

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 106, ENTITLED "TRAFFIC AND VEHICLES," BY CREATING ARTICLE XII, ENTITLED "SCHOOL ZONES AND SPEED DETECTION SYSTEMS," BY CREATING SECTION 106-495 THEREOF, ENTITLED "SPEED DETECTION SYSTEMS IN SCHOOL ZONES," TO AUTHORIZE THE PLACEMENT, INSTALLATION, AND OPERATION OF SPEED DETECTION SYSTEMS ON SPECIFIED ROADWAYS MAINTAINED AS SCHOOL ZONES; ESTABLISH TRAFFIC ENFORCEMENT PROCEDURES WHEN SPEED DETECTION SYSTEMS ARE UTILIZED FOR SCHOOL ZONE SPEED LIMIT VIOLATIONS; AND CREATE HEARING PROCEDURES RELATING TO SUCH SCHOOL ZONE SPEED LIMIT VIOLATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on July 1, 2023, House Bill 657 ("HB 657"), as codified in Chapter 2023-174 of the Laws of Florida, went into effect authorizing counties and municipalities to use speed detection systems ("SDS Systems") to enforce school zone speeding violations in excess of 10 miles over the posted speed limit during certain times and days; and

WHEREAS, pursuant to HB 657, prior to installing and utilizing SDS Systems to enforce eligible school zone speeding violations, counties and municipalities are required to adopt an ordinance authorizing the placement and installation of SDS Systems, and create traffic enforcement procedures relating to the enforcement of school zone speed limits through the use of SDS Systems; and

WHEREAS, HB 657 also requires the governing body of the municipality to first determine whether each school zone constitutes a heightened safety risk that warrants additional traffic enforcement measures, based on traffic data or other evidence, prior to the installation and operation of an SDS System in any school zone; and

WHEREAS, the City contracted with The Corradino Group ("Corradino") to conduct and complete a speed evaluation study relating to the potential implementation of SDS Systems in school zones within the City; and

WHEREAS, Corradino completed the study and provided the City with its Miami Beach School Zones Speed Study (the "Report") for consideration by the City; and

WHEREAS, the Report evaluated seventeen (17) school zones spread across eight (8) different schools in the City; and

WHEREAS, after consideration of the traffic data, information, and conclusions provided in the Report (which Report is on-file with the City Clerk), and other relevant evidence presented at the public hearing held on February 21, 2024, the City Commission has determined that the following school zones constitute a heightened safety risk that warrant additional enforcement measures pursuant to Section 316.008(9), Florida Statutes:

1. School Zone 1 - Alton Road from north of 4th Street to 180 feet south of 2nd Street (South Pointe Elementary School)

2. School Zone 8 – Dade Boulevard from west of Prairie Avenue to approximately 23rd Street (Miami Beach Senior High School)
3. School Zone 9 – Prairie Avenue from north of Dade Boulevard north to approximately 2500 Prairie Avenue (Miami Beach Senior High School)
4. School Zone 10 – 41st Street from east of Alton Road to west of Royal Palm Avenue (North Beach Elementary School)
5. School Zone 14 – Meridian Avenue from 43rd Court to north of 41st Street (Miami Beach Nautilus Middle School)
6. School Zone 17 – Pine Tree Drive from 23rd Street to approximately 2500 Pine Tree Drive (Hebrew Academy) (collectively, the “School Zones”); and

WHEREAS, in order to mitigate the heightened safety risks in the School Zones, the City Commission desires to adopt this Ordinance to, among other things, make findings that the School Zones constitute heightened safety risks that warrant additional enforcement measures pursuant to Section 316.008(9), Florida Statutes, based on the Report and any other relevant evidence presented at the February 21, 2024, public hearing; authorize the placement, installation, and operation of SDS Systems in the School Zones; create procedures for the issuance of notice of violations for school zone speeding violations by duly qualified traffic infraction enforcement officers pursuant to Section 316.1896, Florida Statutes; and establish a hearing framework whereby a local hearing officer(s) will determine whether school zone speeding violations have occurred; and

WHEREAS, the City Commission finds that speeding violations in school zones present a real hazard not only to the general public’s health and safety, but also specifically to children who are arriving at or departing from school; and

WHEREAS, enforcement of speed limits in school zones with law enforcement officers alone can be difficult, as in the time a law enforcement officer has stopped and cited a speeding driver, other motorists can commit speeding violations and escape the issuance of a citation; and

WHEREAS, the City Commission finds it to be in the best interest of the public, health, safety, and welfare of the residents of Miami Beach to adopt this Ordinance amending the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Article XII of Chapter 106 of the Code of the City Miami Beach is hereby created as follows:

CHAPTER 106 – TRAFFIC AND VEHICLES

* * *

ARTICLE XII. – School Zones and Speed Detection Systems

* * *

Section 106-495. 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 schools 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 installation, implementation, and operation of Speed Detection Systems on those roadways properly maintained as school zones, that constitute a heightened safety risk warranting additional enforcement measures pursuant to Section 316.008(9), Florida Statutes, in accordance with Chapter 2023-174, Laws of Florida, as may be amended from time to time.

(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 a Special Magistrate, or such other qualified person designated by Resolution of the City Commission, to conduct hearings relating to notices of violation 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, which constitutes a heightened safety risk that warrants additional enforcement measures, as determined by the City Commission 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(s) designated by the City who meet the qualifications set forth in Fla. Stat. 316.640(5), and/or any other relevant statute, and are 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.

(c) Findings. After consideration of the traffic data provided in the “Miami Beach School Zones Speed Study” prepared by The Corradino Group (which is on-file with the City Clerk), and other relevant evidence presented at the public hearing held on February 21, 2024, the City Commission hereby finds that the following School Zones where Speed Detection Systems are to be placed or installed constitute a heightened safety risk that warrant additional enforcement measures pursuant to Section 316.008(9), Florida Statutes:

1. Alton Road from north of 4th Street to 180 feet south of 2nd Street (South Pointe Elementary School)
2. Dade Boulevard from west of Prairie Avenue to approximately 23rd Street (Miami Beach Senior High School)
3. Prairie Avenue from north of Dade Boulevard north to approximately 2500 Prairie Avenue (Miami Beach Senior High School)
4. 41st Street from east of Alton Road to west of Royal Palm Avenue (North Beach Elementary School)
5. Meridian Avenue from 43rd Court to north of 41st Street (Miami Beach Nautilus Middle School)
6. Pine Tree Drive from 23rd Street to approximately 2500 Pine Tree Drive (Hebrew Academy).

(d) Placement and Installation of Speed Detection Systems. Consistent with and pursuant to Chapter 316, Florida Statutes, and Chapter 2023-174, Laws of Florida, as may be amended from time to time, the City Commission authorizes the placement, installation, and operation of automated Speed Detection Systems on School Zone roadways, as identified herein under subsection 106-495(c), to enforce Violations.

(e) 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) which constitutes a rebuttable presumption that the motor vehicle was used in a Violation;
- i. Instructions as to the time and the place when, or website at which, the photograph or video captured, and evidence of speed detected, 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 Commission, the City shall utilize its Special Magistrates 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 of Miami Beach Clerk's Office shall serve as the clerical staff, as designated by the City of Miami Beach Clerk, to serve as the clerk(s) to the Local Hearing Officer(s).

(4) Pursuant to 316.1896(1), the City Manager, or the City Manager's designee, may elect to authorize Traffic Infraction Enforcement Officer(s) to issue uniform traffic citations, as set forth in 316.1896(6), for violations of Sections 316.1895 and 316.183, as authorized by 316.008(9), Florida Statutes, and the City Commission shall designate, by resolution, existing staff to serve as the clerk to the Local Hearing Officer.

(5) 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 up to two (2) times 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.

(6) All testimony at the hearing shall be taken 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. The formal rules of evidence do not apply, but due process shall be observed and govern the proceedings.

(7) 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 318.18(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.

(8) An aggrieved party may appeal a final administrative order consistent with the process provided under Section 162.11, Florida Statutes, as such may be amended from time to time.

(9) The City, or the City Manager's designee, shall assess penalties, and remit applicable portions of assessed penalties, consistent with the requirements of Chapter 2023-174, Laws of Florida, as such may be amended from time to time.

(10) A uniform traffic citation must be issued by mailing the uniform traffic citation via certified mail to the address of the registered owner of the motor vehicle involved in the Violation if payment has not been made within 30 days after notification pursuant to Fla. Stat. 316.1896 (2) and subsection (e)(1)(m) herein; if the registered owner has not requested a hearing in accordance with Fla. Stat. 316.1896(3) and subsection (e)(1)(j) herein; and if the registered owner has not submitted an affidavit in accordance with Fla. Stat. 316.1896(8) and subsection (e)(1)(m) herein.

(e) *Signage and Public Awareness Campaign.* The City Manager, or the City Manager's designee, shall post signage, make a public announcement, and conduct a public awareness campaign regarding the City's placement and installation of Speed Detection Systems consistent with the requirements of Chapter 2023-174, Laws of Florida, as such may be amended from time to time.

(f) Reporting. The City Manager, or the City Manager's designee, shall comply with the reporting requirements of Chapter 2023-174, Laws of Florida, as such may be amended from time to time.

(g) 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.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the ____ day of _____, 2024.

PASSED and **ADOPTED** this ____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Alex J. Fernandez)

Underline denotes additions.

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *MAF* 1-25-24
Date