

INTRODUCED: December 13, 2021

AN ORDINANCE No. 2021-371

To amend ch. 27, art. V, div. 1 of the City Code by adding therein a new section 27-132, concerning the use of photo speed monitoring devices in highway work zones and school crossings.

Patrons – Mayor Stoney, Ms. Lynch, Ms. Lambert, Ms. Jordan, Ms. Trammell,
Vice President Robertson, President Newbille and Mr. Jones

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: FEB 14 2022 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Chapter 27, Article V, Division 1 of the Code of the City of Richmond (2020) be and hereby is amended and reordained by **adding therein a new section** numbered 27-132 as follows:

Sec. 27-132. Use of photo speed monitoring devices in highway work zones and school crossing zones; penalty.

(a) For purposes of this section, “highway work zone” has the same meaning ascribed to it in Code of Virginia, § 46.2-878.1. The term “active,” when modifying the term “highway work zone,” means when any workers are present due to emergency or pursuant to an approved

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: FEB 14 2022 REJECTED: _____ STRICKEN: _____

work in street permit. “Photo speed monitoring device” means equipment that uses radar or LIDAR-based speed detection and produces one or more photographs, microphotographs, videotapes, or other recorded images of vehicles. “School crossing zone” has the same meaning ascribed to it in Code of Virginia, § 46.2-873. The term “active,” when modifying the term “school crossing zone,” means the time when the signs required by Code of Virginia, § 46.2-873 are in operation pursuant to Code of Virginia, § 46.2-873.

(b) The Department of Police may install and operate photo speed monitoring devices, within the municipal boundaries of the city, in school crossing zones for the purposes of recording violations of Code of Virginia, § 46.2-873 and in highway work zones for the purposes of recording violations of Code of Virginia, § 46.2-878.1.

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a photo speed monitoring device, to be traveling at speeds of at least 11 miles per hour above the posted school crossing zone or highway work zone speed limit within such school crossing zone or highway work zone, while such zone is active. Such civil penalties shall be imposed on the following basis: (i) for speeds at least 11 miles per hour above the posted speed limit, or within the first 30 days of the first violation, the civil penalty shall be \$50.00; (ii) for all subsequent violations after the first 30 days after the first violation, the civil penalty shall be \$100.00. Any prosecution under this section shall be instituted and conducted in the same manner as prosecution for traffic infractions. Civil penalties collected under this section resulting from a summons issued by a City police officer shall be paid to the City and placed in a special fund called the Vision Zero Action Plan Fund to be applied to first sustaining the photo enforcement program established

pursuant to this section and second implementing the strategies set forth in any Vision Zero Action Plan adopted by the Safe and Healthy Streets Commission.

(d) If a photo speed monitoring device is used, proof of a violation of Code of Virginia, § 46.2-873 or 46.2- 878.1 shall be evidenced by information obtained from such 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 a photo speed monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation of Code of Virginia, § 46.2-873 or 46.2-878.1.

(e) In the prosecution for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 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 Code of Virginia, § 46.2-873 or 46.2-878.1, 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. Such 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 for the City that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation or (ii) testifies in open court, under oath that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the

alleged violation. Such 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 Code of Virginia, § 46.2-873 or 46.2-878.1, is presented, prior to the return date established on the summons issued pursuant to this section, to the general district court for the City adjudicating the alleged violation.

(f) Imposition of a civil penalty pursuant to this section by mailing a summons shall not be deemed a conviction as an operator and shall not be made a 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 photo speed monitoring device to record a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 and personally issues a summons at the time of the violation, the conviction that results shall be made a part of such driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) A summons for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 issued by mail pursuant to this section may be executed pursuant to Code of Virginia, § 19.2-76.2. Notwithstanding the provisions of Code of Virginia, § 19.2-76, a summons issued by mail pursuant to this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to the department of motor vehicles. In the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessee or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided above and (ii)

instructions for filing of an affidavit as provided above and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in Code of Virginia, § 19.2-76.3. 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. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 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 a photo speed monitoring device in connection with the violation. If the Department of Police does not execute a summons for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 issued pursuant to this section within 30 days from the date of the violation, all information collected pertaining to the suspected violation shall be purged within 60 days from the date of the violation.

(h) A private vendor may enter into an agreement with the Department of Police to be compensated for providing a photo speed monitoring device and all related support services, including consulting, operations and administration. However, only a law enforcement officer may swear to or affirm the certificate required by this section. Any such agreement for compensation shall be based on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed. Any private vendor contracting with a law enforcement agency pursuant to this section may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 31 of Code of Virginia, § 46.2-208,

to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of Code of Virginia, § 46.2-873 or 46.2-878.1. Any such information provided to such private vendor shall be protected in a database.

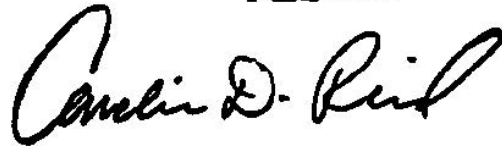
(i) Information collected by a photo speed monitoring device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school crossing zone and highway work zone speeding violations. Information provided to the operator of photo speed monitoring device shall be protected in a database and used only for enforcement against individuals who violate this section or Code of Virginia, § 46.2-873 or 46.2-878.1. Notwithstanding any other provision of law, all photographs, microphotographs, videotapes, or other recorded images collected by a photo speed monitoring device shall be used exclusively for enforcing school crossing zone and highway work zone speed limits and shall not be (i) 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) used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or Code of Virginia, § 46.2-873 or 46.2-878.1, or such information is requested upon order from a court of competent jurisdiction. 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. The Department of Police shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Virginia Commissioner of Highways or the Commissioner of the Virginia Department of Motor Vehicles or his designee. Any person who discloses recorded

images in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000.00 per disclosure.

(j) A conspicuous sign shall be placed within 1,000 feet of any school crossing zone or highway work zone at which a photo speed monitoring 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.

§ 2. This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:
TESTE:**

A handwritten signature in black ink, appearing to read "Amelia D. Reed". The signature is written in a cursive style with a large initial 'A'.

City Clerk



City of Richmond

Intracity Correspondence

O&R REQUEST

DATE: November 15, 2021

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J. E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Bob Steidel, Deputy Chief Administrative Officer

THROUGH: Shelia White, Director of Finance

THROUGH: Jason May, Budget and Strategic Planning Director

FROM: Gerald M. Smith, Chief of Police

RE: AN ORDINANCE AMENDING CHAPTER 27 (TRAFFIC AND VEHICLES), ARTICLE I (IN GENERAL), OF THE CODE OF THE CITY OF RICHMOND, VIRGINIA, TO ADD A NEW SECTION 27-11, PERTAINING TO THE USE OF PHOTO SPEED MONITORING DEVICES IN HIGHWAY WORK ZONES AND SCHOOL CROSSING ZONES.

ORD. OR RES. No. _____

PURPOSE: To establish a new section of the Code of Richmond, Virginia regarding the use of photo speed monitoring devices in active highway work zones and active school crossing zones.

REASON: To establish a photo speed enforcement program to enhance public safety. Accordingly, in order to implement the program, the City Council needs to establish a fine structure. The City also needs to establish a special fund to dedicate fines from speed violations to sustain the program and for implementation of the adopted Vision Zero Action Plan.

RECOMMENDATION: The Safe and Healthy Streets Commission and the Vision Zero Task Force (including the Richmond Police Department and the Department of Public Works) recommend approval of this ordinance.

BACKGROUND: New legislation was enacted by the General Assembly in its 2020 session, and signed by the Governor, to grant limited photo speed enforcement authority to Virginia localities.

O&R Request

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As enacted, the new enabling authority (codified in Code of Virginia § 46.2-882.1) permits speed camera enforcement in active highway work zones and active school crossing zones, subject to specific requirements and limitations. The City will comply with legal requirements pertaining to signage and limitations on enforcement. The City will undertake a public information campaign prior to enforcing violations under this program. The enabling authority permits fines up to \$100 and that citations may be issued once a vehicle is exceeding the applicable active school zone or active work zone speed limit by at least 10 miles per hour.

This item is a part of the Vision Zero Action Plan Year 1 through 3 priorities and supported by the Safe and Healthy Streets Commission and the Vision Zero Task Force.

Staff is proposing the following:

- Driving in excess of the posted speed limit by 11 MPH shall be considered a violation of the newly proposed City Ordinance, and VA Code § 46.2-882.1.
- The first offense, or any offense occurring within the first 30 days of the first offense, shall be \$50 fine with any subsequent offense after 30 days set at \$100 fine per offense.
- All revenues shall go to a special fund to first sustain the photo enforcement programs, and then to support action items listed in the adopted Vision Zero Action Plan, including education and engineering.
- The hours of enforcement of an active school zone shall be uniform citywide for four hours per school day with two hours in the morning and two hours in the afternoon.
- The hours of enforcement of an active work zone shall be when workers are present either on an emergency basis or under an approved work in street permit.

FISCAL IMPACT/COST: To be determined. Costs will include RPD personnel necessary to review and authenticate DMV information for infractions. Costs will also include photo speed equipment and services provided by a selected vendor. Each initial violation is a \$50 fine and subsequent violations are \$100.

FISCAL IMPLICATION: By not adopting the ordinance, the City cannot set a fine structure to implement a photo speed enforcement program in our school zones and work zones. In addition, the City would not deposit speed violation fines into a special fund to sustain the photo enforcement program and to implement the strategies in the Vision Zero Action Plan.

BUDGET AMENDMENT NECESSARY: Yes. To establish a special fund called the Vision Zero Action Plan Fund for speed violation fines collected from the photo enforcement program.

REVENUE TO CITY: To be determined.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: December 13, 2021

CITY COUNCIL PUBLIC HEARING DATE: January 10, 2021

REQUESTED AGENDA: Consent Agenda

RECOMMENDED COUNCIL COMMITTEE: Public Safety Standing Committee on December 28, 2021

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Richmond Police Department, Department of Public Utilities, Department of Public Works Finance Department; Budget and Strategic Planning.

RELATIONSHIP TO EXISTING ORD. OR RES.: None.

REQUIRED CHANGES TO WORK PROGRAM(S): Richmond Police Department would need to adjust personnel complement to review and authenticate photo speed enforcement violations to comply with Code of Virginia requirements. The Richmond Police Department would also need to send an annual report of the total number of traffic violations prosecuted, the number of successful prosecutions, and the total amount of monetary civil penalties collected to the Department of State Police by January 15th of each year to comply with Code of Virginia Requirements.

ATTACHMENTS: (1) Draft Ordinance. (2) Virginia Code section 46.2-882.1. (3) Safe and Healthy Streets Commission - Resolution of Support.

STAFF: Captain Christopher Gleason, RPD
Michael B. Sawyer, City Transportation Engineer, DPW
Victoria Pearson, Deputy Chief, RPD

ORDINANCE NO. 2021- _____

AN ORDINANCE AMENDING CHAPTER 27 (TRAFFIC AND VEHICLES), ARTICLE I (IN GENERAL), OF THE CODE OF THE CITY OF RICHMOND, VIRGINIA, TO ADD THERETO A NEW SECTION 27-11, PERTAINING TO THE USE OF PHOTO SPEED MONITORING DEVICES IN HIGHWAY WORK ZONES AND SCHOOL CROSSING ZONES.

BE IT ORDAINED, by the City Council of the City of Richmond, Virginia, that Chapter 27, Article I, of the Code of the City of Richmond, Virginia, be added pertaining to the use of photo speed monitoring devices in highway work zones and school crossing zones, to read in its entirety as follows:

"Sec. 27-11. – Use of photo speed monitoring devices in highway work zones and school crossing zones; penalty.

(a) For purposes of this section, "highway work zone" has the same meaning ascribed to it in Code of Virginia, § 46.2-878.1 and an "active highway work zone" means when any workers are present through emergency or an approved work in street permit. "Photo speed monitoring device" means equipment that uses radar or LIDAR-based speed detection and produces one or more photographs, microphotographs, videotapes, or other recorded images of vehicles. "School crossing zone" has the same meaning ascribed to it in Code of Virginia, § 46.2-873 and an "active school crossing zone" is defined as a uniform citywide period on school days for up to two hours in the morning and two hours in the afternoon.

(b) The city police department may install and operate photo speed monitoring devices, within the municipal boundaries of the city, in school crossing zones for the purposes of recording violations of Code of Virginia, § 46.2-873 and in highway work zones for the purposes of recording violations of Code of Virginia, § 46.2-878.1.

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a photo speed monitoring device, to be traveling at speeds of at least eleven (11) miles per hour above the posted school crossing zone or highway work zone speed limit within such school crossing zone or highway work zone, while such zone is active. Such civil penalties shall be imposed on the following basis: (i) for speeds at least eleven (11) miles per hour above the posted speed limit, or within the first 30 days of the first violation, the civil penalty shall be fifty dollars (\$50.00); (ii) for all subsequent violations after the first 30 days after the first violation, the civil penalty shall be one hundred dollars (\$100.00). Any prosecution under this section shall be instituted and conducted in the same manner as prosecution for traffic infractions. Civil penalties collected under this section resulting from a summons issued by a city police officer shall be paid to the city and placed in a special fund called the Vision Zero Action Plan Fund for the purposes of first sustaining the photo enforcement program and second, implementing the strategies found within the Vision Zero Action Plan adopted and monitored by the Safe and Healthy Streets Commission and implemented by the Vision Zero Task Force.

(d) If a photo speed monitoring device is used, proof of a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 shall be evidenced by information obtained from such device. A certificate, or a facsimile thereof, sworn to or affirmed by a law enforcement officer employed by the city authorized to impose penalties pursuant to this section, based upon inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo speed monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation of Code of Virginia, § 46.2-873 or 46.2-878.1.

(e) In the prosecution for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 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 Code of Virginia, § 46.2-873 or 46.2-878.1, 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. Such 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 for the city that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation or (ii) testifies in open court, under oath that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation. Such 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 Code of Virginia, § 46.2-873 or 46.2-878.1, is presented, prior to the return date established on the summons issued pursuant to this section, to the general district court for the city adjudicating the alleged violation.

(f) Imposition of a civil penalty pursuant to this section by mailing a summons shall not be deemed a conviction as an operator and shall not be made a 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 employed by the city uses a photo speed monitoring device to record a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 and personally issues a summons at the time of the violation, the conviction that results shall be made a part of such driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) A summons for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 issued by mail pursuant to this section may be executed pursuant to Code of Virginia, § 19.2-76.2. Notwithstanding the provisions of Code of Virginia, § 19.2-76, a summons issued by mail pursuant to this section may be executed by mailing by first class mail a copy thereof to the address of the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to the department of motor vehicles. In the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessee or renter. Every such mailing shall include,

in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided above and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in Code of Virginia, § 19.2-76.3. 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. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed pursuant to and for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 issued pursuant to this section shall provide to the person summoned at least thirty (30) days following the mailing of the summons to inspect information collected by a photo speed monitoring device in connection with the violation. If the city police department does not execute a summons for a violation of Code of Virginia, § 46.2-873 or 46.2-878.1 issued pursuant to this section within thirty (30) days following the date of the violation, all information collected pertaining to the suspected violation shall be purged within sixty (60) days following the date of the violation.

(h) A private vendor may enter into an agreement with the city police department to be compensated for providing a photo speed monitoring device and all related support services, including consulting, operations and administration. However, only a law enforcement officer may swear to or affirm the certificate required by this section. Any such agreement for compensation shall be based on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed. Any private entity contracting with a law enforcement agency pursuant to this section may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 31 of Code of Virginia, § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of Code of Virginia, § 46.2-873 or 46.2-878.1. Any such information provided to such private vendor shall be protected in a database.

(i) Information collected by a photo speed monitoring device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school crossing zone and highway work zone speeding violations. Information provided to the operator of photo speed monitoring device shall be protected in a database and used only for enforcement against individuals who violate this section or Code of Virginia, § 46.2-873 or 46.2-878.1. Notwithstanding any other provision of law, all photographs, microphotographs, videotapes, or other personal information collected by a photo speed monitoring device shall be used exclusively for enforcing school crossing zone and highway work zone speed limits and shall not be (i) 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 a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or Code of Virginia, § 46.2-873 or 46.2-878.1, or such information is requested upon

order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than sixty (60) days after the collection of any civil penalties. The city police department shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the commissioner of highways or the commissioner of the department of motor vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000.00 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the department of motor vehicles and the private entity.

(j) Conspicuous signs within 1,000 feet of any school crossing zone or highway work zone at which a photo speed monitoring 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."

Code of Virginia
Title 46.2. Motor Vehicles
Chapter 8. Regulation of Traffic

§ 46.2-882.1. Use of photo speed monitoring devices in highway work zones and school crossing zones; civil penalty.

A. For the purposes of this section:

"Highway work zone" has the same meaning ascribed to it in § 46.2-878.1.

"Photo speed monitoring device" means equipment that uses radar or LIDAR-based speed detection and produces one or more photographs, microphotographs, videotapes, or other recorded images of vehicles.

"School crossing zone" has the same meaning ascribed to it in § 46.2-873.

B. A state or local law-enforcement agency may place and operate a photo speed monitoring device in school crossing zones for the purposes of recording violations of § 46.2-873 and in highway work zones for the purposes of recording violations of § 46.2-878.1.

1. The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a photo speed monitoring device, to be traveling at speeds of at least 10 miles per hour above the posted school crossing zone or highway work zone speed limit within such school crossing zone or highway work zone. Such civil penalty shall not exceed \$100, and any prosecution shall be instituted and conducted in the same manner as prosecution for traffic infractions. Civil penalties collected under this section resulting from a summons issued by a local law-enforcement officer shall be paid to the locality in which such violation occurred. Civil penalties collected under this section resulting from a summons issued by a law-enforcement officer employed by the Department of State Police shall be paid into the Literary Fund.

2. If a photo speed monitoring device is used, proof of a violation of § 46.2-873 or 46.2-878.1 shall be evidenced by information obtained from such 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 a photo speed monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation of § 46.2-873 or 46.2-878.1.

3. In the prosecution for a violation of § 46.2-873 or 46.2-878.1 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 § 46.2-873 or 46.2-878.1, 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. Such 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 he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation. Such 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 § 46.2-873 or 46.2-878.1, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

4. 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 photo speed monitoring device to record a violation of § 46.2-873 or 46.2-878.1 and personally issues a summons at the time of the violation, the conviction that results shall be made a part of such driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

5. A summons for a violation of § 46.2-873 or 46.2-878.1 issued by mail pursuant to this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons issued by mail pursuant to this section may be executed by mailing by first-class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to the Department. In the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subdivision 3 and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. 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. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed for a violation of § 46.2-873 or 46.2-878.1 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 a photo speed monitoring device in connection with the violation. If the law-enforcement agency that was operating the photo speed monitoring device does not execute a summons for a violation of § 46.2-873 or 46.2-878.1 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.

6. A private vendor may enter into an agreement with a law-enforcement agency to be compensated for providing a photo speed monitoring device and all related support services, including consulting, operations, 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 on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed. Any private vendor contracting with a law-enforcement agency pursuant to this section may enter into an agreement with the Department, in accordance with the provisions of subdivision B 31 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of § 46.2-873 or 46.2-878.1. Any such information provided to such private vendor shall be protected in a database.

7. Information collected by a photo speed monitoring device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school crossing zone and highway work zone speeding violations. Information provided to the operator of a photo speed monitoring device shall be protected in a database and used only for enforcement against individuals who violate the provisions of this section or § 46.2-873 or 46.2-878.1. Notwithstanding any other provision of law, all photographs, microphotographs, videotapes, or other recorded images collected by a photo speed monitoring device shall be used exclusively for enforcing school crossing zone and highway work zone speed limits and shall not be (i) 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) used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or § 46.2-873 or 46.2-878.1, or such information is requested upon order from a court of competent jurisdiction. 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. Any law-enforcement agency using photo speed monitoring devices shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his designee. 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.

8. A conspicuous sign shall be placed within 1,000 feet of any school crossing zone or highway work zone at which a photo speed monitoring 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.

9. Any state or local law-enforcement agency that places and operates a photo speed monitoring device pursuant to the provisions of this section shall report to the Department of State Police, 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. The Department of State Police shall aggregate such information and report it to the General Assembly by February 15 of each year.

2020, c. 1232.



WHEREAS, the Safe and Healthy Streets Commission was founded in 1966 to formulate a highway safety program for the City of Richmond and to conduct quarterly reviews of the operation and effect of such a program;

WHEREAS, the Council believes that it is in the best interests of the residents of the City of Richmond that the Council continue to support the efforts of the Commission;

WHEREAS, the Council has adopted through resolution to support a Vision Zero approach to eliminate deaths and serious injuries on the City's streets by 2030;

WHEREAS, the General Assembly and the Governor signed into law the ability for photo speed enforcement cameras to be used in school zones and work zones to reduce the instances of speeding and to change driver behavior.

WHEREAS, the Virginia Department of Motor Vehicle's Governor Highway Safety Office submitted a grant proposal to the Governor's Highway Safety Association / Insurance Institute for Highway Safety (GHSA/IIHS) to demonstrate several speed management techniques within the Commonwealth of Virginia and the City of Richmond has been selected as the pilot urban locality for the United States.

WHEREAS, the City of Richmond, with its local, state, regional, and non-profit partners, are well suited to develop, implement & evaluate a community-based speed management pilot program using proven & innovative countermeasures such as photo speed enforcement cameras in school zones and work zones.

WHEREAS, successful speed management programs value techniques that focus on low cost systemic engineering solutions, high visibility and photo enforcement, communications, education, advocacy, and policy.

WHEREAS, the Commission's role oversees the implement the Vision Zero Action Plan whereby the built environment is changed to encourage safe speeds and a shift in the transportation safety culture.

WHEREAS, the Vision Zero Task Force was created to implement the Vision Zero Action Plan and is actively pursuing resources to shift the culture through a safe speeds approach.

WHEREAS, the City of Richmond with its partners participated in the FHWA Vision Zero National Peer Exchange (2018), the National Speed Management Summit (2019) held in Ruckersville, VA to create a national movement for safe speeds, the FHWA Safe Transportation for Every Pedestrian (STEP) National Peer Exchange (2019).

WHEREAS, the City of Richmond presented its pedestrian safety and speed management work at the FHWA STEP / Vision Zero Network Webinar (2020).

THEREFORE BE IT RESOLVED, that the Commission supports the use of photo speed cameras to enforce speed limits in school zones and work zones within the City of Richmond, particularly on the high injury street network.

BE IT FURTHER RESOLVED, that the Commission supports the City of Richmond to implement a safe speeds demonstration project through a partnership with the Virginia Department of Motor Vehicle's Governor Highway Safety Office and their application to GHSA / IIHS with the using photo speed enforcement cameras in school zones and work zones to be a model for the United States.

ADOPTED by SHSC on April 21, 2021 - Resolution for Photo Speed Enforcement Cameras in School Zones and Work Zones for Speed Management Program



BE IT FURTHER RESOLVED, that the Commission recommends that City Council allocate any additional resources that may be necessary for a successful demonstration of speed management techniques during the pilot phase for the best representative before-after evaluations to take place.

BE IT FURTHER RESOLVED, that the Commission recommends that City Council adopted an ordinance to establish the fine structure and other policies to include:

- Any driver exceeding the posted speed limit by 11MPH shall be considered an offense and a violation of § 46.2-882.1.
- The first offense, or any offense occurring within the first 30 days of the first offense, shall be \$50 fine with any subsequent offense set at \$100 per offense.
- All revenues from a photo enforcement program shall go to a Vision Zero Action Plan fund to first sustain the photo enforcement program, and then to support action items listed in the adopted Vision Zero Action Plan.
- The hours of operation of an active school zone shall be uniform citywide for four hours per school day with two hours in the morning and two hours in the afternoon.
- The hours of operation of an active work zone shall be when workers are present either on an emergency basis or under an approved work in street permit.