

INTRODUCED: January 14, 2019

AN ORDINANCE No. 2019-008

To amend ch. 27, art. VIII of the City Code by adding therein new §§ 27-358, concerning weight limits for vehicles or combination of vehicles, and 27-359, concerning liquidated damages for the violation of weight limits for any vehicle or combination of vehicles, for the purpose of imposing weight limits on any vehicle and combination of vehicles, and prescribing the liquidated damages for overweight vehicles.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JAN 28 2019 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Chapter 27, Article VIII of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein new** sections numbered 27-358 and 27-359 as follows:

Sec. 27-358. Weight limits for any vehicle or combination of vehicles.

In accordance with Code of Virginia, § 46.2-1138.1, the weight limits established by Code of Virginia, §§ 46.2-1123 through 46.2-1127, shall apply to any vehicle or combination of vehicles passing over any roads under the jurisdiction of the City.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JAN 28, 2019 REJECTED: _____ STRICKEN: _____

Sec. 27-359. Liquidated damages for violation of weight limits for certain vehicles.

Upon a finding of a violation of any weight limit imposed on any vehicle or combination of vehicles by section 27-358, the court shall assess the owner, operator or other person causing the operation of such overweight vehicle at the applicable rate and amount established in Code of Virginia, § 46.2-1135. Such assessment shall be entered by the court as a judgement for the City. The entry of such judgment shall constitute a lien upon the overweight vehicles. The sums for any violation of section 27-358 shall be paid into the treasury of the City, and allocated to the fund appropriated by the City for the construction and maintenance of such roads under the City's jurisdiction.

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



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O & R REQUEST

4-8438
DEC 17 2018

Office of the
Chief Administrative Officer

RECEIVED

JAN 08 2019

OFFICE OF CITY ATTORNEY

O&R REQUEST

DATE: December 7, 2018

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

JS 11/2/18

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Lenora Reid, Deputy Chief Administrative Officer – Finance & Administration

LR

THROUGH: John Wack, Director of Finance

JW

THROUGH: Jay Brown, Director of Budget and Strategic Planning

JB

THROUGH: Bobby Vincent, Director of Public Works

BV

FROM: Colonel Alfred Durham, Chief of Police

Alfred Durham

RE: OVERWEIGHT VEHICLES

ORD. OR RES. No. _____

PURPOSE:

An ordinance is requested for the City to adopt the weight limited established by Title 46.2-1123 through 46.2-1127 of the Code of Virginia pertaining to commercial motor vehicle inspections and weight enforcement. Language within the ordinance shall indicate that all fees received from the enforcement of overweight vehicles shall be used specifically for the construction and maintenance of road in the City of Richmond.

REASON:

Virginia Code § 46.2-1138.1 provides that the governing body of any city may adopt ordinances providing weight limits in accordance with the weight limits established by Virginia Code §§

46.2-1123 through 46.2-1127 for any vehicle or combination of vehicles passing over any such roads under the jurisdiction of such city, and providing further for the assessment of liquidated damages under Virginia Code § 46.2-1135. Such sums shall be collected by the state department of motor vehicles and then shall be paid into the treasury of such city, and allocated to the fund appropriated by such city for the construction and maintenance for such roads under its jurisdiction.

RECOMMENDATION:

The City Administration recommends adoption of this ordinance.

BACKGROUND:

The Richmond Police Department Motor Unit is certified to conduct Commercial Vehicle Inspections, which includes the weighing of overweight trucks. The City of Richmond is an urban City that is home to many businesses that utilize large trucks (dump trucks, garbage trucks, tractor trailers, etc.). Richmond is also growing, which creates construction projects and use of large commercial vehicles on City roads. The use of large commercial vehicles takes a toll on City highways, particularly if the vehicles exceed their authorized weight limits. Overweight vehicles compromise the integrity of the road and create a safety hazard for other vehicles on the roads. The intent of establishing statutory limitations is to protect the traveling public from hazard and unnecessary inconvenience, and to preserve the capacity and structural integrity of highways and bridges.

The Motor Unit conducted Commercial Motor Vehicle Inspection and Weight Inspections on Commercial Motor Vehicles throughout the City, from 2010 through 2012. During this time, the City of Richmond wrote citations exceeding \$191,000 for overweight vehicles on City Roadways. These funds were collected fees from the ticketing of overweight vehicles in the City in accordance with Virginia Code § 46.2-1128 et seq. Those funds were collected and maintained by the Commonwealth of Virginia to be used for the maintenance and repair of the highways and roadways. The funds were unable to be disbursed to the city since the city has not adopted § 46.2-1128. For the City to have received these funds it must have adopted an ordinance providing weight limits established by §§ 46.2-1123—46.2-1128 and state within that ordinance that all fees received from the enforcement of overweight vehicles shall be used specifically for the construction and maintenance of roads under the City's jurisdiction. Since no such ordinance existed, the \$191,000 was forfeited and is no longer available.

It is being proposed that the City Code be amended to include two new sections within Article VII, Chapter 102. The first section shall address overall weight limitations of vehicles and the collection of fees for violations while the second section shall list the specific streets within the City weight limitations. See attachment for proposed language.

Prior to any liquidated damages being sent to the City of Richmond, the Department of Motor Vehicles requires the following:

1. A letter from the City of Richmond to DMV indicating the intention to commence weight enforcement operations. This letter should include that all state and local statutes

will be observed in these operations. Proof should be provided that all monies disbursed from participation in this program will be used to maintain those roads maintained by the City of Richmond.

2. The City of Richmond will need to provide a copy of the Code of the City of Richmond, which specifically adopts Title 46.2 of the Code of Virginia (City Code 27-2)
3. Weight operations will be conducted only by sworn police officers within the limits in the City of Richmond. Further, weight operations will be conducted only on those roads maintained by the City of Richmond.
4. The City of Richmond will need to provide a point of contact and a list of officers conducting weight operations.
5. The City of Richmond will need to provide a certification of the weight scales.
6. The City of Richmond will need to provide the address where reimbursement will be sent along with a FEIN and/or account number.

This program is an excellent opportunity to make our City streets safer by enforcing commercial vehicle and weight laws along with being reimbursed by violators to assist in the construction and maintenance of City Roads. It has been determined through past enforcement that approximately ninety percent (90%) of the violations are committed by trucks from outside the City.

COST TO CITY:

No cost.

The equipment necessary to conduct the weight inspections has been transferred from the Virginia Department of Motor Vehicles to the Motor Unit free of charge. Currently, the annual certification of the scales is being conducted by the Virginia Department of Motor Vehicles for free.

REVENUE TO CITY:

It is impossible to determine the total amount of revenue that will be collected from such violations because it is not known how many individuals or businesses will violate the laws. However, from 2010 to 2012, the City of Richmond wrote citations exceeding \$191,000 for overweight vehicles on City highways.

DESIRED EFFECTIVE DATE:

Upon adoption.

REQUESTED INTRODUCTION DATE:

January 14, 2018

CITY COUNCIL PUBLIC HEARING DATE:

January 28, 2018

REQUESTED AGENDA:

Consent Agenda

RECOMMENDED COUNCIL COMMITTEE:

Public Safety

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:

Virginia Department of Motor Vehicles

AFFECTED AGENCIES:

Richmond Police Department
Department of Finance
Department of Public Works

RELATIONSHIP TO EXISTING ORD. OR RES.:

The requested ordinance would be adding two new sections within Article VII, Chapter 102

REQUIRED CHANGES TO WORK PROGRAM(S):

None

ATTACHMENTS:

Proposed ordinance language.

STAFF:

David Mitchell, Esq.
Office of General Counsel
Richmond Police Department
804-646-5528