

**CITY OF SANIBEL
DRAFT ORDINANCE 24-**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AMENDING THE CODE OF ORDINANCES RELATING TO CHAPTER 66, TRAFFIC, BY BIFURCATING ARTICLE III. SPEED LIMITS, INTO TWO DIVISIONS, DIVISION 1. GENERALLY, AND ADDING A NEW DIVISION 2, SCHOOL SPEED ZONES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, CS/CS/HB 657 was passed by the Florida Legislature and signed into law by the Governor 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 Chapter 2023-174, Laws of Florida, taking effect on July 1, 2023, and codified at Sections 316.003, 316.008, and 316.0776, Florida Statutes (2023); 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 Section 316.008(c), Florida Statutes, and 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 CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. Sanibel Code of Ordinances, Subpart B. Land Development Code, is hereby amended with ~~striketrough~~ language indicating deletions and underlined language indicating additions as follows:

Chapter 66 – TRAFFIC

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ARTICLE III. - SPEED LIMITS

DIVISION I. - GENERALLY

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DIVISION II. SCHOOL SPEED ZONES

Sec. 66-123. - Definitions

Unless the context clearly indicates otherwise, the words and terms contained in this division shall have the same meaning as the same terms contained in F.S. ch. 316, as may be amended.

Local Hearing Officer means the city's code enforcement hearing examiner appointed in accordance with section 2-351 or who is otherwise the person designated by the city to authorize traffic infraction enforcement officers to issue traffic citations under F.S. §§ 316.0083(1)(A) and 316.1896(1), who is authorized to conduct hearings related to a notice of violation issued pursuant to F.S. § 316.0083 or 316.1896.

School Speed Zone means a school speed zone established pursuant to and in conformance with F.S. § 316.1895.

Speed Detection System (SDS) 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.

Traffic Infraction Enforcement Officer means a person who is employed or appointed, with or without compensation, and satisfies the requirements of F.S. § 316.640(5), and is vested with authority to enforce violations of F.S. §§ 316.1895 and 316.183 pursuant to F.S. § 316.1896.

Sec. 66-124. – Authority

- (a) Pursuant to F.S. § 316.008(9), the city is authorized to enforce the applicable speed limit on a roadway properly maintained as a school zone, through the use of a speed detection system for the detection of speed and capturing of photographs or videos for speeding violations in excess of ten (10) miles per hour over the speed limit in force at the time of the violation during the following times:
- (1) Within thirty (30) minutes before through thirty (30) minutes after the start of a regularly scheduled breakfast program;
 - (2) Within thirty (30) minutes before through thirty (30) minutes after the start of a regularly scheduled school session;
 - (3) During the entirety of a regularly scheduled school session; and
 - (4) Within thirty (30) minutes before through thirty (30) minutes after the end of a regularly scheduled school session.
- (b) A school zone's compliance with F.S. § 316.1895, relating to the establishment of school speed zones, creates a rebuttable presumption that the school zone is properly maintained.

Sec. 66-125. - Use of Automated Speed Detection Systems and Placement, Notice, and Annual Report

- (a) The city hereby elects to commence the use of Automated Speed Detection Systems in school zones within its jurisdiction in accordance with the provisions of state law, including F.S. ch. 316. The use of SDS shall be deemed a supplemental means of enforcing the Florida Uniform Traffic Control Law and nothing herein shall be construed or operate to preclude the enforcement of the Florida Uniform Traffic Control Law by any other means provided by law.

- (b) In all locations where city places or installs a speed detection system, as authorized by F.S. § 316.008(9), the city shall notify the public that a speed detection system may be in use by posting signage indicating photographic or video enforcement of the school zone speed limits. Such signage shall clearly designate the time period during which the school zone speed limits are enforced using a SDS and must meet the placement and installation specifications established by the Department of Transportation. For a speed detection system enforcing violations of F.S. § 316.1895 or 316.183 on a roadway maintained as a school zone, this paragraph governs the signage notifying the public of the use of a speed detection system.
- (c) So long as the city operates one or more school zone speed detection systems, it shall annually report the results of all systems within its jurisdiction to the Florida Department of Highway Safety and Motor Vehicles by placing the report required under F.S. § 316.1896(16)(a) as a single reporting item on the agenda of a regular or special meeting of city council.
- (1) Before the city contracts or renews a contract to place or install a speed detection system in a school zone pursuant to F.S. § 316.008(9), the city shall approve the contract or contract renewal at a regular or special meeting of the city council. Interested members of the public shall be allowed to comment regarding the report, contract, or contract renewal under the city council's public comment policies or formats. The report, contract, or contract renewal may not be considered as part of a consent agenda.
- (2) The report required under this paragraph shall include a written summary, which shall be read aloud at the regular or special meeting, and the summary shall contain, for the same time period pertaining to the annual report to the department under F.S. § 316.1896(16)(a), the number of notices of violation issued, the number that were contested, the number that were upheld, the number that were dismissed, the number that were issued as uniform traffic citations, and the number that were paid and how collected funds were distributed and in what amounts. The city must report to the Florida Department of Highway Safety and Motor Vehicles that the city's annual report was considered in accordance with this paragraph, including the date of the regular or special meeting at which the annual report was considered.
- (3) The compliance or sufficiency of compliance with this paragraph may not be raised in a proceeding challenging a violation of F.S. § 316.1895 or 316.183, enforced by a speed detection system in a school zone.

Sec. 66-126. - Designation of Local Hearing Officer.

The city's code enforcement hearing examiner is hereby designated to conduct hearings requested by alleged violators wishing to contest a notice of violation detected by SDS in accordance with F.S. ch. 316.

Sec. 66-127. - School Crossing Guard Recruitment And Retention Program

The Sanibel Police Department must use funds generated from the school zone speed detection system program pursuant to F.S. § 316.1896(5)(e) to administer the School Crossing Guard Recruitment and Retention Program. Such program may provide recruitment and retention stipends to crossing guards at k-12 public schools, including charter schools, or stipends to third parties for the recruitment of new crossing guards. The school crossing guard recruitment and retention program must be designed and managed at the discretion of the law enforcement agency.

Sec. 66-128. - Roadways Maintained as School Zones; Speed Detection System Enforcement; Penalties; Appeal; Procedure; Privacy; Reports.

- (a) For purposes of administering this article, the city may authorize a traffic infraction enforcement officer under F.S. § 316.640 to issue uniform traffic citations for violations of F.S. §§ 316.1895 and 316.183, as authorized by F.S. § 316.008(9), as follows:
- (1) For a violation of F.S. § 316.1895 in excess of ten (10) miles per hour over the school zone speed limit which occurs within thirty (30) minutes before through thirty (30) minutes after the start of a regularly scheduled breakfast program.
 - (2) For a violation of F.S. § 316.1895 in excess of ten (10) miles per hour over the school zone speed limit which occurs within thirty (30) minutes before through thirty (30) minutes after the start of a regularly scheduled school session.
 - (3) For a violation of F.S. § 316.183 in excess of ten (10) miles per hour over the posted speed limit during the entirety of a regularly scheduled school session.
 - (4) For a violation of F.S. § 316.1895 in excess of ten (10) miles per hour over the school zone speed limit which occurs within thirty (30) minutes before through thirty (30) minutes after the end of a regularly scheduled school session.
- (b) Violations must be evidenced by a speed detection system described in F.S. §§ 316.008(9) and 316.0776(3). This subsection does not prohibit a review of information from a speed detection system by an authorized employee or agent of the city before issuance of the uniform traffic citation by the traffic infraction enforcement officer. This subsection does not prohibit the city from issuing notices as provided in subsection (c) below to the registered owner of the motor vehicle for a violation of F.S. § 316.1895 or 316.183.
- (c) Within thirty (30) days after a violation, notice must be sent to the registered owner of the motor vehicle involved in the violation specifying the remedies available under F.S. § 318.14 and that the violator must pay the penalty under F.S. § 318.18(3)(d) to the city, or furnish an affidavit in accordance with subsection (i) below, within thirty (30) days after the date of the notice of violation in order to avoid court fees, costs, and the issuance of a uniform traffic citation. The notice of violation must:
- (1) Be sent by first-class mail;
 - (2) Include a photograph or other recorded image showing the license plate of the motor vehicle; the date, time, and location of the violation; the maximum

- speed at which the motor vehicle was traveling within the school zone, and the speed limit within the school zone at the time of the violation;
- (3) Include a notice that the owner has the right to review, in person or remotely, 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 which constitute a rebuttable presumption that the motor vehicle was used in violation of F.S. § 316.1895 or 316.183; and
- (4) State the time when, and the place or website at which, the photograph or video captured, and evidence of speed detected may be examined and observed.
- (d) Notwithstanding any other law, a person who receives a notice of violation under this section may request a hearing within thirty (30) days after the notice of violation or may pay the penalty pursuant to the notice of violation, but a payment or fee may not be required before the hearing requested by the person. The notice of violation must be accompanied by, or direct the person to a website that provides, information on the person's right to request a hearing and on all costs related thereto and a form used for requesting a hearing. As used in this subsection, the term "person" includes 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 the violation.
- (e) If the registered owner or co-owner of the motor vehicle; the person identified as having care, custody, or control of the motor vehicle at the time of the violation; or an authorized representative of the owner, co-owner, or identified person initiates a proceeding to challenge the violation, such person waives any challenge or dispute as to the delivery of the notice of violation.
- (f) Penalties assessed and collected by the city, less the amount retained by the city pursuant to subsections (2) and (5) below, and the amount remitted to the county school district pursuant to subsection (4), shall be paid to the State Department of Revenue weekly. Such payment shall be made by means of electronic funds transfer. In addition to the payment, a detailed summary of the penalties remitted shall be reported to the Department of Revenue. Penalties to be assessed and collected by the city as established in F.S. § 318.18(3)(d) shall be remitted as follows:
- (1) Twenty dollars (\$20.00) shall be remitted to the Department of Revenue for deposit into the General Revenue Fund;
- (2) Sixty dollars (\$60.00) shall be retained by the city and shall be used to administer speed detection systems in school zones and other public safety initiatives;
- (3) Three dollars (\$3.00) shall be remitted to the Department of Revenue for deposit into the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund;
- (4) Twelve dollars (\$12.00) shall be remitted to the county school district in which the violation occurred and must be used for school security initiatives, for student transportation, or to improve the safety of the city's student walking conditions. These funds shall be shared with charter schools in the district based on each charter school's proportionate share of the district's

total unweighted, full-time equivalent student enrollment and must be used for school security initiatives or to improve the safety of student walking conditions; and

(5) Five dollars (\$5.00) shall be retained by the city for the school crossing guard recruitment and retention program pursuant to F.S. § 316.1894.

(g) A uniform traffic citation shall be issued by mailing the uniform traffic citation by certified mail to the address of the registered owner of the motor vehicle involved in the violation if payment has not been made within thirty (30) days after notification pursuant to subsection (c) above, if the registered owner has not requested a hearing as authorized under subsection (d), and if the registered owner has not submitted an affidavit in accordance with subsection (i).

(1) Delivery of the uniform traffic citation constitutes notification of a violation under this subsection. If the registered owner or co-owner of the motor vehicle; the person identified as having care, custody, or control of the motor vehicle at the time of the violation; or a duly authorized representative of the owner, co-owner, or identified person initiates a proceeding to challenge the citation pursuant to this section, such person waives any challenge or dispute as to the delivery of the uniform traffic citation.

(2) In the case of joint ownership of a motor vehicle, the uniform traffic citation shall be mailed to the first name appearing on the motor vehicle registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.

(3) The uniform traffic citation mailed to the registered owner of the motor vehicle involved in the infraction shall be accompanied by the information described in subsections (c)(2), (c)(3), and (c)(4).

(h) The registered owner of the motor vehicle involved in the violation is responsible and liable for paying the uniform traffic citation issued for a violation of F.S. § 316.1895 or 316.183 unless the owner can establish that:

(1) The motor vehicle was, at the time of the violation, in the care, custody, or control of another person;

(2) A uniform traffic citation was issued by law enforcement to the driver of the motor vehicle for the alleged violation of F.S. § 316.1895 or 316.183; or

(3) The motor vehicle's owner was deceased on or before the date of the alleged violation, as established by an affidavit submitted by the representative of the motor vehicle owner's estate or other identified person or family member.

(i) To establish such facts under subsection (h), the registered owner of the motor vehicle must, within thirty (30) days after the date of issuance of the notice of violation or the uniform traffic citation, furnish to the appropriate governmental entity an affidavit setting forth the following information supporting an exception under subsection (h):

(1) An affidavit supporting the exception under subsection (h)(1) must include the name, address, date of birth, and, if known, the driver license number of the person who leased, rented, or otherwise had care, custody, or control

- of the motor vehicle at the time of the alleged violation. If the motor vehicle was stolen at the time of the alleged violation, the affidavit must include the police report indicating that the motor vehicle was stolen.
- (2) If a uniform traffic citation for a violation of F.S. § 316.1895 or 316.183 was issued at the location of the violation by a law enforcement officer, the affidavit must include the serial number of the uniform traffic citation.
- (3) If the motor vehicle's owner to whom a notice of violation or a uniform traffic citation has been issued is deceased, the affidavit must include a certified copy of the owner's death certificate showing that the date of death occurred on or before the date of the alleged violation and one of the following:
- a. A bill of sale or other document showing that the deceased owner's motor vehicle was sold or transferred after his or her death but on or before the date of the alleged violation;
 - b. Documented proof that the registered license plate belonging to the deceased owner's motor vehicle was returned to the department or any branch office or authorized agent of the department after his or her death but on or before the date of the alleged violation; or
 - c. A copy of the police report showing that the deceased owner's registered license plate or motor vehicle was stolen after his or her death but on or before the date of the alleged violation.
- (4) Upon receipt of the required affidavit and documentation specified above related to the issuance of a uniform traffic citation or a deceased owner, or thirty (30) days after the date of issuance of a notice of violation sent to a person identified as having care, custody, or control of the motor vehicle at the time of the violation pursuant to subsection (i)(1) above, the city shall dismiss the notice or citation and provide proof of such dismissal to the person who submitted the affidavit. If, within thirty (30) days after the date a notice of violation was sent to a person, the city receives an affidavit from the person sent a notice of violation affirming that the person did not have care, custody, or control of the motor vehicle at the time of the violation, the city shall notify the registered owner that the notice or citation will not be dismissed due to failure to establish that another person had care, custody, or control of the motor vehicle at the time of the violation.
- (i) Upon receipt of an affidavit identifying another person as having care, custody, or control of the vehicle, the person identified may be issued a notice of violation for a violation of F.S. § 316.1895 or 316.183. The affidavit is admissible in a proceeding for the purpose of providing proof that the person identified in the affidavit was in actual care, custody, or control of the motor vehicle. The owner of a leased motor vehicle for which a uniform traffic citation is issued for a violation of F.S. § 316.1895 is not responsible for paying the uniform traffic citation and is not required to submit an affidavit if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.
- (k) If the city receives an affidavit identifying another person as having care, custody, or control of the vehicle, the required notice of violation shall be sent to the person identified in the affidavit within thirty (30) days after receipt of the affidavit. The person identified in the affidavit and who received a notice of violation may also affirm that he or she did not have care, custody, or control of

- the motor vehicle at the time of the violation by furnishing to the appropriate governmental entity within thirty (30) days after the date of the notice of violation an affidavit stating such.
- (l) The submission of a false affidavit is a misdemeanor of the second degree, punishable with up to sixty (60) days in jail or a five hundred dollar (\$500.00) fine pursuant to F.S. § 775.082 or 775.083.
- (m) The photograph or video captured by a speed detection system and the evidence of the speed of the motor vehicle detected by a speed detection system which are attached to or referenced in the uniform traffic citation are evidence of a violation of F.S. § 316.1895 or 316.183 and are admissible in any proceeding to enforce the violation. The photograph or video and the evidence of speed detected raise a rebuttable presumption that the motor vehicle named in the report or shown in the photograph or video was used in violation of F.S. § 316.1895 or 316.183.
- (n) This division supplements the enforcement of F.S. § 316.1895 and 316.183 by a law enforcement officer and does not prohibit a law enforcement officer from issuing a uniform traffic citation for a violation of F.S. § 316.1895 or 316.183.
- (o) A hearing related to the violation shall be conducted under the procedures established in F.S. § 316.0083(5), as follows:
- (1) The Florida Department of Highway Safety and Motor Vehicles shall publish and make available electronically to the city a model request for hearing form to assist the city administering F.S. § 316.1896.
 - (2) The city shall designate by resolution existing staff to serve as the clerk to the local hearing officer.
 - (3) A person who elects to request a hearing (i.e., the petitioner) shall be scheduled for a hearing by the clerk to the local hearing officer. The clerk shall furnish the petitioner with notice sent by first-class mail. Upon receipt of the notice, the petitioner may reschedule the hearing up to two times by submitting a written request to reschedule to the clerk at least five (5) calendar days before the day of the scheduled hearing. The petitioner may cancel his or her appearance before the local hearing officer by paying the assessed penalty plus the administrative costs of fifty dollars and twenty-six cents (\$50.26) before the start of the hearing.
 - (4) At the conclusion of the hearing, the local hearing officer shall determine whether a violation occurred and shall uphold or dismiss the violation. The local hearing officer shall issue a final administrative order including the determination and, if the notice of violation is upheld, shall require the petitioner to pay the one hundred dollar (\$100.00) penalty previously assessed, and may also require the petitioner to pay municipal costs not to exceed two hundred and fifty dollars and twenty-seven cents (\$250.27). The final administrative order must be mailed to the petitioner by first-class mail.
 - (5) An aggrieved party may appeal a final administrative order consistent with the process provided in F.S. § 162.11 relating to appeals of an order of the code enforcement board.
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- (1) A speed detection system in a school zone may not be used for remote surveillance. The collection of evidence by a speed detection system to enforce violations of F.S. § 316.1895 and 316.183, or user-controlled pan or tilt adjustments of speed detection system components, do not constitute remote surveillance. Recorded video or photographs collected may only be used to document violations of F.S. § 316.1895 and 316.183, and for purposes of determining civil or criminal liability for incidents captured by the speed detection system incidental to the permissible use of the speed detection system.
 - (2) Any recorded video or photograph obtained through the use of a speed detection system shall be destroyed within ninety (90) days after the final disposition of the recorded event. The vendor of the speed detection system shall provide the city with written notice by December 31 of each year that such records have been destroyed. Registered motor vehicle owner information obtained as a result of the operation of a speed detection system in a school zone is not the property of the manufacturer or vendor of the speed detection system and may be used only for the purposes (g
- (g)
- (1) The city shall submit a report by October 1, 2024, and annually thereafter, to the Florida Department of Highway Safety and Motor Vehicles which identifies the public safety objectives used to identify a school zone for enforcement; reports compliance with F.S. § 316.0776(3)(c); and details the results of the speed detection system in the school zone and the procedures for enforcement. The city shall submit the information described herein in a form and manner determined by the Florida Department of Highway Safety and Motor Vehicles, which the Florida Department of Highway Safety and Motor Vehicles must make available to the city by August 1, 2023, and the Florida Department of Highway Safety and Motor Vehicles may require data components to be submitted quarterly. The report must include at least the following:
 - a. Information related to the location of each speed detection system, including the geocoordinates of the school zone; the directional approach of the speed detection system; the school name; the school level; the times the speed detection system was active; the restricted school zone speed limit enforced pursuant to F.S. § 316.1895(5); the posted speed limit enforced at times other than those authorized by F.S. § 316.1895(5); the date the systems were activated to enforce violations of F.S. §§ 316.1895 and 316.183; and, if applicable, the date the systems were deactivated.
 - b. The number of notices of violation issued, the number that were contested, the number that were upheld, the number that were dismissed, the number that were issued as uniform traffic infractions, and the number that were paid.
 - c. Any other statistical data and information related to the procedures for enforcement which is required by the Florida Department of Highway Safety and Motor Vehicles to complete the report required below.

The city shall maintain its respective data for reporting purposes for at least two (2) years after such data is reported to the Florida Department of Highway Safety and Motor Vehicles.

Sec. 66-129. - Speed Detection Systems

Pursuant to F.S. § 316.1906(3), speed detection systems are exempt from the Florida Department of Highway Safety and Motor Vehicles' requirements for radar and LiDAR units. A speed detection system must have the ability to perform self-tests as to its detection accuracy. The system must perform a self-test at least once every thirty (30) days. The law enforcement agency, or an agent acting on behalf of the law enforcement agency, operating a speed detection system must maintain a log of the results of the system's self-tests. The law enforcement agency, or an agent acting on behalf of the law enforcement agency, operating a speed detection system must also perform an independent calibration test on the speed detection system at least once every twelve (12) months. The self-test logs, as well as the results of the annual calibration test, are admissible in any court proceeding for a uniform traffic citation issued for a violation of F.S. § 316.1895 or 316.183, enforced pursuant to F.S. § 316.1896. Evidence of the speed of a motor vehicle detected by a compliant speed detection system and the determination by a traffic enforcement officer that a motor vehicle is operating in excess of the applicable speed limit is admissible in any proceeding with respect to an alleged violation of law regulating the speed of motor vehicles in school zones.

Sec. 66-130. - Penalties

- (a) A person cited for a violation of F.S. § 316.1985(10) or 316.183 for exceeding the speed limit in force at the time of the violation on a roadway maintained as a school zone, when enforced by a traffic infraction enforcement officer pursuant to F.S. § 316.1896, must pay a fine of one hundred dollars (\$100.00). Fines collected under this provision shall be distributed as follows:
- (1) Twenty dollars (\$20.00) shall be remitted to the State Department of Revenue for deposit into the General Revenue Fund;
 - (2) Seventy-seven dollars (\$77.00) is distributed to the city, to be used as provided in F.S. § 316.1896(5).
 - (3) Three dollars (\$3.00) is remitted to the Department of Revenue for deposit into the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund to be used as provided in F.S. § 943.25, relating to the source and use of funds in criminal justice trust funds.
- (b) If a person who is mailed a notice of violation or a uniform traffic citation for a violation of F.S. §§ 316.1895(10) or 316.183, as enforced by a traffic infraction enforcement officer under F.S. § 316.1896, presents documentation from the appropriate governmental entity that the notice of violation or uniform traffic citation was in error, the clerk of court or clerk of the local hearing officer may dismiss the case. The clerk of court or clerk to the local hearing officer may not charge for this service.

Sec. 66-131. - DRIVER LICENSE POINTS

No points shall be imposed on a driver's license for a violation of unlawful speed in a school zone when enforced by a traffic infraction enforcement officer through use of a speed detection system as authorized by this Ordinance. In addition, a violation of unlawful speed in a school zone when enforced by a traffic infraction enforcement officer through use of a speed detection system as described above may not be used for purposes of setting motor vehicle insurance rates.

Secs. ~~132~~123 – 140. - Reserved

SECTION 3. Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 5. Severance. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 6. Effective date. This Ordinance shall be effective immediately upon adoption.