

**ORDINANCE**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KNOXVILLE TO AMEND THE KNOXVILLE CITY CODE, CHAPTER 17, SECTION 17-210, TO AUTHORIZE AUTOMATED ENFORCEMENT SYSTEMS FOR REGULATING SPEEDING IN SCHOOL ZONES AND MOTOR VEHICLE NOISE AT NO DIRECT COST TO THE CITY AND IN SUPPORT OF THE CITY'S VISION ZERO INITIATIVE.

ORDINANCE NO: \_\_\_\_\_

REQUESTED BY: Law \_\_\_\_\_

PREPARED BY: Law \_\_\_\_\_

APPROVED ON 1<sup>ST</sup> \_\_\_\_\_

READING: \_\_\_\_\_

APPROVED ON 2<sup>ND</sup> \_\_\_\_\_

READING: \_\_\_\_\_

APPROVED AS AN EMERGENCY

MEASURE: \_\_\_\_\_

MINUTE BOOK: \_\_\_\_\_ PAGE \_\_\_\_\_

**WHEREAS**, since institution of Knoxville's automated traffic signal enforcement program, crashes at intersections controlled by traffic signals have decreased dramatically; and

**WHEREAS**, the City of Knoxville would likewise like to see an increase in pedestrian safety in the City's school zones, and to that end wishes to exercise the authority granted by General Assembly in Tenn. Code Ann. § 55-8-198(j)(1) to operate automated speed enforcement systems within selected school zones in the City; and

**WHEREAS**, the City of Knoxville desires to take advantage of emerging technologies to enforce the City's restrictions on motor vehicle noise set forth in Knoxville City Code § 17-383, and to that end wishes to authorize automated enforcement systems for excessive vehicle noise at selected locations in the City; and

**WHEREAS**, the Council of the City of Knoxville desires to ensure that the City's automated traffic signal and speed enforcement programs operate in compliance with Tenn. Code Ann. § 55-8-198, and that those programs and the automated motor vehicle noise enforcement program operate within the authority of the City of Knoxville as an incorporated home rule municipality.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KNOXVILLE:**

**SECTION 1:** The Knoxville City Code § 17-210, is hereby amended by deleting the existing section and substituting in its place the following:

**Sec. 17-210. Automated enforcement.**

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

*Citations and warning notices* shall include:

- (1) The name and address of the registered owner of the vehicle;
- (2) The registration plate number of the motor vehicle involved in the violation;
- (3) The violation charged;
- (4) The location of the violation;
- (5) The date and time of the violation;
- (6) A copy of the recorded image;
- (7) The amount of the civil penalty imposed and the date by which the civil penalty should be paid, or by which a hearing must be requested, pursuant to subsection (c)(2)(b) of this section, which dates shall be not less than thirty (30) days from the date of mailing of the citation;
- (8) A signed statement by a member of the police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of subsection (c) of this section; and
- (9) Information advising the person alleged to be liable under this section:

- a. Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the city court; and
- b. Warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

*In operation* means operating in good working condition.

*Recorded images* means images recorded by a traffic control photographic system on:

- (1) On:
  - a. A photograph;
  - b. A microphotograph;
  - c. An electronic image;
  - d. Videotape; or
  - e. Any other medium; and
- (2) At least one (1) image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

*System location* is the approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

*Traffic control photographic system* is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device. "Traffic control photographic system" also includes an electronic system consisting of a photographic, video or electronic camera and a speed detection system, including but not limited to radar, laser lidar or other technological means designed to work in conjunction to produce photographs, video or digital images of each vehicle violating subsection 17-262(1) relative to speeding in school zones.

*Motor vehicle audio detection and identification system* is an electronic system consisting of a photographic, video or electronic camera and an audio sensor and recording system designed to detect and identify excessive noise emanating from motor vehicles being operated on the streets of the City and to automatically produce photographs, video or digital images and audio recordings and measurements of any vehicle violating the provisions of section 17-383 of this Chapter.

*Vehicle owner* is the person identified by the appropriate department of the state of Tennessee as the registered owner of a vehicle.

- (b) *General.*

- (1) The city police department or an agent of the department shall administer the traffic control photographic and motor vehicle audio detection and identification systems and shall maintain a list of system locations where traffic control photographic systems and motor vehicle audio detection and identification are installed.
  - (2) The city shall adopt procedures for the issuance of citations and warnings under this section. A citation or warning alleging that the violation of subsection (c) of this section occurred, sworn to or affirmed by officials or agents of the city, based on inspection of recorded images and audio evidence recorded and produced by a traffic control photographic or motor vehicle audio detection and identification system, shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section. The citation or warning shall be forwarded by first-class mail to the owner's address as given on the motor vehicle registration. Personal service of process on the owner shall not be required.
  - (3) Signs to indicate the use of traffic control photographic systems shall be clearly posted.
- (c) *Offense.*
- (1)
    - a. It shall be unlawful for a vehicle to cross the stop line at a system location per subsection 17-506(a)(3)(a), or for a vehicle to violate any other traffic regulation specified in chapter 17 (motor vehicles and traffic) of the Code of Ordinances of the city, including subsection 17-262(1) relative to speeding in school zones.
    - b. It shall further be unlawful for any motor vehicle or combination of vehicles of a type subject to state registration to be operated at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limits for the category of motor vehicle set forth in subsection 17-383(c), based on a distance of fifty (50) feet from the center of the lane of travel, within the speed limits specified in said subsection.
  - (2) A person who receives a citation for any offense listed in subsection (c)(1) may:
    - a. Pay the civil penalty, in accordance with instructions on the citation, directly to the city court; or
    - b. Elect to contest the citation for the alleged violation.
  - (3) The owner of a vehicle shall be responsible for a violation under this section, except when he can provide evidence that the vehicle was in the care, custody or control of another person at the time of the violation,

as described in subsection (c)(4) of this section, in which circumstance the person who had the care, custody or control of the vehicle at the time of the violation shall be responsible.

- (4) Notwithstanding subsection (c)(3) of this section, the owner of the vehicle shall not be responsible for the violation if, on the designated court date, he furnishes the city court:
- a. An affidavit by him stating the name and address of the person or entity who leased, rented, or otherwise had the care, custody or control of the vehicle at the time of the violation; or
  - b. An affidavit by him stating that, at the time of the violation, the vehicle involved or its license plate was stolen, along with a certified copy of the police report reflecting such theft, or that the vehicle was in the care, custody or control of some person who did not have his permission to use the vehicle, and stating the name and address of said person. An affidavit alleging theft of a motor vehicle or its plates must be provided by the registered owner of a vehicle receiving a notice of violation within thirty (30) days of the mailing date of the notice of violation.

If an individual identified pursuant to subsection (c)(4)(a) placed the vehicle in the care, custody or control of another at the time of the violation, said individual may likewise submit an affidavit pursuant to subsection (c)(4)(a). If an individual identified pursuant to subsection (c)(4)(a) demonstrates to the city court that he or she did not lease or rent the vehicle, or otherwise was not given care, custody or control of the vehicle, the owner of the vehicle shall remain responsible for the violation, and a citation as set forth above shall be reissued to the owner of the vehicle.

(d) *Penalty.*

- (1) Any violation of subsection (c)(1) of this section shall subject the responsible person or entity to a civil penalty of fifty dollars (\$50.00), without assessment of court costs or fees. Failure to pay the civil penalty or appear in court to contest the citation on the designated date shall subject the responsible person or entity to assessment of court costs and fees as set forth in this chapter and chapter 8 of the Code of Ordinances, except that no court costs or fees shall be assessed unless a second notice is sent by first class mail to the registered owner of the motor vehicle and such second notice provides for an additional thirty (30) days for payment of such citation. The city may establish procedures for the trial of civil violators, and the collection of civil penalties and may enforce the penalties by a civil action in the nature of a debt.

- (2) A violation for which a civil penalty is imposed under this section shall not be considered a moving violation and may not be recorded by the police department or the state department of safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.
- (e) *Exemptions.* The owners of the following vehicles are exempt from receiving a notice of violation for violation of subsection 17-506(a)(3)(a):
  - (1) Emergency vehicles with active emergency lights;
  - (2) Vehicles moving through the intersection to avoid or clear the way for a marked emergency vehicle;
  - (3) Vehicles under police escort; and
  - (4) Vehicles in a funeral procession.
- (f) *Exemptions.* The owners of the following vehicles are exempt from receiving a notice of violation for violation of subsection 17-262(1) or 17-383(c):
  - (1) any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

**SECTION 2:** This Ordinance shall take effect from and after its passage, the welfare of the City requiring it.

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Presiding Officer of the Council

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Recorder