

INTRODUCED BY:
MAYOR BROWN



ORDINANCE NO. 2024-01

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, CREATING CHAPTER 22, ARTICLE VI, SECTIONS 22-101 THROUGH 22-105, AUTOMATED TRAFFIC ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Neptune Beach desires to protect its citizens by diligently updating the Code of Ordinances of the City of Neptune Beach;

WHEREAS, during the 2023 Florida Legislative Session, the Florida Legislature adopted House Bill 657, which amends Chapter 316, Florida State Statutes to authorize a county or municipality to enforce the speed limit in a school zone through the use of a speed detection system;

WHEREAS, the Neptune Beach Police Department has conducted a traffic study to determine whether the school zone speed restrictions were being adequately observed;

WHEREAS, the study showed that there were many violations in the school zones located on Florida Boulevard and Seagate Avenue, warranting the use of school zone speed cameras;

WHEREAS, to effectively address this issue, the City finds it in the best interest of the public to adopt the use of school zone safety speed cameras to enforce the speed limits and protect the health and safety of its youngest citizens.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

Section 1. Creating Chapter 22, Article VI, Sections 22-101 through 22-105 of the City of Neptune Beach Code of Ordinances. Sections 22-101 through 22-105 of the Code of Ordinances of the City of Neptune Beach, Florida, are hereby created as follows:

ARTICLE VI - AUTOMATED TRAFFIC ENFORCEMENT

Sec. 22-101. Definitions.

For the purpose of this section [article], the following words and phrases shall have the meanings respectively ascribed to them by this section.

Agent means a person or entity who is authorized by a law enforcement agency or governing body to administer the procedures contained here and (1) provides services to such law enforcement agency or governing body; (2) operates, maintains, leases, or licenses a video recording device; or (3) is authorized by such law enforcement agency or governing body to review and assemble the recorded images captured by the automated traffic enforcement safety device for review by a peace officer.

Automated traffic enforcement safety device means a speed detection device that: (1) is capable of producing photographically recorded still or video images, or both, of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another vehicle, including an image of such vehicle's rear license plate; (2) is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (1) of this paragraph; and (3) indicates on each photographically recorded still or video image produced the date, time, location, and speed of a photographically recorded vehicle traveling at a speed above the posted speed limit within a marked school zone.

Owner means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company.

Recorded images means still or video images recorded by an automated traffic enforcement safety device.

School safety zone means in, on, or within 500 feet of any real property owned by or leased to any public or private elementary, middle, or high school or school board and used for elementary, middle, or high school education.

Sec. 22-102. - Local speed zones

Local speed zones established by the city or county traffic engineer in accordance with F.S. §§ 316.189 and 316.1895 are:

(1) 30 miles per hour on the local street of Florida Blvd. between the intersections of Penman Road to the east and S.R. 10 / Atlantic Blvd. to the west; or passing through any church zone or school zone when people are congregated about such church or school preparatory to entering or leaving.

(2) 25 miles per hour on the local street of Florida Blvd. between the intersections of S.R. A1A / 3rd St. to the east and Penman Rd. to the west; or passing through any church zone or school zone when people are congregated about such church or school preparatory to entering or leaving.

(3) 25 miles per hour on the local street of Seagate Ave. westbound lanes between the intersections of S.R. A1A / 3rd St. to the east and Penman Rd. to the west; or passing through any church zone or school zone when people are congregated about such church or school preparatory to entering or leaving.

Sec. 22-103. Authorization for use of automated traffic enforcement safety devices.

The speed limit within any school zone as provided for in Sec. 22-102 and marked pursuant to FSS.316.1895 may be enforced by using photographically recorded images for violations which occurred only on a school day during the time in which instructional classes are taking place and one hour before such classes are scheduled to begin and for one hour after such classes have concluded when such violations are in excess of ten miles per hour over the speed limit.

Sec. 22-104 Administration of use of automated traffic enforcement safety devices

- (a) The law enforcement agency, or agent on behalf of the law enforcement agency, operating an automated traffic enforcement safety device provided for under Sec. 22-103 shall maintain a log for the automated traffic enforcement safety device attesting to the performance of such device's self-test at least once every 30 days and the results of such self-test pertaining to the accuracy of the automated traffic enforcement safety device. Such log shall be admissible in any civil enforcement proceeding for a violation issued pursuant to Sec. 22-103. The law enforcement agency, or agent on behalf of the law enforcement agency, operating an automated traffic enforcement safety device shall perform an independent calibration test on the automated traffic enforcement safety device at least once every 12 months. The results of such calibration test shall be admissible in any court proceeding for a violation issued pursuant to Sec. 22-103.
- (b) If an automated traffic enforcement safety device is moved to or placed in a location where an automated traffic enforcement safety device had not previously been moved to or placed in, no citation shall be issued for a violation recorded by that automated traffic enforcement safety device until:
 - (1) The City of Neptune Beach shall erect signs warning of the use of a stationary speed detection device within the approaching school zone. Such signs shall adhere to the provisions set forth in FSS. 316.1895, shall be visible plainly from every lane of traffic, shall be viewable in all traffic conditions, and shall not be placed in such a manner that the view of such sign is subject to being obstructed by any other vehicle on such highway. Such signs shall be placed within 250 feet prior to the warning sign announcing the reduction of the speed limit for the school speed zone. There shall be a rebuttable presumption that such signs are properly installed pursuant to this subsection at the time of any alleged violation under this article; and
 - (2) That no citation shall be issued for the first 30 days after the first automated traffic enforcement safety device is introduced by a law enforcement agency within a school zone, but rather, a civil warning shall be issued for disregard or disobedience of the speed limit within the school zone.
- (d) The Neptune Beach Police Department, any law enforcement agency authorized to enforce the speed limit of a school zone, or an agent working on behalf of a law enforcement agency or governing body, shall send by first class mail addressed to the owner of the motor vehicle within 30 days after obtaining the name and address

of the owner of the motor vehicle but no later than 60 days after the date of the alleged violation:

- (1) A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the maximum speed at which such motor vehicle was traveling in photographically recorded images, the maximum speed applicable within such school zone, the civil warning or the amount of the civil monetary penalty imposed, and the date by which a civil monetary penalty shall be paid;
 - (2) An image taken from the photographically recorded images showing the vehicle involved in the infraction;
 - (3) A website address where photographically recorded images showing the vehicle involved in the infraction and a duplicate of the information provided for in this paragraph may be viewed;
 - (4) A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency authorized to enforce the speed limit of the school zone and stating that, based upon inspection of photographically recorded images, the owner's motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law;
 - (5) A statement of the inference provided by Florida law and of the means specified therein by which such inference may be rebutted for such violations;
 - (6) Information advising the owner of the motor vehicle of the manner in which liability as alleged in the citation may be contested through an administrative hearing; and
 - (7) A warning that the failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in subsection (d) of this Code section shall waive any right to contest liability.
- (e) Proof that a motor vehicle was operated in disregard or disobedience of the speed limit of the marked school zone shall be evidenced by photographically recorded images. A copy of a certificate sworn to or affirmed by a certified law enforcement officer employed by a law enforcement agency or a civilian employee who has been to a traffic enforcement and citation review certified course and stating that, based upon inspection of photographically recorded images, a motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law shall be prima-facie evidence of the facts contained therein.
- (f) Liability shall be determined based upon a preponderance of the evidence. Prima-facie evidence that the vehicle described in the citation issued pursuant to this Code section was operated in violation of the speed limit of the school zone, together with proof that the defendant was, at the time of such violation, the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

- (1) Testifies under oath in open court or submits to the court a sworn notarized statement that he or she was not the operator of the vehicle at the time of the alleged violation; or
 - (2) Presents to the court a certified copy of a law enforcement report showing that the vehicle had been reported to law enforcement as stolen prior to the time of the alleged violation.
- (g) A violation for which a civil warning or a civil monetary penalty is imposed pursuant to this article shall not be considered a moving traffic violation for the purpose of points assessment under FSS 322.27. Such violation shall be deemed noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this article shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.
- (h) Any court having jurisdiction over violations of Sec. 22-103 shall have jurisdiction over cases arising under this article and shall be authorized to impose the civil monetary penalty provided for by this subsection. Except as otherwise provided pursuant to Florida law, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations under this article shall apply to enforcement under this article; provided however, that any appeal from county or state court shall be by application in the same manner as that provided by FSS. 318.14.

Sec. 22-105. Violations and penalties.

- (a) Any person who shall violate any provision of this article shall be subject to the civil penalties set forth in Sec. 22-104, including a fine in the amount of \$100.00.

Section 2. Conflict. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent inconsistent herewith.

Section 3. Severability. If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 3. Effective Date. This Ordinance shall become effective immediately upon passage by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Nia Livingston	YES
Councilor Josh Messinger	YES
Councilor Lauren Key	YES

Passed on First Reading this 20th day of February, 2024.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Nia Livingston	YES
Councilor Josh Messinger	YES
Councilor Lauren Key	YES


Passed on Second and Final Reading this 4th day of March, 2024.


Elaine Brown, Mayor

ATTEST:


Catherine Ponson, CMC, City Clerk

Approved as to form and
correctness:


Zachary Roth, City Attorney

