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

An Ordinance regulating the speed of vehicles within Milwaukie by enacting the speed restrictions of Chapter 458, Oregon Laws, 1941 and repealing all ordinances in conflict therewith.

Milwaukie Does Ordain As Follows:

Section 1. RESTRICTIONS AS TO SPEED.

- (a) Basic Rule. No person shall drive a vehicle upon a street or highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface, and width of the street or highway and the hazard at intersections and any other conditions then existing.

Nor shall any person drive at a speed which is greater than will permit the driver to exercise proper control of the vehicle and to decrease speed or to stop as may be necessary to avoid colliding with any person, vehicle, or other conveyance upon or entering the street or highway in compliance with legal requirements and with the duty of drivers and other persons using the street or highway to exercise due care; provided, that this provision shall not be construed to change the rules of pleading and evidence relating to negligence and contributory negligence. Any person convicted of a violation of the above basic rule, unless such violation occurs under the conditions of subdivision (b) of this section, shall be punished by a fine of not to exceed twenty-five dollars (\$25.00), or by imprisonment for not to exceed five (5) days, or by both such fine and imprisonment.

- (b) Indicated Speeds. Any person who drives a vehicle upon a street or highway at a speed in excess of that designated by this code or by the state highway commission or the state speed control board, pursuant to the provisions of this code for the particular district or location, and who, while so driving, violates the basic rule set forth in subdivision (a), shall, upon conviction, be punished by a fine of not to exceed one hundred dollars (\$100.00) or by imprisonment not to exceed ten (10) days, or by both such fine and imprisonment; provided, that any speed in excess of said designated speeds shall be prima facie evidence of a violation of subsection (a) of this section. Said designated speeds are as follows:

1. Twenty miles per hour:

- a. When passing a school building, or the grounds thereof, or a school crossing, during school recess or while children are going to or leaving school during opening or closing hours; provided, that the presence of such school building, grounds thereof, or school crossing is indicated plainly by signs or signals.
- b. When approaching within 100 feet of a grade crossing of a steam, electric, or street railway where the driver's view of such crossing or of any traffic on such railway within a distance of 400 feet in either direction is obstructed.
- c. In any business district as defined herein, or
- d. Upon approaching within 50 feet and in traversing an intersection of streets or highways where the driver's view in either direction along any intersecting street or highway within a distance of 200 feet is obstructed, except that when traveling upon a through street or at traffic controlled intersections the district speed shall apply.

2. Twenty-five miles per hour.

- a. In any residence district as defined herein, or

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- b. In public parks within cities, unless a different speed is designated by local authorities and duly posted.
- c. The state speed control board, created by chapter 458, Oregon Laws, 1941, shall, at the request of the bureau of traffic engineering, department of public works, which bureau is hereby authorized to act for and on behalf of the city of Milwaukie, make or cause to be made an engineering and traffic investigation with respect to the designated speeds provided for in paragraph (b) of this section upon any city street or highway, or portion thereof. If upon such investigation the said board shall find that the designated speed is greater than is reasonable or safe or less than is reasonable under the conditions found to exist thereon, said board may designate a different speed or speeds thereon, which shall be effective when appropriate signs, which have been posted by the bureau of traffic engineering, department of public works, giving notice thereof, are erected upon such street or highway, or portion thereof. The expenses of any engineering and traffic investigation made by the state speed control board shall be borne by the state highway commission and paid for from the state highway fund as provided by chapter 458, Oregon Laws, 1941, and the signs erected in conformity with the determination of the state speed control board shall be erected by the bureau of traffic engineering, department of public works, as an administrative act under authority hereby granted and at the expense of the city of Milwaukie.
- d. In every charge of a violation of this section the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, and also the speed designated for the district or location. In the event a charge also shall be made of violation of any other provision of this code, the complaint and the summons or notice to appear also shall specify such other offense alleged to have been committed.
- e. No evidence as to the speed of a vehicle operated on a street or highway or by any person arrested for violation of any law regulating the speed of vehicles shall be admitted in any court at the consequent trial of such person when such evidence relates to or is based upon the maintenance or use of a speed trap.

A speed trap, within the meaning of this section, is a particular section of, or distance on, any street or highway the length of which has been or is measured for distance and marked off or otherwise designated or determined, and the limits of which are within the vision of an officer or officers who calculate the speed of a vehicle passing through such speed trap by using the elapsed time during which such vehicle travels between the entrance and exist of such speed trap.

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

Passed by the Council this 11 day of <sup>August</sup>~~July~~, 1941.

Approved by the Mayor this 11 day of <sup>Aug.</sup>~~July~~, 1941.

Attest Ellen Martin  
Recorder.

Fred O Roberts  
Mayor.

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