AN ORDINANCE

TO BE ENTITLED

AN ORDINANCE TO AMEND PART 7, MOTOR VEHICLES AND

TRAFFIC, OF THE CODE OF THE CITY OF SAVANNAH, GEORGIA

(2003) TO AUTHORIZE THE USE OF AUTOMATED TRAFFIC

ENFORCEMENT SAFETY DEVICES IN SCHOOL ZONES WITHIN THE CITY; TO

PROVIDE FOR EFFECTIVE DATES; TO REPEAL ALL ORDINANCES

IN CONFLICT HEREWITH, AND FOR OTHER PURPOSES.

**WHEREAS**, the Mayor and Aldermen of the City of Savannah (the “City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia; and

**WHEREAS**, theduly elected governing authority of the City is the Mayor and Aldermen thereof (“City Council”); and

**WHEREAS**, the protection of children and prevention of motor vehicle related deaths, injuries, and property damage is of the upmost importance to the City Council; and

**WHEREAS**, Article lX, Section 2 of the Georgia Constitution and O.C.G.A. § 36-35-3 authorize the City to adopt ordinances and regulations for the protection and promotion of the public safety, health, and welfare of its residents, and to regulate the operation of motor vehicles and control traffic upon and across the streets and roads of the City; and

**WHEREAS**, in 2018, the Georgia General Assembly enacted additional laws governing excessive speeding in designated School Zones; and

**WHEREAS**, the City Council finds that excessive speeding and disregard of traffic control devices in school zones has increased the number of traffic related injuries and deaths in Georgia; and

**WHEREAS**, pursuant O.C.G.A. § 40-14-8, the City is authorized to establish and enact an automated traffic enforcement safety device program in properly marked School Zones (the area within 1,000 feet of the boundary of any public or private elementary or secondary school) one hour before, during, and one hour after (1) the normal hours of school operation, and (2) programs for care and supervision of students before school, after school, or during vacation periods, for speeding violations in excess of ten miles per hour over the speed limit; and

 **WHEREAS**, the City Council finds that this Ordinance addressing excessive speeding in school zones is in the best interests of the health and general welfare of the City, its residents and general public.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Aldermen of the City of Savannah, Georgia, in regular meeting of Council assembled, and pursuant to lawful authority thereof:

SECTION 1: The Part 7, Motor Vehicles and Traffic, of the Code of the City of Savannah (2003) be amended by inserting a new Article I entitled “Automated Traffic Enforcement in School Zones” as follows:

 ARTICLE I. AUTOMATED TRAFFIC ENFORCEMENT IN SCHOOL ZONES.

 Sec. 7-1401. – Definitions. For the purposes of this Article, the following terms, phrases, and their derivatives shall have the meanings given herein:

 (a) "Agent" means a person or entity who is authorized by a law enforcement agency or governing body to administer the procedures contained here and (i) provides services to such law enforcement agency or governing body; (li) operates, maintains, leases, or licenses a video recording device; or (iii) 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.

 (b) "Automated Traffic Enforcement Safety Device" means a speed detection device that: (i) 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; (ii) is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (i) of this paragraph; and (iii) 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.

 (c) "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.

 (d) "School Zone" means the area within 1,000 feet of the boundary of any public or private elementary or secondary school.

 (e) "Recorded Images" means still or video images recorded by an Automated Traffic Enforcement Safety Device.

 Sec. 7-1402. – Speed Monitoring Systems Authorized.

 Speed camera enforcement, using Automated Traffic Enforcement Safety Devices are hereby authorized within School Zones in the City between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m., Monday through Friday.

 Sec. 7-1403. – Administration.

 (a) The Savannah Police Department, or any Agent on behalf of the Savannah Police Department, operating an Automated Traffic Enforcement Safety Device provided for under O.C.G.A. § 40-14-18 shall maintain a log for the Automated Traffic Enforcement Safety Device attesting to the performance of such device’s self-test at least 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 O.C.G.A. § 40-14-18. The Savannah Police Department, or Agent on behalf of the Savannah Police Department, 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 O.C.G.A. § 40-14-18.

 (b) Prior to the placement of a device within a School Zone, each school within whose School Zone such Automated Traffic Enforcement Safety Device is to be placed shall first apply for and secure a permit from the Georgia Department of Transportation for the use of such Automated Traffic Enforcement Safety Device. Such permit shall be awarded based upon need pursuant to rules and regulations promulgated by the Georgia Department of Transportation.

 (c) If an Automated Traffic Safety Device is moved 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 erects signs warning of the use of a stationary speed detection device within the approaching School Zone. Such signs shall be at least 24 by 30 inches in area, shall be plainly visible from every lane of approaching 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 500 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) No citation shall be issued for the first 30 days after the first Automated Traffic Enforcement Safety Device is introduced by the Savannah Police Department within a School Zone; rather, a civil warning shall be issued for disregard or disobedience of the speed limit within the School Zone.

 (d) The Savannah Police Department, or an Agent working on its behalf, 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 the 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 the Savannah Police Department 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 Georgia 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 before the Recorder’s Court of Chatham County; 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 this Article 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 mages. A copy of a certificate sworn to or affirmed by a certified peace officer employed by the Savannah Police Department, 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 Article 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 police report showing that the vehicle had been reported to the police 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 O.C.G.A. § 40-5-57. 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) If a person issued and mailed a citation pursuant to this Article fails to pay the civil monetary penalty for the violation or has not filed a police report or notarized statement pursuant to this Article in no less than 30 nor more than 60 days after such mailing as determined and noticed by the Savannah Police Department, the Agent or the Police Department shall send to such person by first class mail a second notice of any unpaid civil monetary penalty, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The second notice shall include all information required in this Article and shall include a new date of return which shall be no less than 30 days after such mailing as determined and noticed by the Savannah Police Department. If such person notified by second notice again fails to pay the civil monetary penalty or file a police report or notarized statement pursuant to this Article by the new date of return, such person shall have waived the right to contest the violation and shall be liable for the civil monetary penalty provided for under this Article except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. Notices mailed by first class mail pursuant to this Article shall be adequate notification of the fees and penalties imposed by this Article. No other notice shall be required for purposes of this Article.

 (i) The Recorder’s Court of Chatham County shall have jurisdiction over cases arising under this Article and shall be authorized to conduct an administrative hearing when timely requested by a recipient of a notice of violation pursuant to this Article and impose the civil monetary penalty provided for by this Article. Except as otherwise provided pursuant to Georgia law, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations under this section shall apply to enforcement under this Article; provided, however, that any appeal from Recorder’s Court shall be by application in the same manner as that provided by O.C.G.A. § 5-6-35.

 (j) If a violation has not been contested and the assessed penalty has not been paid, the Agent or City shall send to the person who is the registered owner of the motor vehicle a final notice of any unpaid civil monetary penalty authorized by this Article except in cases where there in an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The notice shall inform the registered owner that the Agent or City shall send a referral to the Department of Revenue if the assessed penalty is not paid within 30 days after the formal notice was mailed and that such referral shall result in the nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer of such motor vehicle within this state.

 (k) The Agent or City shall send a referral to the Department of Revenue not sooner than 30 days after the final notice required by this Article was mailed if a violation under this Article has not been contested and the assessed penalty has not been paid. The referral to the Department of Revenue shall include the following:

 (1) Any information known or available to the Agent or City concerning the license plate number, year of registration, and the name of the owner of the motor vehicle;

 (2) The date on which the violation occurred;

 (3) The date when the notice required under this Article was mailed; and

 (4) The seal, logo, emblem, or electronic seal of the City.

 (l) A civil warning or civil monetary penalty under this Section on the owner of a motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a citation and notice to appear by a certified peace officer for the same violation.

 Sec. 7-1404. – Violations and penalties.

 Any person who shall violate any provision of this Article shall be subject to the civil penalties set forth at O.C.G.A. § 40-14-18(b)(1), as amended, including a fine in the amount of $75 for a first violation and $125 for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed $25.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: This Section shall be effective when the Mayor affixes his signature below.

ADOPTED AND APPROVED:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 Van R. Johnson II, Mayor

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Clerk of Council