

AMENDED ORDINANCE NO. 5747

AN ORDINANCE TO AMEND CHAPTER 21 OF THE CITY OF MEMPHIS, CODE OF ORDINANCES TO ADD A SECTION RELATED TO THE SPEED ENFORCEMENT PHOTOGRAPHIC SYSTEM

WHEREAS, Tennessee Code Annotated § 55-8-198 governs the implementation and use of unmanned traffic enforcement cameras;

WHEREAS, the City desires to implement a speed enforcement photographic system, which is subject to the regulations set forth in Tenn. Code Ann. § 55-8-198; and

WHEREAS, the City seeks to enact an ordinance that conforms with state law as set forth in Tenn. Code Ann. § 55-8-198.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that a new section shall added to Chapter 21, entitled "Vehicles and Traffic," of the Memphis Code of Ordinances which shall read as follows:

SECTION 21-81. – SPEED ENFORCEMENT PHOTOGRAPHIC SYSTEM

State Law reference— Unmanned traffic enforcement cameras, T.C.A. § 55-8-198.

(A) - Definitions.

The following words, terms and phrases, when used herein, shall have ascribed to them the following meanings, except where the context clearly indicates a different meaning.

Citations and warning notices means the documents of notice of violation and 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;
8. A sworn statement signed by an officer or agent of the police services division that based on inspection of recorded images, the subject motor vehicle was being operated in violation of section 21-106, and/or 21-107; and
9. Information advising the person alleged to be liable for violation of section 21-106, and/or 21-107 (i) of the manner and time in which the liability alleged in the citation may be contested in city court, and (ii) 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.

Recorded images means images recorded by a speed enforcement photographic system:

1. On a photograph, microphotograph, electronic image, videotape, or any other medium; and
2. At least one image or portion of tape, clearly identifying the registration plate number, or other identifying designation of the license plate, on the motor vehicle.

System location is within the boundary of an active school speed zone or in a reverse curve or "S" curve portion of a public road or highway, as defined by T.C.A. § 55-8-198.

Speed Enforcement Photographic System is an electronic system consisting of a photographic, video or electronic camera that automatically detects and produces photographs, video or digital images of each vehicle exceeding the active school zone speed limit or exceeding the speed limit within a reverse or "S" curve.

Vehicle owner is the person identified on records maintained by the Tennessee Department of Safety as the registered owner of a motor vehicle.

(B) - Administration.

1. The City Court Clerk or an agent of said office shall administer the speed enforcement photographic system and shall maintain a list of all system locations where speed enforcement photographic systems are installed.
2. Signs to indicate the use of the speed enforcement photographic system shall be clearly posted not less than five hundred feet (500') but not more than one thousand feet (1,000') in advance of the enforcement area of the unmanned traffic enforcement camera informing drivers as to the presence of traffic enforcement cameras at the approaching location. All regulatory and warning signs relating to the intersection or enforcement area shall meet the conventional road size or larger requirements of the MUTCD.

(C). - Offense.

It shall be unlawful for any person to drive a vehicle at a rate of speed greater than 15 miles per hour on that portion of any street which has been designated as a school zone by official signs during any time when school children are present, when school zone flashing signals are in operation or otherwise in violation of sections 21-378 or 21-107 of this code ("School Zone Offense").

It shall be unlawful for any person to drive a vehicle at a rate of speed greater than is permitted on that portion of any street which is constructed as a reverse or "S" curve or otherwise in violation of sections 21-378 or 21-106 of this code (" 'S' Curve Offense").

(D) - Procedure.

1. The city shall adopt procedures for the issuance of uniform citations and warning notices hereunder.
2. A citation or warning notice so issued, alleging an offense hereunder in violation of section 21-106 or 21-107 of this code, which is sworn to or affirmed by an official of the division of police services or an agent of said division based on inspection of recorded images produced by the speed enforcement photographic system, and which includes copies of such recorded images, shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation hereunder. The citation or warning notice shall be forwarded by first-class mail, postmarked pursuant to state law, to the vehicle owner's address as given on the motor vehicle registration records maintained by the Tennessee Department of Safety. Personal delivery to or personal service of process on the owner of the vehicle shall not be required.
3. A person who receives a citation or warning notice may:
 - a. Pay the assessed fine and civil penalty, in accordance with instructions on the citation or warning notice, directly to the city court clerk; or
 - b. Elect to contest the citation for the alleged violation.
4. Liability hereunder shall be determined based upon preponderance of the evidence. Admission into evidence of a citation or warning notice, together with proof that the defendant was at the time of the 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:
 - a. Testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation; and
 - b. Presents to the court prior to the return date established on the citation and warning notice 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; or

- c. Submits to the court prior to the return date established on the citation and warning notice the owner's sworn notarized statement that the vehicle was in the care, custody or control of another person or entity at the time of the violation and identifying the name and address of the person or entity who leased, rented or otherwise had such possession of the vehicle at the time of the alleged violation.
5. The following vehicles are exempt from receiving a citation and warning notice:
- a. Emergency vehicles with active emergency lights;
 - b. Vehicles moving through the intersection to avoid or clear the way for a marked emergency vehicle;
 - c. Vehicles under police escort; and
 - d. Vehicles in a funeral procession.

(E). - Penalty.

1. Any offense hereunder shall be deemed a non-criminal violation for which a civil penalty of \$50.00 shall be assessed. Failure to pay the civil penalty or appear in court to contest the citation or warning notice on the designated date shall result in an assessment of court costs. The city may establish procedures for the trial of civil violators and may enforce and collect all penalties assessed in the nature of a debt.
2. A violation for which a civil penalty is imposed hereunder shall not be considered a moving violation and may not be recorded by the division of police services 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.

(F). – Use of Revenues.

1. All net revenues generated from penalties and assessments associated with this program and the enforcement of section 21-106 or 21-107 that exceed the cost of the administration and operation of the speed enforcement photographic system will be apportioned to the Division of Engineering for traffic safety projects or initiatives. This would include, but not be limited to the design, installation, operation, and maintenance of traffic control devices, traffic calming infrastructure, and pedestrian safety infrastructure. Said funds shall be distributed from the office of the city court clerk on a monthly basis upon receipt.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance shall also be added as a new chapter to Title 11, entitled "Vehicles and Traffic," of the Code maintained by Municode.

SECTION 3. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 4. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this Ordinance shall become effective as follows:

- A. With respect to an "S" Curve Offense, this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.
- B. With respect to a School Zone Offense, this Ordinance shall not take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller but the effective date of this

Ordinance shall be deferred and become effective upon the commence upon the opening of the Shelby County Schools for all students for the 2020-2021 school year.

SPONSOR:
DIVISION OF ENGINEERING

PATRICE ROBINSON
CHAIRMAN

THE FOREGOING ORDINANCE
5747 PASSED
1st Reading 03-03-2020
2nd Reading 03-24-2020
3rd Reading 04-07-2020
Approved Patrice J. Robinson
Chairman of Council
Date Signed: 4/28/2020

APPROVED:
[Signature]
Mayor, City of Memphis
Date Signed: 5/2/20

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snipes
Controller