



776 NE 125 Street, North Miami, Florida 33161

Council Report

To: Honorable Mayor and City Council

From:  for C.G.
Cherise Gause, Chief of Police

Date: March 26, 2024

RE: **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 13 OF THE CITY CODE OF ORDINANCES, ENTITLED "OFFENSES", BY ADDING ARTICLE VI, ENTITLED "SCHOOL ZONE SPEED INFRACTIONS"; ADOPTING FINDINGS; PROVIDING FOR USE OF TRAFFIC INFRACTION DETECTORS IN ACCORDANCE WITH STATE LAW; PROVIDING FOR A LOCAL HEARING OFFICER; REPEALING INCONSISTENT ORDINANCES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

RECOMMENDATION

Staff is requesting that the Mayor and City Council adopt an ordinance amending Chapter 13 of the City Code of Ordinances entitled "Offenses", by adding Article VI, entitled "School Zone Speed Infractions." The requested Ordinance will allow for the use of Traffic Infraction detectors in accordance with State law and a local hearing officer to conduct hearings relating to notice of violations.

BACKGROUND

The Florida Legislature passed CS/CS/HB 657 during the 2023 Legislative Session, amending certain provisions of State law governing the use of automated Speed Detection Systems (SDS) in School Zones. CS/CS/HB 657 became law on June 1, 2023, resulting in Law of Florida 2023-174 taking effect on July 1, 2023, and codified at s. 316.003, F.S., 316.008, F.S., and 316.0776, F.S.

Speeding in school zones presents a threat to the health and safety of the public and, in particular, the children of this City. Consistent with s. 316.008(c), in consideration of this program, the City has considered traffic data demonstrating a significant safety need. The

City wishes to implement an automated SDS program in school zones in order to reduce speeding and benefit public safety.

FUNDING IMPACT / FUNDING SOURCE

None

Department	Allocation	Funding Source	Contract Manager
N/A	N/A	N/A	N/A
Total:			

ATTACHMENT(s)

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 13 OF THE CITY CODE OF ORDINANCES, ENTITLED “OFFENSES”, BY ADDING ARTICLE VI, ENTITLED “SCHOOL ZONE SPEED INFRACTIONS”; ADOPTING FINDINGS; PROVIDING FOR USE OF TRAFFIC INFRACTION DETECTORS IN ACCORDANCE WITH STATE LAW; PROVIDING FOR A LOCAL HEARING OFFICER; REPEALING INCONSISTENT ORDINANCES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature passed CS/CS/HB 657 during the 2023 Legislative Session, amending certain provisions of State law governing the use of automated Speed Detection Systems (SDS) in School Zones; and

WHEREAS, CS/CS/HB 657 became law on June 1, 2023, resulting in Law of Florida 2023-174 taking effect on July 1, 2023, and codified at s 316.003, F.S., 316.008, F.S., and 316.0776, F.S.; and

WHEREAS, speeding in School Zones presents a threat to the health and safety of the public and in particular the children in this City; and

WHEREAS, consistent with s. 316.008(c), in consideration of this program the City has considered traffic data at a public hearing demonstrating a significant safety need; and

WHEREAS, the City wishes to implement an automated SDS program in school zones in order to reduce speeding and benefit public safety.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 13 of the Code of Ordinances entitled “Offenses”, to add Article VI, entitled “School Zone Speed Infractions” as follows:

CHAPTER 13. OFFENSES

* * * * *

ARTICLE VI. SCHOOL ZONE SPEED INFRACTIONS

Section 13-45. Speed Detection Systems in School Zones.

(a) Purpose and Intent. The City desires to protect the public health, safety, and welfare of individuals traveling to and from school in the City, especially students and their parents and/or legal guardians and school employees. Accordingly, the City seeks to enforce School Zone speed limits by authorizing the placement and installation of speed detection systems on those School Zone roadways that constitute a heightened safety risk warranting additional enforcement measures pursuant to Section 316.008(9), Florida Statutes.

(b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) *Local Hearing Officer* means the City Special Magistrate or such other qualified person designated by resolution of the City Council to conduct hearings relating to notice of violations issued pursuant to Sections 316.1896 and 316.0083, Florida Statutes.

(2) *Person* means a natural person, the registered owner or co-owner of a motor vehicle, or the person identified in an affidavit as having actual care, custody, or control of the motor vehicle at the time of a Violation.

(3) *Petitioner* means a person who elects to request a hearing before the Local Hearing Officer for the purpose of determining whether a Violation under Section 316.1896, Florida Statutes, has occurred.

(4) *School Zone* means a roadway located within the City and maintained as a School Zone pursuant to Section 316.1895, Florida Statutes, that constitutes a heightened safety risk that warrants additional enforcement measures, as determined by the City Council after consideration of traffic data and other relevant evidence.

(5) *Speed Detection System* means a portable or fixed automated system used to detect a motor vehicle's speed using radar or LiDAR, and to capture a photograph or video of the rear of a motor vehicle that exceeds the speed limit in force at the time of the Violation.

(6) *Traffic Infraction Enforcement Officer* means the police department employee or employees designated by the City who meets the qualifications set forth under Section 316.640(5), Florida Statutes, and/or any other relevant statute, and is vested with the authority to enforce Violations.

(7) Violation means a person that drives a motor vehicle on a roadway designated as a School Zone at a speed as follows:

(A) In excess of 10 miles per hour over the School Zone speed limit which occurs within 30 minutes before through 30 minutes after the start of a regularly scheduled breakfast program in violation of Section 316.1895, Florida Statutes.

(B) In excess of 10 miles per hour over the School Zone speed limit which occurs within 30 minutes before through 30 minutes after the start of a regularly scheduled school session in violation of Section 316.1895, Florida Statutes.

(C) In excess of 10 miles per hour over the posted speed limit during the entirety of a regularly scheduled school session in violation of Section 316.183, Florida Statutes.

(D) In excess of 10 miles per hour over the School Zone speed limit which occurs within 30 minutes before through 30 minutes after the end of a regularly scheduled school session in violation of Section 316.1895, Florida Statutes.

Section 13-46. Determination of Safety Need.

Findings. After consideration of the traffic data provided in the “School Zone Speed Report for the City of North Miami” prepared by RedSpeed Florida, LLC and other relevant evidence presented, the City Council hereby finds that the following School Zones where Speed Detection Systems are to be placed and installed constitute a heightened safety risk that warrant additional enforcement measures pursuant to Section 316.008(9), Florida Statutes:

(1) David Lawrence K-8

15000 Bay Visa Boulevard

North Miami, FL 33181

(2) Cristo Rey Miami

125 N.E. 119 Street

North Miami, Florida 33168

(3) Gratigny Elementary School

11905 North Miami Avenue

North Miami, Florida 33168

- (4) Miami Union Academy
12600 N.W. 4 Avenue
North Miami, Florida 33168
- (5) Yeshiva Elementary
13300 Memorial Highway
North Miami, Florida 33161
- (6) Holy Cross Lutheran
650 N.E. 135 Street
North Miami, Florida 33161
- (7) North Miami Elementary School
655 N.E. 145 Street
North Miami, Florida 33161
- (8) North Miami Middle School
700 N.E. 137 Street
North Miami, FL 33161

Section 13-47. Placement and Installation of Speed Detection Systems.

Consistent with and pursuant to Chapter 316, Florida Statutes, the City Council authorizes the placement, installation, and operation of automated Speed Detection Systems on School Zone roadways, as identified herein under subsection 36-4(c), to enforce Violations.

Section 13-48. Notice of Violation, Designation of Local Hearing Officer, and Hearing Procedures.

(1) Within thirty (30) days after a Violation, a notice of violation shall be sent by first class mail to the registered owner of the motor vehicle involved in the Violation. The notice of violation must include:

a. The name and address of the vehicle owner;

b. a photograph, video, or other recorded image showing the license plate of the motor vehicle;

- c. The make, model, and year of the vehicle;
 - d. The date, time, and location of the Violation;
 - e. Notice that the infraction charged is pursuant to this section;
 - f. The maximum speed at which the motor vehicle was traveling within the School Zone;
 - g. The speed limit within the School Zone at the time of the Violation;
 - h. A statement that the owner has a right to review, in person or remotely, the photograph or video captured by the Speed Detection System(s) and the evidence of the speed of the motor vehicle detected by the Speed Detection System(s) that constitutes a rebuttable presumption that the motor vehicle was used in a Violation;
 - i. Instructions as to the time and the place or website at which the photograph or video and evidence of speed detected captured by the Speed Detection System(s) may be examined and observed;
 - j. Information that advises the Violator on the person's right to request a hearing and on all costs related thereto and a form used to request a hearing, or alternatively, a web address to a website that provides such information;
 - k. Instructions on all methods of payment of the penalty;
 - l. A statement specifying the remedies available under Section 318.14, Florida Statutes;
 - m. A statement that the owner must pay a penalty in the amount provided under Section 318.18(3)(d), Florida Statutes, or furnish an affidavit that complies with Section 316.1896(8), Florida Statutes, within thirty (30) days in order to avoid court fees, costs, and the issuance of a uniform traffic citation against the owner; and
 - n. A signed statement by the Traffic Infraction Enforcement Officer that, based on inspection of recorded photographs or video captured by the Speed Detection System(s), the vehicle was involved in and was utilized to commit a Violation.
- (2) Except as may be otherwise provided by resolution of the City Council, the City shall utilize its special magistrate pursuant to Chapter 21, Article III, Division 1 of the City Code to serve as the Local Hearing Officer(s) who shall preside over notice of violation hearings, as established by Section 316.1896, Florida Statutes, as amended.

(3) The City Manager or the City Manager's designee, shall designate a Traffic Infraction Enforcement Officer(s) to exercise any authority conferred pursuant to Section 316.1896, Florida Statutes, and a City staff member to serve as the clerk to the Local Hearing Officer.

(4) Any Petitioner that elects to request a hearing shall be scheduled for a hearing by the clerk of the Local Hearing Officer, with notice of the hearing to be sent to the Petitioner by first-class mail. Upon receipt of the notice, the Petitioner may reschedule the hearing once by submitting a written request to reschedule to the clerk of the Local Hearing Officer, at least five (5) calendar days before the day of the originally scheduled hearing. The Petitioner may cancel his or her appearance before the Local Hearing Officer by paying the penalty assessed by Section 316.1896(2), Florida Statutes, as amended, plus the administrative costs established under Section 316.0083(5)(c), Florida Statutes, before the start of the hearing.

(5) All testimony at the hearing shall be under oath and shall be recorded. The Local Hearing Officer shall take testimony from a Traffic Infraction Enforcement Officer and the Petitioner, and may take testimony from others. The Local Hearing Officer must review the photograph or video captured by the Speed Detection System and the evidence of the speed of the motor vehicle detected by the Speed Detection System. Formal rules of evidence do not apply, but due process shall be observed and govern the proceedings.

(6) At the conclusion of the hearing, the Local Hearing Officer must determine whether a Violation has occurred, in which case the Local Hearing Officer shall uphold or dismiss the Violation. The Local Hearing Officer shall issue a final administrative order including the determination and, if the notice of the violation is upheld, must require the Petitioner to pay the penalty assessed under Section 316.18(3)(d), Florida Statutes, as amended, and may also require the Petitioner to pay the City's costs, not to exceed the amount established under Section 316.0083(5)(e), Florida Statutes. The final administrative order shall be mailed to the Petitioner by first-class mail.

(7) An aggrieved party may appeal a final administrative order consistent with the process provided under Chapter 162, Florida Statutes. (f) Supplemental Authority. The provisions of this Section supplement the enforcement of Sections 316.1895 and 316.183, Florida Statutes, by law enforcement officers and does not prohibit law enforcement officers from issuing uniform traffic citations for violations of Sections 316.1895 or 316.183.

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Section 2. **Implementation.** The Mayor and City Council hereby authorize the City Manager to create and implement any procedures necessary to implement the purposes and intent of this Ordinance and the Bill, subject to approval by the City Attorney as to form and legality, and to take any action which is reasonably necessary to implement the purpose of this Ordinance.

Section 3. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. **Conflicts.** In the event that any provision of this Ordinance is in conflict with any state statute, the Ordinance shall be interpreted and applied to the fullest extent possible so as to maintain consistency with the state statute. In the event that the provisions of this Ordinance are in conflict with any other City ordinance, rule, or regulation, the provisions of this Ordinance shall prevail.

Section 5. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2024.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2024.

ALIX DESULME, ED.D.
MAYOR

ATTEST:

VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Alix Desulme, Ed.D.	_____ (Yes)	_____ (No)
Vice-Mayor Mary Estimé-Irvin	_____ (Yes)	_____ (No)
Councilman Scott Galvin	_____ (Yes)	_____ (No)
Councilwoman Kassandra Timothe, MPA	_____ (Yes)	_____ (No)
Councilman Pierre Frantz Charles, M.Ed.	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.