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STATE OF GEORGIA  
CITY OF HAPEVILLE

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

**AN ORDINANCE TO AMEND CHAPTER 41 (“TRAFFIC AND MOTOR VEHICLES”), ARTICLE 3 (“TRAFFIC CONTROL DEVICES”) TO CREATE DIVISION 3 (“AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICE ”), SECTION 41-3-25 (“AUTOMATED TRAFFIC SAFETY ENFORCEMENT”), SECTION 41-3-26 (“PURPOSE”), SECTION 41-3-27 (“DEFINITIONS”), SECTION 41-3-28 (“AUTOMATED TRAFFIC SAFETY DEVICES IN SCHOOL ZONES”), SECTION 41-3-29 (“MONETARY PENALTY”), SECTION 41-3-30 (“NOTICE, CITATION AND SUMMONS”), AND SECTION 41-3-31 (“INCORPORATION OF O.C.G.A. SECTION 40-14-18”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.**

**WHEREAS**, the mayor and council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

**WHEREAS**, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

**WHEREAS**, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

**WHEREAS**, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

**WHEREAS**, the governing authority of the City finds it desirable and necessary to amend Chapter 41 of the City Code of Ordinances to allow for use of automated traffic enforcement safety devices.

**BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:**

**Section One.** Division 3 (Automated Traffic Enforcement Safety Device) in Chapter 41 (Traffic and Motor Vehicles), Article 3 (Traffic Control Devices) of the City Code of Ordinances is hereby created with the following language:

**DIVISION 3. – AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICE**

**Sec. 41-3-25 – Automated Traffic Safety Enforcement.**

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For convenience in reference, this division shall be entitled the automated traffic safety enforcement ordinance.

## **Sec. 41-3-26 – Purpose.**

The purpose of this division is to enhance public safety through the use of technologies which reduce the violation of speed limits.

## **Sec. 41-3-27 – Definitions.**

As used in this division, the following definitions shall apply:

*Automated traffic enforcement safety device* means a speed detection device that:

- a. 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;
- b. Is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (a) of this paragraph; and
- c. 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 zone* means the area within 1,000 feet of the boundary of any public or private elementary or secondary school.

## **Sec. 41-3-28 – Automated Traffic Safety Devices in School Zones.**

The speed limit within any school zone as provided for in O.C.G.A. Section 40-14-8 and marked pursuant to O.C.G.A. Section 40-14-6 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. 41-3-29 – Monetary penalty.**

The owner of a motor vehicle shall be liable for a civil monetary penalty to the governing body if such vehicle is found, as evidenced by photographically recorded images, to have been operated in disregard or disobedience of the speed limit within any school zone and such disregard or

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disobedience was not otherwise authorized by law. The amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00 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 \$25.00; provided, however, that for a period of 30 days after the first automated traffic enforcement safety device is introduced by a law enforcement agency within a school zone, the driver of a motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil warning for disregard or disobedience of the speed limit within the school zone.

### **Section 41-3-30 – Notice, Citation and Summons.**

A 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:

- a. 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;
- b. An image taken from the photographically recorded images showing the vehicle involved in the infraction;
- c. 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;
- d. 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;
- e. A statement of the inference provided by paragraph (b)(4) of O.C.G.A. Section 40-14-18 and of the means specified therein by which such inference may be rebutted;
- f. 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
- g. A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in subsection (d) of O.C.G.A. Section 40-14-18 shall waive any right to contest liability.

### **Section 41-3-31 – Incorporation of O.C.G.A. Section 40-14-18.**

The Mayor and Council of the City of Hapeville hereby full incorporate O.C.G.A. Section 40-14-18 into this Ordinance.

**Section Two. Codification and Certify.** This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

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## **Section Three. Severability.**

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**Section Four. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section Five. Effective Date.** The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

**ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF HAPEVILLE, GEORGIA**

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**Alan Hallman, Mayor**

**ATTEST:**

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Crystal Griggs-Epps, City Clerk

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**APPROVED BY:**

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City Attorney

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