

AN ORDINANCE OF THE COMMISSIONER OF BARTOW COUNTY FOR THE PURPOSE OF **AMENDING THE CODE OF BARTOW COUNTY, CHAPTER 70, TRAFFIC AND MOTOR VEHICLES, ADOPTING NEW ARTICLE IV, AUTOMATED TRAFFIC ENFORCEMENT; PROVIDING AUTHORIZATION AND PROCEDURES; INCORPORATING STATE LAW; PROVIDING CIVIL PENALTIES;** AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 10TH DAY OF MARCH, 2021.

WHEREAS, the Commissioner of Bartow County is authorized to adopt ordinances that exercise the County's police power and serve the public health, safety and welfare; and

WHEREAS, amendments to any of the provisions of the Code of Bartow County may be made by amending such provisions by specific reference to the section number of the County's Code; and,

WHEREAS, the State of Georgia has adopted various statutes that authorize automated and video traffic enforcement relating to school buses and school zones; and

WHEREAS, the Commissioner finds that persons in violation of speeding laws relating to school zones and passing laws in relation to school buses pose a risk to public safety, especially to the safety of children; and

WHEREAS, the Commissioner determines that it is in the best public interest to amend Chapter 70 of the Code of Bartow County to adopt a new Article IV related to Automated Traffic Enforcement;

NOW THEREFORE, IT IS HEREBY ORDAINED by the Commissioner of Bartow County that the Code of Bartow County is amended by adding a new Article IV "Automated Traffic Enforcement" in Chapter 70, as follows:

I. New Article IV of Chapter 70 is added as follows:

Chapter 70

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Article IV. – AUTOMATED TRAFFIC ENFORCEMENT

Sec. 70-100 – Title.

For convenience in reference, this article shall be entitled the "Automated Traffic Enforcement Ordinance."

Sec. 70-101 – Definitions.

As used in this article, 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, for purposes of Sec. 70-103, means still or video images recorded by an automated traffic enforcement safety device. *Recorded Images*, for purposes of Sec. 70-106, means images recorded by a video recording device mounted on a school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arms, and brakes.

School zone means the area within 1,000 feet of the boundary of any public or private elementary or secondary school.

Sec. 70-102 – Automated Traffic Enforcement 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. 70-103 – Monetary penalty.

The owner of a motor vehicle shall be liable for a civil monetary penalty to the County 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 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 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 70-104 – Notice, Citation and Summons.

Any sheriff's deputy or peace officer 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 in the appropriate court; 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 70-105 – Incorporation of O.C.G.A. Section 40-14-18.

The Code of Bartow County hereby fully incorporates O.C.G.A. Section 40-14-18 into this ordinance as if set forth herein. Law enforcement agencies shall follow the procedures set forth therein for issuance of citations under that statute. All certified peace officers serving agencies or entities operating in Bartow County shall

be authorized to enforce this provision. The agent or governing body shall send a referral to the Department of Revenue pursuant to law if civil monetary penalties are not paid. The County shall be authorized to contract with third parties for assistance with enforcement of this statute but the issuance of a citation shall remain under the discretion and authority of the law enforcement agency and shall not be delegated to a private company.

Section 70-106 – Overtaking and Passing of School Bus.

The owner of motor vehicle shall be liable for a civil monetary penalty to Bartow County if such vehicle is found, as evidenced by recorded images, to have been operated in disregard or disobedience of O.C.G.A. Section 40-6-163(a), and such disregard or disobedience was not otherwise authorized by law. The amount of such civil monetary penalty shall be \$250.00.

Section 70-107 – Incorporation of O.C.G.A. Section 40-6-163.

The Code of Bartow County hereby fully incorporates O.C.G.A. Section 40-6-163 into this ordinance as if set forth herein. Law enforcement agencies shall follow the procedures set forth therein for issuance of citations under that statute. All certified peace officers serving agencies or entities operating in Bartow County shall be authorized to enforce this provision. The agent or governing body shall send a referral to the Department of Revenue pursuant to law if civil monetary penalties are not paid. The County shall be authorized to contract with third parties for assistance with enforcement of this statute but the issuance of a citation shall remain under the discretion and authority of the law enforcement agency and shall not be delegated to a private company.

II. Severability.

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

(b) It is hereby declared to be the intention of the County 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 County 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 County 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.

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

SO ADOPTED this 10th day of March, 2021, to be effective immediately, the public health, safety, and general welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

Kathy Gill, County Clerk

Steve Taylor, Sole Commissioner