

Ordinance No. 070268  
0-08-71

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4       **An Ordinance of the City of Gainesville, Florida; amending**  
5       **Chapter 26, Article II of the Gainesville Code of Ordinances**  
6       **by establishing “Divisions” for Article II; titling existing**  
7       **provisions as “Division 1. Generally” and creating a new**  
8       **Division 2 to be titled “The Gainesville Traffic Safety**  
9       **Enhancement Act” by establishing a red light traffic safety**  
10       **program; providing purpose and findings; authorizing the**  
11       **use and implementation of image control**  
12       **technologies/recorded images to enforce red light infractions;**  
13       **providing definitions; providing for adherence to red light**  
14       **traffic control signals; requiring signage; providing**  
15       **procedures for disposition and enforcement of infractions;**  
16       **providing that the registered owner of the motor vehicle**  
17       **involved in the violation is responsible and liable for payment**  
18       **of the fine; providing penalties; providing for collection of**  
19       **penalties and costs; providing for appeals; amending**  
20       **Appendix A, Schedule of Fees, Rates and Charges, providing**  
21       **for a public awareness campaign and grace period; providing**  
22       **for severability; providing a repealing clause; and providing**  
23       **an immediate effective date.**

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25       **WHEREAS**, the City Commission finds that implementation of the enforcement  
26 program as set forth herein will promote and protect the health, safety and welfare of its  
27 citizens, consistent with the authority of and limitations on the city pursuant to the  
28 Florida Constitution, Florida Statutes and the City Charter; and

29       **WHEREAS**, at least 10 days notice has been given once by publication in a  
30 newspaper of general circulation notifying the public of this proposed ordinance and of a  
31 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

32       **WHEREAS**, a Public Hearing was held pursuant to the published notice  
33 described at which hearing the parties in interest and all others had an opportunity to be  
34 and were, in fact, heard;

35       **NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION**  
36 **OF THE CITY OF GAINESVILLE, FLORIDA;**

1           **Section 1.** A new Division 1 and new title “Generally” is added under Article II  
2 of Chapter 26 of the Gainesville Code of Ordinances, consisting of sections 26-27  
3 through 26-30; and a new Division 2 of Article II, to be entitled “The Gainesville Traffic  
4 Safety Enhancement Act,” consisting of Sections 26-31 through 26-42, is created and  
5 added to the Code of Ordinances of the City of Gainesville, Florida to read as follows:

6           **ARTICLE II. OPERATION OF VEHICLES**

7           **Division 2.     The Gainesville Traffic Safety Enhancement Act.**

8           **Sec. 26-31. Title, purpose and findings.**

9           (a) Title. This ordinance shall be known as the “The Gainesville Traffic Safety  
10 Enhancement Act” (The Act).

11           (b) Purpose. The purpose of this Act is to authorize the use of electronic  
12 camera/monitoring systems to promote compliance with red light directives as prescribed  
13 by this Act, and to adopt a municipal ordinance enforcement system for red light  
14 violations. This Act will also supplement law enforcement personnel in the enforcement  
15 of red light violations and shall not prohibit law enforcement officers from issuing a  
16 uniform traffic citation for a red light violation in accordance with statutory enforcement  
17 techniques.

18           (c) Findings. The City Commission finds that failing to stop at a red light constitutes  
19 serious threats to the public health, safety, or welfare of the community and such  
20 violations are irreparable or irreversible, and are itinerant and transient in nature.

21           **Sec. 26-32. Use of Image Capture Technologies.**

22           The City Manager is authorized to utilize image capture technologies as a  
23 supplemental means of monitoring traffic and motor vehicles that are operated in an  
24 unsafe and dangerous manner by failing to obey traffic control signals. This Act shall not

1 supersede, infringe, curtail or impinge upon state laws related to red light violations, or  
2 conflict with such laws. The City Manager, or designee, may utilize image capture  
3 technologies as an ancillary deterrent to traffic control signal violations and thereby  
4 reduce accidents and injuries associated with such violations.

5 **Sec. 26-33. Definitions.**

6 The following definitions shall apply to this Act:

7 (a) Emergency Vehicle means an ambulances and any vehicle operated by a fire  
8 rescue or law enforcement agency responding to an emergency.

9 (b) Intersection means:

10 (1) The area embraced within the prolongation or connection of the lateral  
11 curb line; or, if none, then the lateral boundary lines of the roadways of two roads  
12 that join or intersect one another at, or approximately at, right angles; or the area  
13 within which vehicles traveling upon different roads joining at any other angle  
14 may come in conflict.

15 (2) Where a highway includes two roadways thirty feet or more apart, then  
16 each crossing of the roadway of such divided highway by an intersecting highway  
17 is a separate intersection. If such intersecting highway also includes two  
18 roadways thirty feet or more apart, then each crossing of two roadways of such  
19 highways is a separate intersection.

20 (c) Motor vehicle means any self-propelled vehicle not operated upon rails or  
21 guideway, but does not include any bicycle, or electric personal assistive mobility device  
22 designed for disabled persons. For purposes of this Act, authorized emergency vehicles  
23 are excluded from the definition of “motor vehicle.”

24 (d) Notice of Infraction means a citation issued for a violation of Section 26-34

1 below.

2 (e) *Owner/Vehicle Owner* means the person or entity identified by the Florida  
3 Department of Motor Vehicles, or other state vehicle registration office, as the registered  
4 owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a  
5 lease of six months or longer.

6 (f) *Recorded Images* means images recorded by a traffic control signal monitoring  
7 system presented on:

8 (1) Two or more photographs; or

9 (2) Two or more electronic images; or

10 (3) Two or more digital images; or

11 (4) A video recording

12 which shows the motor vehicle, the time sequence of the vehicle entering the intersection,  
13 and, on at least one image, the identification of the license tag of the vehicle.

14 (g) *Red Light Infraction* occurs when a traffic control signal monitoring system  
15 shows that a motor vehicle enters an intersection that is regulated and controlled by a  
16 duly erected traffic control signal while the signal for such vehicle's direction is emitting  
17 a steady red signal.

18 (h) *Special magistrate* means a person appointed by the City Attorney to hold  
19 administrative hearings under this Act. Special magistrates must be members of The  
20 Florida Bar in good standing.

21 (i) *Traffic Control Signal* means any device that shows green, yellow and red lights  
22 or colored lighted arrows, successively one at a time or in combination by which traffic is  
23 directed to stop and permitted to proceed.

24 (j) *Traffic Control Signal Monitoring System* means an electronic system consisting

1 of one or more vehicle sensors, working in conjunction with a traffic control signal,  
2 camera and video recording device, to capture and produce recorded images of motor  
3 vehicles entering an intersection against a steady red light signal.

4 (k) *Violation*, also known as an infraction, shall mean noncompliance with the  
5 requirements of this Act.

6 **Sec. 26-34. Adherence to Red Light Traffic Control Signals.**

7 Any motor vehicle that approaches an intersection at which a steady red traffic  
8 control signal is displayed shall stop before entering the crosswalk on the near side of an  
9 intersection or, if none, then before entering the intersection, and shall remain stationary  
10 until a green indication is shown on the traffic control signal. After the motor vehicle has  
11 stopped, the vehicle may make a right turn in accordance with the uniform traffic laws of  
12 this state.

13 **Sec. 26-35. Warning Signs at Monitored Intersections.**

14 Each intersection that has a Traffic Control Signal Monitoring System installed may be  
15 identified as a “Monitored Intersection” by appropriate signage to be posted no less than  
16 300 feet before the intersection, unless conditions exist that necessitate placement of the  
17 signs closer to the intersection. The warning signs shall indicate that the operation of the  
18 Traffic Control Signal Monitoring System may be in use at the intersection.

19 **Sec. 26-36 Notice of Infraction.**

20 (a) The owner of a vehicle which is shown by recorded images to have been operated  
21 so as to have committed a red light infraction shall be issued a notice of infraction. The  
22 recorded image shall be sufficient grounds to issue a notice of infraction.

23 (b) The chief of police shall designate one or more traffic infraction review officers,  
24 who shall meet the qualifications provided in section 316.640(5)(a), Florida Statutes.

1 (c) A traffic infraction review officer shall review recorded images prior to the  
2 issuance of a notice of infraction to ensure accuracy, the integrity of the recorded images  
3 and that the images conform to the requirements of this Act.

4 (d) Once a traffic infraction review officer has verified the accuracy of the recorded  
5 images, including identification of the motor vehicle, and determined that a red light  
6 infraction occurred, the officer shall approve the notice of infraction and cause it to be  
7 sent via certified U.S. mail, return receipt requested, to the registered owner of the  
8 vehicle not later than 14 days after the date of the violation, at the address on record with  
9 the Florida Department of Highway Safety and Motor Vehicles or the vehicle registration  
10 office of another state, as applicable. If the certified mail is returned as unclaimed or  
11 refused, notice may be provided by first class mail directed to the registered owner at the  
12 same address hereinabove referenced with a properly executed proof of mailing or  
13 affidavit confirming the first class mailing. In addition to providing notice as set forth  
14 above, notice may also be served by publication as provided in section 162.12(2), Florida  
15 Statutes.

16 (e) The notice of infraction shall include at a minimum:

- 17 (1) The name and address of the vehicle owner;  
18 (2) The license tag and registration number of the vehicle involved in the  
19 infraction;  
20 (3) The make, model and year of the vehicle;  
21 (4) Notice of the violation;  
22 (5) The location of the intersection or roadway where the violation occurred;  
23 (6) The date and time of the infraction;  
24 (7) Recorded images depicting the violation, or a link to a website with

1           photographs and/or moving images of the violation;

2           (8) A signed statement by the traffic infraction review officer that, based on  
3           inspection of the recorded images, the vehicle of the owner committed a  
4           red light infraction in violation of this Act;

5           (9) The fine and the date by which it must be paid;

6           (10) The procedures for payment of the fine;

7           (11) Information advising the vehicle owner of the manner and time in which  
8           the notice of infraction may be contested;

9           (12) A conspicuous statement that a failure to pay the fine or to contest the  
10          notice of infraction in a timely manner is considered a waiver of his or her  
11          right to contest the violation, is deemed an admission of the violation and  
12          to liability, and will result in the entry of a default judgment against the  
13          violator.

14    **Sec. 26-37. Vehicle Owner Responsibilities.**

15    A vehicle owner receiving a notice of infraction shall, within twenty (20) days of the date  
16    of the notice of infraction either:

17    (a) Pay the assessed fine pursuant to instructions on the notice; or

18    (b) Contest the infraction as provided in section 26-38 of this Act.

19    Any owner who does not comply with the provisions of this section, or fails to appear at  
20    the hearing to contest the infraction, shall be deemed to have waived the right to contest  
21    the notice of infraction and a default judgment may be entered against the violator for an  
22    amount up to the maximum fine.

23    **Sec. 26-38. Contesting the violation**

24    (a) The special magistrate is authorized to hear and decide violations of this Act.

1 Within twenty (20) days of the date of the service of the notice of infraction, the vehicle  
2 owner may file a notice to contest the violation with the city pursuant to the directions in  
3 the notice of infraction. The notice may also include a notarized statement explaining the  
4 grounds for the hearing and any supporting papers the owner desires, as provided in  
5 section 26-39 below.

6 (b) If the infraction is not dismissed based upon receipt and consideration of the  
7 owner's notarized statement and supporting papers, then the city shall schedule a hearing  
8 before the special magistrate to occur not later than sixty (60) days after the City's receipt  
9 of the notice to contest the violation. Notice of the hearing shall be provided to the  
10 vehicle owner no less than fifteen (15) days prior to the hearing, and shall be provided by  
11 U.S. mail to the same address to which the notice of infraction was sent unless the owner  
12 has provided a different address.

13 (c) The following shall be permissible grounds to contest the notice of infraction:

14 (1) The motor vehicle was stolen at the time of the alleged violation;

15 (2) The motor vehicle driver was issued a uniform traffic citation by a City of  
16 Gainesville law enforcement officer, a law enforcement officer of another agency  
17 with inherent jurisdiction within the city, or a law enforcement officer of another  
18 agency acting pursuant to the provisions of a mutual aid agreement between the  
19 City of Gainesville and that law enforcement agency, which citation was separate  
20 and distinct from the citation issued under this Act for violating the steady red  
21 traffic control signal;

22 (3) The motor vehicle violated the steady red traffic control signal at the  
23 direction of a law enforcement officer;

24 (4) The motor vehicle violated the steady red traffic control signal in order to



1 reasonably protect the property or person of another;

2 (5) The steady red traffic control signal was inoperable or malfunctioning;

3 (6) The motor vehicle passed through the intersection in order to yield the  
4 right-of-way to an emergency vehicle, or the motor vehicle was part of a funeral  
5 procession;

6 (7) Any other good cause the special magistrate deems sufficient, excluding  
7 the ground that someone other than the registered owner of the motor vehicle was  
8 driving the vehicle at the time of the violation.

9 (d) The traffic infraction review officer who reviewed the recorded images shall  
10 testify at the hearing. The vehicle owner, or his or her duly authorized representative,  
11 may also present evidence and testimony.

12 (e) Recorded images indicating a red light infraction, verified by a traffic infraction  
13 review officer, are admissible in any proceeding before the special magistrate to enforce  
14 the provisions of this Act, and shall constitute prima facie evidence of the violation.

15 (f) Formal rules of evidence shall not apply and any relevant evidence may be  
16 admitted. Hearsay evidence may be admitted, but shall not form the sole basis upon  
17 which the special magistrate's decision is made. Irrelevant and unduly repetitious  
18 evidence may be excluded. The hearing shall be conducted in a manner to ensure that  
19 procedural and substantive due process is afforded the owner.

20 (g) The special magistrate shall issue a final order. If the special magistrate finds in  
21 favor of the city, the special magistrate may assess actual costs against the owner  
22 incurred by the city in conducting the hearing.

23 **Sec. 26-39. Vehicle Owner Affidavit of Non-responsibility.**

24 The registered owner of the motor vehicle may, within (20) days after receipt of the

1 notice of infraction, furnish to the city an affidavit that sets forth detailed information  
2 supporting a dismissal as provided in section 26-38. The affidavit must set forth that the  
3 vehicle was stolen and be accompanied by a copy of the police report indicating that the  
4 vehicle was stolen at the time of the alleged violation. For a dismissal under section 26-  
5 38, the affidavit must set forth that a uniform traffic citation was issued by a City of  
6 Gainesville law enforcement officer, a law enforcement officer of another agency with  
7 inherent jurisdiction within the city or a law enforcement officer of another agency acting  
8 pursuant to the provisions of a mutual aid agreement between the City of Gainesville and  
9 that law enforcement agency, and be accompanied by a copy of the uniform traffic  
10 citation indicating the time of the alleged violation and the location of the intersection  
11 where it occurred. The affidavit must be executed in the presence of a notary and include  
12 the following language immediately above the signature line: "Under penalty of perjury, I  
13 declare that I have read the foregoing affidavit and that the facts stated in it are true and  
14 correct."

15 Upon receipt of a complete and *bona fide* affidavit meeting the criteria set forth herein,  
16 that is accepted as true and complete, any prosecution of the notice of infraction issued to  
17 the vehicle owner shall be dismissed.

18 **Sec. 26-40. Penalties.**

19 A red light infraction in violation of this Act shall be deemed a municipal ordinance  
20 violation for which a fine is assessed against the owner of the motor vehicle in the  
21 amount set forth in Appendix A of the Gainesville Code of Ordinances.

22 **Sec. 26-41. Collection of penalties and costs.**

23 The City Attorney is authorized to institute collection proceedings against the owner of a  
24 motor vehicle to enforce the payment of penalties and costs not paid within the time

1 limits provided in this Act or within the time permitted by the special magistrate.

2 **Sec. 26-42. Appeals.**

3 An aggrieved party may appeal a final administrative order of the special magistrate to  
4 the court as provided in section 162.11, Florida Statutes.

5 **Section 2.** Appendix A, "Traffic and Motor Vehicles" of the Gainesville Code of  
6 Ordinances is amended to read as follow:

7 **TRAFFIC AND MOTOR VEHICLES:**

- 8 (1) Parking violations (§ 26-46(d)(4)):
- |  |        |
|--|--------|
| 9 a. Parking in a metered space, the meter for which is expired    | 12.00  |
| 10 b. Unlawfully parking on private property                       | 17.50  |
| 11 c. Unlawfully parking in any tow-away zone, except as           |        |
| 12 otherwise herein stated   | 23.25  |
| 13 d. Unlawfully parking in a space, including the access area,    |        |
| 14 provided for the disabled, either by governmental or            |        |
| 15 nongovernmental entities  | 115.75 |
| 16 e. \$22.00, plus a \$3.00 surcharge (to be used for firefighter |        |
| 17 training programs pursuant to and as authorized by              |        |
| 18 section 316.008(5), F.S.) for all fire hydrant and fire         |        |
| 19 station safety zone parking violations.                         |        |
| 20 f. All other violations, including parking in a space for a     |        |
| 21 time longer than lawfully permitted in the parking space        | 12.00  |
- 22 (2) Parking in fire lanes (§ 26-47.1) 23.25  
23 Plus \$3.00 to fund firefighter training programs (per § 316.008(5), F.S.) 3.00
- 24 (3) In addition to any other fee or charge required under subsections  
25 (1) and (2) above, a \$3.00 surcharge shall be assessed for each  
26 violation to fund the school crossing guard program.
- 27 (4) Parking in violation of § 26-50.1 . . . 115.75
- 28 (5) In addition to any other fee, charge or cost required under  
29 subsection (1), (2), (3) and (4) above and (8) below, \$2.00 shall be  
30 assessed as court costs for each infraction to fund criminal justice  
31 education degree programs and training courses, including basic  
32 recruit training.
- 33 (6) Delinquent administrative fees (§ 26-46(d)):
- 34 Administrative fees not paid within:
- |   |       |
|---|-------|
| 35 a. Seven calendar days of citation being issued or, within |       |
| 36 four days of denial of an affidavit of explanation,        |       |
| 37 whichever is later   | 10.00 |
| 38 b. Fourteen calendar days of citation being issued         | 25.00 |
- 39 Delinquency fees referenced in (6)a. and (6)b. are cumulative.
- 40 (7) An administrative fee of \$25.00 shall be assessed for the costs  
41 associated with booting/immobilizing a vehicle that has three or  
42 more unpaid parking tickets (§ 26-53).

1	(8) <u>Red light infractions (Chapter 26, Article II, Division 2):</u>	
2	a. <u>First and second infraction .....</u>	<u>\$125.00</u>
3	b. <u>Third and subsequent infraction within a three year period .....</u>	<u>\$175.00</u>
4		

5       **Section 3.** To allow time for a public awareness campaign in the city, for the first  
6 90 days following installation and operation of the first red light camera(s) authorized  
7 under this Act, the City Manager or designee shall issue to the vehicle owner a courtesy  
8 notice of the violation.

9       **Section 4.** It is the intention that Sections 1 and 2 of this Ordinance shall become and be  
10 made a part of the Code of Ordinances, of the City of Gainesville, Florida, and that the sections  
11 and paragraphs of this ordinance may be renumbered or re-lettered in order to accomplish such  
12 intentions.

13       **Section 5.** If any word, phrase, clause, paragraph, section or provision of this  
14 ordinance or the application hereof to any person or circumstance is held invalid or  
15 unconstitutional, such finding shall not affect the other provisions or applications of the  
16 ordinance which can be given effect without the valid or unconstitutional provisions or  
17 application, and to this end the provisions of this ordinance are declared severable.

18       **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of  
19 such conflict hereby repealed.

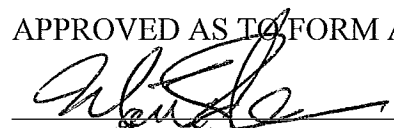
20       **Section 7.** This ordinance shall become effective immediately on adoption.

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**PASSED AND ADOPTED** this 19<sup>th</sup> day of February, 2009.

  
\_\_\_\_\_  
PEGEEN HANRAHAN,  
MAYOR

ATTEST  
  
\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

APPROVED AS TO FORM AND LEGALITY  
  
\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

**FEB 19 2009**

15 This Ordinance passed on first reading this 5<sup>th</sup> day of February, 2009.

16 This Ordinance passed on second reading this 19<sup>th</sup> day of February, 2009.