

ORDINANCE NO. 5461

AN ORDINANCE to adopt the use of photo speed monitoring devices in highway work zones and school crossing zones and civil penalties in Section 10-3-878.12 Article B (RECKLESS DRIVING, SPEEDING, ETC.) of Chapter 3 (OPERATION OF VEHICLES) of Title 10 (MOTOR VEHICLES AND TRAFFIC) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 3, Title 10 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding a new Section 10-3-878.12 to read as follows:

ARTICLE B – Reckless Driving, Speeding, Etc.

\*\*\*

Sec. 10-3-878.12 – Photo speed monitoring devices in highway work zones and school crossing zones; civil penalty

- (a) For the purposes of this section, the following terms shall have the meanings set out below:
- (1) “Highway work zone” means a construction or maintenance area that is located on or beside a highway and marked by appropriate warning signs and have attached flashing lights or other traffic control devices indicating that work is in progress.
  - (2) “School crossing zone” means an area located within the vicinity of a school at or near a highway where the presence of children on such school property or going to and from school reasonably requires a special warning to motorists. A school crossing zone will be marked with appropriate warning signs or other traffic control devices indicating that a school crossing is in progress.
  - (3) “Device” means a photo speed monitoring device that uses equipment with a radar or LIDAR-based speed detection to produce one or more photographs, microphotographs, videotapes, or other recorded images of vehicles.
- (b) The City’s law-enforcement agency may place and operate a device in school crossing zones for the purposes of recording violations of section 46.2-873 of the Code of Virginia (1950), as amended, and in highway work zones for the purposes of recording violations of section 46.2-878.1 of the Code of Virginia (1950), as amended.
- (c) Proof of violation; presumption.
- (1) Proof of a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, shall be evidenced by information obtained from the device. A

certificate, or a facsimile thereof, sworn to or affirmed by a law-enforcement officer, based upon inspection of photographs, microphotographs, videotapes, or other recorded images produced by the device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such violation shall be available for inspection in any proceeding to adjudicate the liability for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended.

- (2) In the prosecution for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, in which a summons was issued by mail, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, together with proof that the defendant was at the time of such violation, the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation.
- (3) The presumption shall be rebutted if the owner, lessee, or renter of the vehicle –
  - (i) Files an affidavit by regular mail with the clerk of the general district court that the person was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who operated the vehicle at the time of the alleged violation; or
  - (ii) Testifies in open court under oath that the person was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who operated the vehicle at the time of the alleged violation.
- (4) The presumption shall also be rebutted if 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 of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, is presented, prior to the return date indicated on the summons issued pursuant to this section to the court adjudicating the alleged violation.
- (5) The operator of a vehicle shall be liable for a civil penalty of up to \$100 if the operator is found, as evidenced by information obtained from the device, to have traveled at least 10 miles per hour above the posted speed limit within a school crossing zone or highway work zone speed limit within such school crossing zone or highway work zone. Civil penalties collected under this section resulting from a summons issued by a law-enforcement officer shall be paid to the City.
- (6) Imposition of a penalty pursuant to this section by mailing a summons shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. However, if a law-enforcement officer uses a device to record a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, and personally issues a summons at the time of the violation, the conviction that results shall be made part of the driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

(d) Summons for violation; mailing requirements.

- (1) A summons for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, issued by mail pursuant to this section may be executed pursuant to section 19.2-76.2 of the Code of Virginia (1950), as amended. Notwithstanding the provisions of section 19.2-76 of the Code of Virginia (1950), as amended, a summons issued by mail pursuant to this section may be executed by mailing first-class a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, a copy shall be mailed to the address contained in the records of or accessible to the Department of Motor Vehicles of the Commonwealth of Virginia. In the case of vehicle lessee or renter, a copy shall be mailed to the address contained in the records of the lessor or renter.
- (2) Every such mailing shall include, in addition to the summons, a notice of:
  - (i) The summoned person's ability to rebut the presumption that said person was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection (d)(3)(i); and
  - (ii) Instructions for filing such an affidavit, including the address to which the affidavit is to be sent.
- (3) If the summoned person fails to appear on the date of return set out in the mailed summons mailed pursuant to this section, the summons shall be executed in the manner set out in section 19.2-76.3 of the Code of Virginia (1950), as amended. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons.
- (4) If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth of Virginia and such person fails to appear on the return date set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities.
- (5) Any summons executed for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, issued pursuant to this section shall provide to the person summoned at least 30 days from the mailing of the summons to inspect information collected by the device in connection with the violation. If the law-enforcement agency operating the device does not execute a summons for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, issued pursuant to this section within 30 days from the date of the violation, all information collected pertaining to that suspected violation shall be purged within 60 days from the date of the violation.

(e) Collection of information by device.

- (1) Information collected by the device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school crossing and highway work zone speeding violations. Information provided to the operator of the device shall be protected in a database and used only for enforcement against individuals who violate the provisions of this section or sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended. Notwithstanding any other provisions of law, all photographs, microphotographs, videotapes, or other recorded

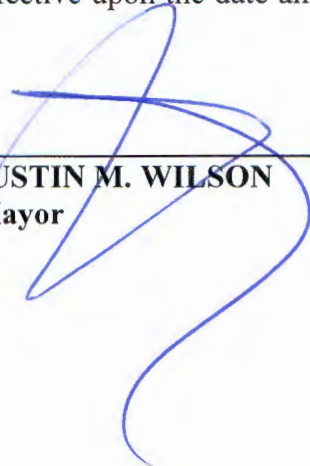
images collected by the device shall be used exclusively for enforcing school crossing zone and highway work zone speed limits, and shall not:

- (i) Be open to the public;
  - (ii) Sold or used for sales, solicitation, or marketing purposes;
  - (iii) Disclosed to any other entity except as may be necessary for the enforcement of school crossing zone and highway work zone speed limits or to a vehicle owner or operator as part of a challenge to the violation; or
  - (iv) Be used in court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, or such information is requested upon order from a court of competent jurisdiction.
- (2) Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties.
  - (3) The City's law-enforcement agency shall annually certify compliance with this section and make all records pertaining to the device available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles of the Commonwealth of Virginia or his designee.
  - (4) Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure.
- (f) A private vendor may enter into an agreement with the City's law-enforcement agency to be compensated for providing a device and all related support services, including consulting, operating, and administration. However, only a law-enforcement officer may swear to or affirm the certificate required by this subsection. Any such agreement for compensation shall be based upon the value of goods and services, not the number of violations paid or monetary penalties imposed.
- (1) Any private vendor contracting with the City's law-enforcement agency may enter into an agreement with the Department of Motor Vehicles of the Commonwealth of Virginia, in accordance with section 46.2-208(B)(31) of the Code of Virginia (1950), as amended, to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended. Any information provided to such private vendor shall be protected in a database.
- (g) A conspicuous sign shall be placed within 1,000 feet of any school crossing zone or highway work zone at which the device is used, indicating the use of the device. There shall be a rebuttable presumption that such sign was in place at the time of the commission of the speed limit violation.
- (h) The City's law-enforcement agency shall report to the Department of State Police of the Commonwealth of Virginia, in a format to be determined by the Department of State Police, by January 15 of each year on the number of traffic violations prosecuted, the number of successful prosecutions, and the total amount of monetary civil penalties collected.

\*\*\*

Section 2. That Chapter 3, Title 10 pursuant to Section 1 of this ordinance, be, and the same hereby, is reordained as part of the Code of the City of Alexandria.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.



---

**JUSTIN M. WILSON**  
**Mayor**

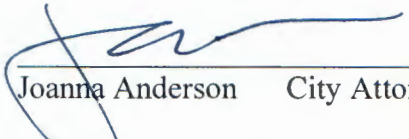
ATTEST:



---

Gloria A. Sitton, CMC City Clerk

APPROVED AS TO FORM:



---

Joanna Anderson City Attorney

Final Passage: October 15, 2022