

ORDINANCE NO. 17-462

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO PROVIDE FOR HAND-HELD PHOTOGRAPHIC SPEED ENFORCEMENT SYSTEMS; TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, Mount Carmel Municipal Code's Title 15, MOTOR VEHICLES TRAFFIC AND PARKING, Chapter 8, Automated Enforcement, provides for automated traffic enforcement through a mounted speed camera; and

WHEREAS, the Tennessee Legislature limited the use of such speed cameras in March of 2017; and

WHEREAS, operation of speed enforcement systems in a hand-held capacity would satisfy the requirement that speed cameras not be unmanned as outlined by Tennessee Attorney General Opinion No. 12-21 (Tenn. A.G.), 2012 WL 628480;

WHEREAS, the Board of Mayor and Alderman of the Town of Mount Carmel unanimously wish to implement hand-held speed enforcement through radar detection to deter speeding and increase safety in the community; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MOUNT CARMEL, TENNESSEE AS FOLLOWS:

Section 1. That the Town of Mount Carmel Municipal Code, Title 15, MOTOR VEHICLES TRAFFIC AND PARKING, Chapter 9, HAND-HELD SPEED ENFORCEMENT is hereby added, and shall include the following:

Sec. 15-801. 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:

Citations, which include documents entitled "notice of violation," may 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 personal or electronically signed statement by a P.O.S.T. certified member of the police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of this division;
- (9) Information advising the person alleged to be liable under this division of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in a city court and 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; and
- (10) Other information required by T.C.A. § 55-8-198.

In operation means operating in good working condition.

Owner or vehicle owner means the person identified as the registered owner of the vehicle.

Recorded images means images recorded by a traffic enforcement camera system on a photographic, micropictograph, electronic image, videotape or any other medium or means including digital or digitally stored and at least one image, identifying the registration plate number of the motor vehicle.

Hand-held enforcement camera system includes a manned traffic enforcement camera and is an electronic system consisting of a photographic, video or electronic camera and a radar detection devise, operated by a police officer pressing a trigger to automatically produce photographs, video or digital images of each vehicle violating the posted speed limit.

Sec. 15-802. Penalties.

- (a) Any violation of this division shall subject the responsible person or entity to a penalty of \$50.00, and as may be permitted by T.C.A. § 55-8-198, court costs, for each violation. Such penalty and court costs shall not be suspended, reduced, or altered for a violation of this division. Such penalty and court costs shall be imposed even if the responsible person is granted defensive driving school, driver education or improvement course or any diversion by the court. Such penalty and court costs shall be in addition to any cost required for the school. The imposition of a civil penalty under the provisions of this division shall not prevent the revocation of any permit or license or taking of other punitive or immediate remedial action as called for or permitted under the provisions of the Town's Municipal Code or other applicable law.

- (b) If the person or entity receiving the summons or citation is in violation of this division solely upon evidence obtained from an unmanned traffic enforcement camera that has been installed to enforce or monitor traffic violations, the violation shall be considered a nonmoving traffic violation.

Sec. 15-803. Procedure.

- (a) The city police department or an agent of the police department shall administer the hand-held speed enforcement camera system.
- (b) A citation alleging that the violation of this division occurred, sworn to and by statement signed personally or electronically by a P.O.S.T. certified member of the police department, based on inspection of recoded images produced by the hand-held speed enforcement camera system, shall be issued in accordance with T.C.A. § 55-8-198 and shall be admissible in any proceeding alleging a violation under this division. The citation shall be sent 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.

Sec. 15-804. Offenses.

- (a) It shall be unlawful for a vehicle to drive in excess of the posted speed limit on the streets of running in and through Mount Carmel, Tennessee. If a driver proceeding in excess of the posted speed limit is captured on the hand-held speed enforcement camera operated by a Mount Carmel Police Officer, a traffic citation will be generated and mailed to the registered owner of the vehicle captured on the camera.
- (b) The provisions of this division shall be construed, interpreted and shall be conformed so as to comply with the requirements of T.C.A. § 55-8-198.

Sec. 15-805. Uncontested payment or court contest.

A person who receives a citation under this division may pay the civil penalty, in accordance with instruction on the citation, directly to the city court, or contracted collection agent or system vendor or contest the matter in city court.

Sec. 15-806. Owner of vehicle presumed liable; exception.

- (a) Except as otherwise provided in this section, the registered owner of the motor vehicle shall be responsible by strict liability for a violation under this

division and shall be responsible for payment of any citation issued as the result of the traffic control monitoring system.

- (b) An owner of a vehicle shall not be responsible for the violation if, on or before the designated court date, the owner furnishes the court an affidavit stating the name and address of the person or entity that leased, rented or otherwise had care, custody or control of the motor vehicle at the time of the violation.
- (c) If a motor vehicle or its plates were stolen at the time of the alleged violation, the registered owner must provide an affidavit denying the owner was an operator and provide a certified copy of the police report reflecting such theft.
- (d) 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 30 days of the mailing date of the notice of violation.

Sec. 15-806. Affirmative defenses.

It shall be an affirmative defense to the liability under this division, proven by a preponderance of the sworn evidence that:

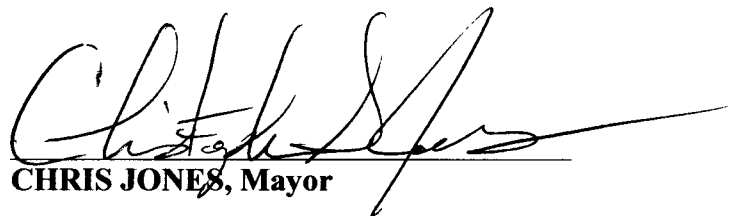
- (1) The person who received the citation was not the owner of the motor vehicle at the time of the alleged violation, provided such person supplies proof of the transfer of ownership, and the person provides the name and address of the purchaser or transferee.

Sec. 15-807. Vehicles exempt from receiving a citation.

The following vehicles are exempt from receiving a citation for a violation of this division:

- (1) Emergency vehicles with active emergency lights;
- (3) Vehicles under police escort; and

Section 2. This ordinance shall take effect upon passage, the law requiring.

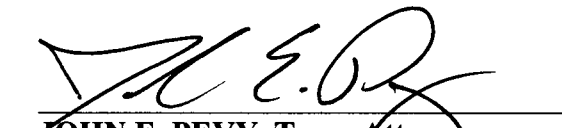

CHRIS JONES, Mayor

ATTEST:


MARIAN SANDIDGE, City Recorder



APPROVED AS TO FORM:


JOHN E. PEVY, Town Attorney

MOTION: Alderman Eugene Christian			
SECOND: Alderman Margaret Christian			
FIRST READING	AYES	NAYS	OTHER
ALDERMAN DIANE ADAMS	X		
ALDERMAN EUGENE CHRISTIAN	X		
ALDERMAN MARGARET CHRISTIAN	X		
ALDERMAN WANDA DAVIDSON	X		
ALDERMAN JENNIFER WILLIAMS	X		
VICE-MAYOR CARL WOLFE	X		
MAYOR CHRISTOPHER JONES	X		
TOTALS	7	0	0

PASSED FIRST READING: October 24, 2017

MOTION: Alderman Diane Adams			
SECOND: Alderman Margaret Christian			
SECOND READING	AYES	NAYS	OTHER
ALDERMAN DIANE ADAMS	X		
ALDERMAN EUGENE CHRISTIAN	X		
ALDERMAN MARGARET CHRISTIAN	X		
ALDERMAN WANDA DAVIDSON	X		
ALDERMAN JENNIFER WILLIAMS	X		
VICE-MAYOR CARL WOLFE	X		
MAYOR CHRISTOPHER JONES	X		
TOTALS	7	0	0

PASSED FIRST READING: November 28, 2017

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