any other state's vehicle  
17 registration office.

18 **Sec. 19-117. Notice of Violation**

- 19 1. A violation shall occur when a motor vehicle does not comply with the  
20 requirements of section 19-113 of this code.
- 21 2. Within thirty (30) days after a violation, notification must be sent to the  
22 registered owner of the motor vehicle involved in the violation  
23 specifying the remedies available under s.318.14, Florida Statutes, and

1 that the violator must pay the penalty of \$158.00 to Palm Beach County  
2 or furnish an affidavit supporting an exemption that complies with  
3 s.316.0083 in accordance with section 19.119, within thirty (30) days  
4 following the date of the notification in order to avoid court fees, costs,  
5 and the issuance of a traffic citation. The Notification shall be sent by  
6 first-class mail and shall include:

- 7 (a) The name and address of the vehicle owner.
- 8 (b) The license plate number and registration number of the motor  
9 vehicle.
- 10 (c) The make, model, year and color of the motor vehicle.
- 11 (d) Notice that the violation is pursuant to s.316.074(1) or  
12 s.316.075(1)(c)(1), Florida Statutes as codified in this Article.
- 13 (e) The location of the intersection where the violation occurred.
- 14 (f) The date and time of the violation.
- 15 (g) A statement that the owner has the right to review the recorded  
16 images that constitute a rebuttable presumption against the  
17 owner, together with a statement of the time and place or  
18 internet location where the evidence may be examined.
- 19 (h) A statement that the owner must pay a penalty of \$158 to the  
20 county or provide an affidavit within thirty (30) days of the date  
21 the notice is issued in order to avoid court fees, costs, and the  
22 issuance of a Uniform Traffic Citation.

- 1 (i) Instructions on all methods of the procedures for payment of the  
2 penalty.

3 **Sec. 19-118 Issuance of a Traffic Citation**

- 4 1. When payment has not been made within thirty (30) days after  
5 notification under subparagraph 2 of Sec. 19-117, a traffic citation issued under this  
6 section shall be issued by mailing the traffic citation by certified mail to the address of  
7 the registered owner of the motor vehicle involved in the violation.
- 8 2. Delivery of the traffic citation constitutes notification under this section.
- 9 3. In the case of joint ownership of a motor vehicle, the traffic citation  
10 shall be mailed to the first name appearing on the registration, unless  
11 the first name appearing on the registration is a business organization,  
12 in which case the second name appearing on the registration may be  
13 used.
- 14 4. The traffic citation shall be mailed to the registered owner of the motor  
15 vehicle involved in the violation no later than sixty (60) days after the  
16 date of the violation.
- 17 5. Included with the notification to the registered owner of the motor  
18 vehicle involved in the infraction, shall be a notice that the owner has  
19 the right to review, either in person or remotely, the photographic or  
20 electronic images or the streaming video evidence that constitutes a  
21 rebuttable presumption against the owner of the vehicle. The notice  
22 must state the time and place or internet location where the evidence  
23 may be examined and observed.

- 1           6.     If a traffic citation is issued under s.316.0083, Florida Statutes, and this  
2                 section, the traffic infraction enforcement officer shall provide by  
3                 electronic transmission a replica of the traffic citation data to the court  
4                 having jurisdiction over the alleged offense or its traffic violations  
5                 bureau within five (5) days after the date of issuance of the traffic  
6                 citation to the violator.

7     **Sec. 19-119. Owners Defenses**

- 8           1.     The owner of the motor vehicle involved in the violation is responsible  
9                 and liable for paying the violation and traffic citation issued for a  
10                violation of s.316.074(1) or s.316.075(1)(c)1, Florida Statutes, when  
11                the driver failed to stop at a traffic signal, unless the owner can  
12                establish that:
- 13               (a)   The motor vehicle was, at the time of the violation, in the care,  
14                      custody, or control of another person.
- 15               (b)   A uniform traffic citation was issued by a law enforcement officer  
16                      to the driver of the motor vehicle for the alleged violation of  
17                      s.316.074(1) or s.316.075(1)(c)1, Florida Statute.
- 18               (c)   The motor vehicle passed through the intersection in order to  
19                      yield right-of-way to an emergency vehicle or as part of a  
20                      funeral procession.
- 21               (d)   The motor vehicle passed through the intersection at the  
22                      direction of a law enforcement officer.

1           2.     In order to establish facts to support his/her defense as provided above,  
2     the owner of the motor vehicle shall, within thirty (30) days after the date of issuance  
3     of the notice of violation or traffic citation, furnish to the appropriate governmental  
4     entity an affidavit setting forth detailed information supporting an exemption as  
5     provided in this paragraph.

6           (a) An affidavit supporting an exemption under paragraph 1.(a) above  
7                 must include the name, address, date of birth, and if known, the  
8                 driver's license number of the person who leased, rented, or  
9                 otherwise had care, custody, or control of the motor vehicle at the  
10                time of the alleged violation. If the vehicle was stolen at the time  
11                of the alleged offence, the affidavit must include the police report  
12                indicating that the vehicle was stolen.

13          (b)     If a traffic citation for a violation of s.316.074(1) or  
14                 s.316.075(1)(c)1, Florida Statutes, was issued at the location of  
15                 the violation by a law enforcement officer, the affidavit must  
16                 include the serial number of the uniform traffic citation.

17          (c) Upon receipt of an affidavit, the person designated as having care,  
18                 custody, and control of the motor vehicle at the time of the  
19                 violation may be issued a traffic citation for a violation of  
20                 s.316.074(1) or s.316.075(1)(c)1, Florida Statutes, when the driver  
21                 failed to stop at a traffic signal. The affidavit is admissible in a  
22                 proceeding\_pursuant to this section for the purpose of providing  
23                 proof that the person identified in the affidavit was in actual care,



1 custody, and control of the motor vehicle. The owner of a leased  
2 vehicle for which a traffic citation is issued for a violation of  
3 s.316.074(1) or s.316.075(1)(c)1, Florida Statutes, when the driver  
4 failed to stop at a traffic signal is not responsible for paying the  
5 traffic citation and is not required to submit an affidavit as specified  
6 in this subsection if the motor vehicle involved in the violation is  
7 registered in the name of the lessee of such motor vehicle.

8 (d) The submission of a false affidavit is a misdemeanor of the second  
9 degree, punishable as provided in s.775.082 or s.775.083, Florida  
10 Statutes.

11  
12 **Sec. 19-120. Penalties**

13 Penalties to be assessed by the County for a violation of this Article shall be in  
14 the amount of one hundred fifty-eight dollars (\$158.00) when a driver has failed to  
15 stop at a traffic signal if enforcement is by a County traffic infraction enforcement  
16 officer.

17 No points shall be imposed for a violation of s.316.074(1) or s.316.075(1)(c)1,  
18 Florida Statutes, when a driver has failed to stop at a traffic signal and when  
19 enforced by a traffic infraction enforcement officer. In addition, when a driver has  
20 failed to stop at a traffic signal in violation of s.316.074(1) or s.316.075(1)(c)1,  
21 Florida Statutes, and when enforced by a traffic infraction enforcement officer, the  
22 violation may not be used for purposes of setting motor vehicle insurance rates.  
23

1    **Sec. 19-121. Administrative Costs; No Commissions**

2           An individual may not receive a commission or per ticket fee from any revenue  
3   collected from violations detected through the use of a traffic infraction detector. A  
4   manufacturer or vendor may not receive a fee or remuneration based upon the  
5   number of violations detected through the use of a traffic infraction detector.

6    **Sec. 19-122. Accounting for Program Revenues and Expenditures**

7           1.     Penalties assessed and collected by the County for a violation of this  
8   Article is one hundred fifty eight dollars (\$158.00) when a driver has failed to stop at  
9   a traffic signal if enforcement is by a County traffic infraction enforcement officer.  
10   Seventy dollars (\$70.00) shall be remitted by the County to the Department of  
11   Revenue for deposit into the General Revenue Fund, ten dollars (\$10.00) shall be  
12   remitted to the Department of Revenue for deposit into the Department of Health  
13   Administrative Trust Fund, three dollars (\$3.00) shall be remitted to the Department  
14   of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund, and  
15   seventy-five dollars (\$75.00) shall be retained by the County pursuant to law.

16          2.     Penalties assessed and collected by the County less the amount  
17   retained by the County pursuant to this section shall be paid to the state Department  
18   of Revenue weekly by electronic funds transfers. In addition to the payment,  
19   summary detail of the penalties remitted shall be reported to the Department of  
20   Revenue.

21          3.     If a person who is cited for a violation of s.316.074(1) or  
22   s.316.075(1)(c)1, Florida Statutes, as enforced by a traffic infraction enforcement  
23   officer under s.316.0083, Florida Statutes, presents documentation from the

1 appropriate governmental entity that the traffic citation was in error, the clerk of court  
2 may dismiss the case. Pursuant to s.318.18(5), Florida Statutes, the clerk of court  
3 may not charge for this service.

4 **Sec. 19-123. Consistency with State Law**

5 1. This Article shall be interpreted and applied so that it is consistent with  
6 state law, specifically, the Mark Wandall Traffic Safety Act, (Chapter 2010-08, Laws  
7 of Florida).

8 2. Any amendment to an applicable state law shall automatically apply to  
9 the enforcement and application of this Article, whether or not this Article or any  
10 provision hereof has been amended to specifically address such amendment to state  
11 law. Without limitation, any future amendment regarding the amount of the penalty or  
12 the apportionment of the proceeds thereof shall be deemed applied in the  
13 enforcement of this Article, even prior to a specific amendment to this Article in order  
14 to make this Article expressly consistent with such change in state law with respect to  
15 the amount of the penalty or the apportionment of proceeds thereof.

16 **Sec. 19-124. Applicability**

17 This Article shall apply to streets and highways under Palm Beach County  
18 jurisdiction pursuant to s.316.0083, Florida Statutes and in the unincorporated area  
19 of Palm Beach County. Municipalities may by interlocal agreement with the County  
20 and by Ordinance or resolution, authorize the enforcement of this Article within their  
21 municipality.

22

23

1    **Section 3.   Severability**

2           If any section, paragraph, sentence, clause, phrase or word of this Ordinance  
3   is for any reason held by a Court of competent jurisdiction to be unconstitutional,  
4   inoperative or void, such holding shall not affect the remainder of this Ordinance.

5    **Section 4.   Inclusion in the Code of Laws and Ordinances**

6           The provisions of this Ordinance shall become and be made a part of the Palm  
7   Beach County Code. The sections of this Ordinance may be renumbered or re-  
8   lettered to accomplish such and the word "ordinance" may be changed to "section,"  
9   "article," or other appropriate word.

10   **Section 5.   Captions**

11          The captions, section headings and section designations used in this  
12   Ordinance are for convenience only and shall have no effect on the interpretation of  
13   the provisions of this Ordinance.

14   **Section 6.   Savings, Ratification and Reservation of Rights.**

15          Notwithstanding any other provision of this Ordinance, the provisions of the  
16   Chapter 19, Article IV, of the County Code, which existed immediately prior to July 1,  
17   2010, shall remain in full force and effect to the extent necessary to give effect to the  
18   Contract by and between the County and ATS entered into July 21, 2009, R 2009-  
19   1133 as amended (Contract) and to preserve and reserve each and every right,  
20   power, authority, benefit and exemption to which the County is entitled relating to the  
21   right to contract, including those rights, powers, authority, benefits and exemptions  
22   established by the Contract.

1    **Section 7.   Effective Date**

2           The provisions of this Ordinance shall become effective upon filing with the  
3   Department of State.

4           APPROVED and ADOPTED by the Board of County Commissioners of Palm  
5   Beach County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

6

7   **SHARON R. BOCK, CLERK &**  
8   **COMPTROLLER**

9

10   **By:\_\_\_\_\_**  
11       **Deputy Clerk**

12

13

14   **APPROVED AS TO FORM AND**  
15   **LEGAL SUFFICIENCY**

16

17   **By:\_\_\_\_\_**  
18       **County Attorney**

19

20

21           **EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_ day of**  
22   **\_\_\_\_\_, 20\_\_\_\_.**

**PALM BEACH COUNTY, FLORIDA,**  
**BY ITS BOARD OF COUNTY**  
**COMMISSIONERS**

**By:\_\_\_\_\_**  
**Burt Aaronson, Chair**

Agenda Item #:

46

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

A/JK 7-9  
As Amended

ord-2008-013

Meeting Date: May 20, 2008

☐ Consent☐ Regular

Department

☐ Workshop☒ Public Hearing

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, authorizing the use of unmanned cameras at traffic signals to promote traffic safety; providing for title and purpose; providing for use of image capture technologies; providing for definitions; providing for adherence to red light traffic control signals; providing for violation; providing for warning signs at monitored intersections; providing for review of recorded images; providing for notice of infraction; providing for vehicle owner responsibilities; providing for appeal to Palm Beach County's hearing officer; providing for penalties; providing for administrative costs; providing for collection of civil penalties; providing for exceptions; providing for three-month notice, introductory period; providing for accounting for program revenues and expenditures; providing for applicability; providing for severability; providing for inclusion in the code of laws and ordinances; providing for captions; and providing for effective date.

**Summary:** On March 11, 2008, the Board of County Commissioners held its preliminary reading of this ordinance authorizing the use of unmanned camera/monitoring systems to promote compliance with red light directives and to adopt a civil enforcement system, including notice, review, penalties, funding and an appeal process for red light violations captured by unmanned camera/monitoring systems. The Board of County Commissioners determined that the unmanned camera/monitoring systems at traffic signals are necessary to promote the safety of the public. The Board at the preliminary reading directed that the penalty be changed from \$100.00 to \$125.00. Countywide (MRE)

**Background and Policy Issues:** For several years the Board has been advocating the installation of cameras at intersections in order to protect the health, safety and welfare of the public. The Sheriff also supports this approach as a means of protecting the public. This year the Florida Legislature also seemed supportive of this concept, but failed to pass uniform red light camera legislation. The County supported a statewide approach and agreed to defer adoption of this ordinance to allow the legislature to adopt a statewide approach. However, in the absence of legislation, the County is prepared to proceed with this local ordinance.

**Attachments:**

1. Ordinance

Recommended by: \_\_\_\_\_

County Attorney

Date

5/5/08

Approved by: \_\_\_\_\_

N/A

Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

| Fiscal Years                               | 2008                    | 2009  | 2010  | 2011  | 2012  |
|--|-------------------------|-------|-------|-------|-------|
| Capital Expenditures                       | _____                   | _____ | _____ | _____ | _____ |
| Operating Costs                            | _____                   | _____ | _____ | _____ | _____ |
| External Revenues                          | _____                   | _____ | _____ | _____ | _____ |
| Program Income (County)                    | _____                   | _____ | _____ | _____ | _____ |
| In-Kind Match (County)                     | _____                   | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT                          | ***<br><u>see below</u> | _____ | _____ | _____ | _____ |
| # ADDITIONAL FTE<br>POSITIONS (Cumulative) | _____                   | _____ | _____ | _____ | _____ |

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_

Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_

Reporting Category \_\_\_\_\_

### B. Recommended Sources of Funds/Summary of Fiscal Impact:

### C. Departmental Fiscal Review: \_\_\_\_\_

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Development and Control Comments:

\*\*\* Fiscal impact is determinable at this time.

5/14/08 Ch. White 5.14.08 OFMB JD CN 5/14/08 5/14/08

5/14/08 Don J. Jantz 5/14/08 Contract Development and Control

### B. Legal Sufficiency:

Marlene R. Potts 5/5/08  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

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ORDINANCE NO. 2008 -013

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE USE OF UNMANNED CAMERAS AT TRAFFIC SIGNALS TO PROMOTE TRAFFIC SAFETY PROVIDING FOR TITLE AND PURPOSE; PROVIDING FOR USE OF IMAGE CAPTURE TECHNOLOGIES; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADHERENCE TO RED LIGHT TRAFFIC CONTROL SIGNALS; PROVIDING FOR VIOLATION; PROVIDING FOR WARNING SIGNS AT MONITORED INTERSECTIONS; PROVIDING FOR REVIEW OF RECORDED IMAGES; PROVIDING FOR NOTICE OF INFRACTION; PROVIDING FOR VEHICLE OWNER RESPONSIBILITIES; PROVIDING FOR APPEAL TO PALM BEACH COUNTY'S HEARING OFFICER; PROVIDING FOR PENALTIES; PROVIDING FOR ADMINISTRATIVE COSTS; PROVIDING FOR COLLECTIONS OF CIVIL PENALTIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR THREE-MONTH NOTICE, INTRODUCTORY PERIOD; PROVIDING FOR ACCOUNTING FOR PROGRAM REVENUES AND EXPENDITURES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR EFFECTIVE DATE.

**WHEREAS**, Palm Beach County contains a number of high density traffic areas and regularly experiences traffic incidents within these areas due to the failure of motorists to obey duly erected traffic control devices, which exposes its citizens to the dangers of personal injury and property damage; and

**WHEREAS**, Palm Beach County is concerned with the inability to provide for the safe, efficient and orderly use of county roads and to effectively reduce the significant dangers presented to motorists and pedestrians by motorists who fail to stop for red lights; 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 of Florida in order to effectively enforce the laws regulating the payment of tolls, without the need to commit the extreme amount of personnel that would be necessary without the use of unmanned cameras; and

**WHEREAS**, the use of unmanned cameras can be similarly effective in enforcing laws requiring vehicles to stop for red lights, thereby freeing law



1 enforcement officers to respond to other, often more significant incidents and crime;  
2 and

3 **WHEREAS**, local governments in different parts of the state have  
4 demonstrated the enhancement of vehicular and pedestrian traffic safety attributable  
5 to the integration of automated image capture technologies with traditional traffic law  
6 enforcement methodology; and

7 **WHEREAS**, Section 316.008, Florida Statutes, grants counties, with respect  
8 to streets and highways under their jurisdiction and within the reasonable exercise of  
9 police power, the authority to regulate and monitor traffic by means of law  
10 enforcement officers and security devices; and

11 **WHEREAS**, Palm Beach County has authority under its Charter and local  
12 home rule to enact an ordinance making the failure to stop for a red light indication a  
13 violation of Palm Beach County's Code and to provide for enforcement of such  
14 violations of the Palm Beach County Code; and

15 **WHEREAS**, Attorney General Opinion 05-41, dated July 12, 2005 confirms  
16 the authority of Palm Beach County by the terms of §316.02 and §316.008, Florida  
17 Statutes, to enact an Ordinance authorizing Palm Beach County to monitor violations  
18 of traffic signals within Palm Beach County and to use unmanned cameras to monitor  
19 intersections and record traffic violations; and

20 **WHEREAS**, the Attorney General has opined that local governments may not  
21 issue traffic citations under the State Statute to drivers for violations observed by the  
22 use of unmanned cameras and not otherwise observed by law enforcement officers;  
23 and

24 **WHEREAS**, in order to be consistent with state law and the Attorney General's  
25 Opinion, Palm Beach County should issue "Notices of Infraction" for failure to stop at  
26 red lights to registered owners of vehicles and should not utilize the uniform traffic  
27 citation prescribed by Chapter 316 of the Florida Statutes for such violations and  
28 should not prosecute such violations through the county court; and

29 **WHEREAS**, Palm Beach County finds it to be fair and reasonable to use the  
30 same procedure employed by the state to enforce toll violations through unmanned  
31 cameras and further finds that violations for failing to stop at a red light constitute

1 serious threats to the public health, safety and welfare of the community and  
2 violations that are irreparable or irreversible and are itinerant and transient in nature,  
3 all as set forth in Chapter 162, Florida Statutes; and

4 **WHEREAS**, Palm Beach County finds that implementation of the enforcement  
5 program as set forth herein will promote and protect the health, safety and welfare of  
6 its citizens, consistent with the authority of and limitations on Palm Beach County  
7 pursuant to the Florida Constitution and Florida Statutes.

8 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
9 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

10 **Section 1. Recitals**

11 The foregoing recitals are hereby adopted and confirmed as being true and  
12 correct and are hereby made a specific part of this Ordinance.

13 **Section 2. Title and Purpose**

14 This Ordinance shall be known as The Red Light Camera Safety Ordinance  
15 (Ordinance). The purpose of this Ordinance is to authorize the use of Image Capture  
16 Technology to promote compliance with red light signals as proscribed by this  
17 Ordinance and to adopt a civil enforcement system for red light signal violations.

18 **Section 3. Use of Image Capture Technologies**

19 Palm Beach County owns, operates and maintains county roads and  
20 therefore Palm Beach County is authorized to utilize image capture technologies to  
21 promote the safe, efficient and orderly use of county roads to protect and improve  
22 the public health, safety and welfare of the community and thereby reduce accidents,  
23 injuries and disruption of traffic. The Department of Engineering and Public Works  
24 shall be responsible for coordinating and establishing administrative policies  
25 germane to the effective and timely implementation of provisions set forth in the  
26 Ordinance.

27 **Section 4. Definitions**

28 The following definitions shall apply to this Ordinance:

29 (a) *Intersection* shall mean the area embraced within the prolongation or  
30 connection of the lateral curb line or, if none, then the lateral boundary lines, of the  
31 roadways of two roads which join or intersect one another at, or approximately at,

1 right angles or the area within which vehicles traveling upon different roads joining at  
2 any other angle may come in conflict.

3 (b) *Motor Vehicle* shall mean any self-propelled vehicle not operated  
4 upon rails or guide ways. Motor Vehicles shall not include any bicycle, motorized  
5 scooter, electric personal assisted mobility device or moped.

6 (c) *Notice of Infraction* shall mean a Palm Beach County citation issued  
7 for a Red Zone Infraction.

8 (d) *Owner/Vehicle Owner* shall mean the person or entity identified by  
9 the Florida Department of Motor Vehicles or other state vehicle registration office, as  
10 the registered Owner of a Vehicle. Such term shall also mean a lessee of a Motor  
11 Vehicle pursuant to a lease of six months or more.

12 (e) *Recorded Images* shall mean images recorded by a Traffic Control  
13 Signal Monitoring System/Device presented on:

- 14 (1) A photograph;  
15 (2) An electronic image;  
16 (3) A digital image;  
17 (4) A video recording; or  
18 (5) Any other medium; and

19 which shows the rear of a Motor Vehicle and on at least one image clearly identifies  
20 the license plate number of the Motor Vehicle.

21 (f) *Image Capture Technology/Traffic Control Signal Monitoring*  
22 *System/Device* shall mean an electronic system consisting of one or more Motor  
23 Vehicle sensors, working in conjunction with a Traffic Control Signal, still camera  
24 and/or video recording device, to capture and produce Recorded Images of Motor  
25 Vehicles entering an Intersection against a steady red light signal indication.

26 (g) *Red Zone Infraction* shall mean a traffic offense whereby a Traffic  
27 Control Signal Monitoring System establishes that a Motor Vehicle entering and  
28 proceeding through the Intersection controlled by a duly erected traffic control device  
29 at a time when the Traffic Control Signal for such Motor Vehicle's direction was  
30 emitting a steady red signal.

1 (h) *Palm Beach County Hearing Officer* shall mean an individual  
2 appointed by the County Administrator from a pool of either the Hearing Officer or  
3 Special Master Candidates selected by the Board of County Commissioners to  
4 conduct hearings pursuant to Article 17 of the ULDC.

5 (i) *Traffic Control Signal* shall mean a device exhibiting different colored  
6 lights or lighted arrows, successively one at a time or in combination, using only the  
7 colors green, yellow and red that indicate and apply to drivers of Motor Vehicles as  
8 provided in Florida Statutes §316.075.

9 **Section 5. Adherence to Red Light Traffic Control Signals**

10 Motor Vehicle traffic facing a Traffic Control Signal's steady red light indication  
11 shall stop before:

12 (a) Entering the crosswalk on the near side of an Intersection; or

13 (b) If no crosswalk exists, then before entering the Intersection.

14 Once stopped, the Motor Vehicle shall remain standing until a green indication is  
15 shown on the traffic control device. However, the driver of a Motor Vehicle which is  
16 stopped in obedience of a steady red Traffic Control Signal, may make a right turn  
17 unless such turn is otherwise prohibited by posted sign or other traffic control device.

18 **Section 6. Violation**

19 A violation of this Ordinance, known as a Red Zone Infraction, shall occur  
20 when the operator of a Motor Vehicle does not comply with the requirements of  
21 Section 5. Violations shall be enforced pursuant to this Ordinance. This Ordinance  
22 shall not prohibit law enforcement personnel from issuing a citation for a red light  
23 signal violation in accordance with normal statutory enforcement techniques. This  
24 section shall not supersede, infringe, curtail or impinge upon state laws related to red  
25 light signal violations or conflict with such laws. Notices of Infraction issued pursuant  
26 to this Ordinance shall not be by Florida Uniform Traffic Citation and shall not be  
27 subject to prosecution or appeal in the county courts.

28 **Section 7. Warning Signs at Monitored Intersections**

29 Each Intersection which has a Traffic Control Signal Monitoring Device  
30 installed may be identified as a "Monitored Intersection" by appropriate signage to be  
31 posted no less than 300 feet before the Intersection, unless conditions exist which

1 necessitate placement of the signs closer to the Intersection. The warning signs  
2 may indicate the operation of the Traffic Control Signal Monitoring Device at the  
3 Intersection and that failure to obey the red light in accordance with this Ordinance  
4 will result in the issuance of a Notice of Infraction. The absence of warning signs at  
5 any particular Monitored Intersection will not affect the validity of a Notice of Infraction  
6 issued for a Red Zone Infraction at that Intersection. The absence of warning signs  
7 at a Monitored Intersection shall not constitute grounds for an appeal of a Notice of  
8 Infraction issued pursuant to this Ordinance.

9 **Section 8. Review of Recorded Images**

10 The owner of a Motor Vehicle that is shown by Recorded Images to have  
11 been operated so as to have committed a Red Zone Infraction shall be issued a  
12 Notice of Infraction. The Recorded Image shall be sufficient grounds to issue a  
13 Notice of Infraction.

14 One, or more, Traffic Control Infraction Reviewer(s) shall be designated. A  
15 Traffic Control Infraction Reviewer shall review Recorded Images prior to the  
16 issuance of a Notice of Infraction to ensure accuracy and the integrity of the  
17 Recorded Images. Once a Traffic Control Infraction Reviewer has verified the  
18 accuracy and integrity of the Recorded Images and determined that a Red Zone  
19 Infraction occurred, he or she shall approve the Notice of Infraction and provide such  
20 notice to the Vehicle Owner in compliance with Part I, Chapter 162.12, Florida  
21 Statute.

22 **Section 9. Notice of Infraction**

23 Palm Beach County's Notice of Infraction shall include:

- 24 (a) The name and address of the Vehicle Owner;
- 25 (b) The license plate number and registration number of the Motor  
26 Vehicle involved in the infraction;
- 27 (c) The make, model, year and color of the Motor Vehicle;
- 28 (d) Notice that the Red Zone Infraction is pursuant to this Ordinance;
- 29 (e) The location of the Intersection or roadway where the Red Zone  
30 Infraction occurred;
- 31 (f) The date and time of the Red Zone Infraction;

1 (g) Notice of the Recorded Images relating to the Motor Vehicle and  
2 a statement that the Recorded Images are evidence of a Red Zone Infraction;

3 (h) The civil penalty to be imposed;

4 (i) The procedures for payment of the civil penalty and contesting  
5 the Notice of Infraction;

6 (j) A signed statement by the Traffic Control Infraction Reviewer  
7 that, based on inspection of the Recorded Images, the Motor Vehicle was involved in  
8 a Red Zone Infraction;

9 (k) Information advising the Vehicle Owner of the manner and time  
10 in which the Notice of Infraction may be appealed and warning that a failure to pay  
11 the civil penalty or to contest the Notice of Infraction in a timely manner is an  
12 admission of the Red Zone Infraction and will result in the entry of a judgment against  
13 the Vehicle Owner.

14 **Section 10. Vehicle Owner Responsibilities**

15 A Vehicle Owner receiving a Notice of Infraction may, within thirty (30) days of  
16 the date of the Notice of Infraction:

17 (a) Pay the assessed civil penalty pursuant to instructions on the  
18 Notice of Infraction; or

19 (b) Request an appeal pursuant with procedures as outlined in this  
20 Ordinance.

21 The failure to comply with the provisions of this Section within thirty (30) days  
22 from the date of Notice of Infraction shall constitute a waiver of the right to contest the  
23 Notice of Infraction and will be considered an admission and will result in the entry of  
24 a judgment against the Vehicle Owner as provided for in Part I, Chapter 162, Florida  
25 Statutes.

26 **Section 11. Appeal to Palm Beach County's Hearing Officer**

27 Palm Beach County's Hearing Officer is authorized to consider appeals under  
28 this Ordinance. Within thirty (30) days of the date of the Notice of Infraction, the  
29 Vehicle Owner may file an appeal with Palm Beach County pursuant to the directions  
30 in the Notice of Infraction. A hearing on the appeal shall be scheduled for all  
31 appeals.

1       Upon receipt of this appeal, Palm Beach County shall schedule a hearing  
2       before Palm Beach County's Hearing Officer. Notice of the hearing shall be  
3       provided to the Vehicle Owner no less than ten (10) days prior to the hearing and  
4       shall be provided by certified and U.S. Mail to the same address to which the Notice  
5       of Infraction was sent.

6       The following shall be permissible grounds for an appeal:

7               (a)     At the time of the infraction, the Motor Vehicle was not under the  
8       care, custody or control of the Vehicle Owner or an individual with the Vehicle  
9       Owner's consent.

10              (b)     The Motor Vehicle driver was issued a citation for violating a  
11       traffic signal by a law enforcement officer, which was separate and distinct from the  
12       Notice of Infraction issued under this Ordinance for violating the steady red Traffic  
13       Control Signal;

14              (c)     The Motor Vehicle driver was required to violate the steady red  
15       Traffic Control Signal in order to comply with other governing laws;

16              (d)     The Motor Vehicle driver was required to violate the steady red  
17       Traffic Control Signal in order to reasonably protect the property or person of another;

18              (e)     The steady red Traffic Control Signal was inoperable or  
19       malfunctioning;

20       All testimony before the Hearing Officer shall be under oath and shall be  
21       recorded. The Traffic Control Infraction Reviewer who issued the Notice of Infraction  
22       shall testify at the appeal. Then, the Vehicle Owner may present evidence and  
23       testimony and cross examine witnesses. The formal rules of evidence shall not  
24       apply, but fundamental due process shall be observed and shall govern the  
25       proceedings. Upon determination of the Hearing Officer, irrelevant, immaterial and  
26       unduly repetitious evidence may be excluded, but all other evidence of a type  
27       commonly relied upon by reasonable prudent persons in the conduct of their affairs  
28       shall be admissible. Any part of the evidence may be received in written form. The  
29       Hearing Officer may inquire of or question any witness present at the hearing. The  
30       Vehicle Owner or his/her attorney and the Traffic Control Infraction Reviewer or  
31       his/her attorney shall be permitted to inquire of any witness present at the hearing.

1 The Hearing Officer may consider testimony presented by the Vehicle Owner, the  
2 Traffic Control Infraction Reviewer or any other witness. All decisions by the Hearing  
3 Officer shall be final and reviewable by writ of certiorari to Palm Beach County Circuit  
4 Court.

5 Recorded Images indicating a Red Zone Infraction verified by a Traffic Control  
6 Infraction Reviewer are admissible in any proceeding before Palm Beach County's  
7 Hearing officer to enforce the provisions of this Ordinance.

#### 8 **Section 12. Penalties**

9 A Red Zone Infraction, in violation of this Ordinance shall be deemed a non-  
10 criminal, civil infraction for which a civil penalty in the amount of \$125.00 shall be  
11 assessed.

12 As the violation relates to this Ordinance and not the State Statutes, no points  
13 as provided in F.S. §322.27 shall be recorded on the driving record of the Vehicle  
14 Owner or responsible party.

#### 15 **Section 13. Administrative Costs**

16 In addition to the civil penalty assessed pursuant to Section 12, there shall be  
17 imposed and assessed against the Vehicle Owner an administrative cost of \$25.00 in  
18 the event of an unsuccessful appeal of the Notice of Infraction.

#### 19 **Section 14. Collection of Civil Penalties**

20 Palm Beach County may establish procedures for the collection of civil  
21 penalties and administrative costs imposed herein and may enforce such penalty by  
22 civil action in the nature of debt collection.

#### 23 **Section 15. Exceptions**

24 This Ordinance shall not apply to Red Zone Infractions involving vehicle  
25 collisions investigated by a law enforcement officer or to any authorized emergency  
26 vehicle responding to a *bona fide* emergency.

#### 27 **Section 16. Three-Month Notice; Introductory Period**

28 For the first three months after the first installation is installed and this  
29 Ordinance is in effect, the Vehicle Owner shall receive a courtesy Notice of  
30 Infraction. Subsequently, the Vehicle Owner is subject to the enforcement  
31 provisions as provided herein.



1     **Section 17. Accounting for Program Revenues and Expenditures**

2             Revenue and expenditures derived from this activity shall be accounted for in  
3     the County's general fund and deposited and segregated in a county special revenue  
4     fund.

5     **Section 18. Applicability**

6             This Ordinance shall apply in the unincorporated area of Palm Beach County.  
7     Municipalities may by interlocal agreement with Palm Beach County and by  
8     Ordinance or resolution, authorize the enforcement of this Ordinance within their  
9     municipality.

10    **Section 19. Severability**

11            If any section, paragraph, sentence, clause, phrase or word of this Ordinance  
12    is for any reason held by a Court of competent jurisdiction to be unconstitutional,  
13    inoperative or void, such holding shall not affect the remainder of this Ordinance.

14    **Section 20. Inclusion in the Code of Laws and Ordinances**

15            The provisions of this Ordinance shall become and be made a part of the Palm  
16    Beach County Code. The sections of this Ordinance may be renumbered or re-  
17    lettered to accomplish such and the word "ordinance" may be changed to "section,"  
18    "article," or other appropriate word.

19    **Section 21. Captions**

20            The captions, section headings and section designations used in this  
21    Ordinance are for convenience only and shall have no effect on the interpretation of  
22    the provisions of this Ordinance.

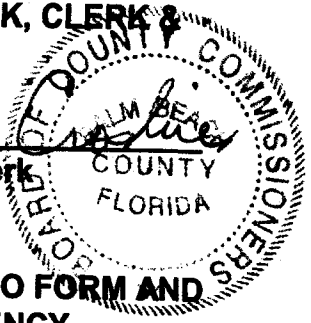
23    **Section 22. Effective Date**

24            The provisions of this Ordinance shall become effective upon filing with the  
25    Department of State.

1           APPROVED and ADOPTED by the Board of County Commissioners of Palm  
2 Beach County, Florida, on this the 20<sup>th</sup> day of May, 2008.

4 SHARON R. BOCK, CLERK &  
5 COMPTROLLER

6 By: Judith Bock  
7 Deputy Clerk



PALM BEACH COUNTY, FLORIDA,  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: Addie L. Greene  
Addie L. Greene, Chairperson

11 APPROVED AS TO FORM AND  
12 LEGAL SUFFICIENCY

13 By: Ned Baker  
14 County Attorney

18 EFFECTIVE DATE: Filed with the Department of State on the 29<sup>th</sup> day of  
19 May, 2008.

20 G:\WPDATA\ENG\MRE\Agenda\Traffic Safety Ordinance Post BCC Amended Final 52008.rtf