

ORDINANCE NO. 4492

AN ORDINANCE to amend and reordain Section 10-3-833.01 (PHOTO-MONITORING OF TRAFFIC LIGHT SIGNALS) of Chapter 3 (OPERATION OF VEHICLES), 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 Section 10-3-833.01 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 10-3-833.01 Photo-monitoring of traffic light signals.

(a) It shall be unlawful for the operator of a motor vehicle to fail to stop or remain stopped when directed to do so by a steady red traffic light signal.

(b) For the purposes of this section, the following words shall have the meanings set out below:

(1) "System" means a traffic light signal violation-monitoring System that operates by means of a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of a vehicle at the time that the operator of the vehicle fails to stop or remain stopped at a steady red traffic light signal in violation of this section. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered the intersection.

(2) "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles.

(c) The city manager or the manager's designee may install and operate a System at no more than one intersection for every ten thousand (10,000) residents within the city, for the purpose of imposing monetary liability on the operator of a motor vehicle for failure to stop or remain stopped at a steady red traffic light signal.

(d) Proof of violation; presumption.

(1) Proof of a violation of this section shall be evidenced by information obtained from the System. A certificate, or a facsimile thereof, sworn to or affirmed by a law-enforcement officer employed by the city, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by the System, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate liability for a violation of this section.

(2) Prima facie evidence that the vehicle described in the summons issued pursuant to subsection (f) was operated in violation of this section, 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 the defendant was the person who committed the violation. This presumption shall be rebutted (i) if the owner, lessee or renter of the vehicle either files an affidavit by regular mail with the clerk of the general district court, stating that he was not the operator of the vehicle at the time of the alleged violation, or testifies in open court under oath that he was not the operator of the vehicle at the time of alleged violation, or (ii) 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, is filed with the clerk of general district court prior to the return date established on the summons issued pursuant to subsection (f).

(e) The operator of a vehicle shall be liable for a monetary penalty of up to \$50 if the operator is found, as evidenced by information obtained from the System, to have failed to comply with a steady red traffic light signal. No monetary penalty imposed under this section shall include court costs. Imposition of a penalty under this section 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.

(f) A summons for a violation of 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 Virginia Code, a summons for a violation of this section may be executed by mailing by first-class mail a copy of the summons to the address of the owner, lessee or renter of the vehicle as shown, in the case of vehicle owners, in the records of the Department of Motor Vehicles or, in the case of vehicle lessees or renters, in the records of the vehicle lessor or rentor. 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 subsection (d)(2), above; and
- (ii) instructions for filing such an 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 mailed summons, the summons shall be executed in the manner set out in section 19.2-76.3 of the Virginia Code. No proceedings for the contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at least sixty (60) business days from the mailing of the summons to inspect information collected by the System in connection with the violation.

(g) Information collected by the System shall be limited exclusively to information that is necessary for the enforcement of traffic light violations. No private entity may obtain from the

city or its System records regarding the registered owners of vehicles that fail to comply with traffic light signals. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images or other personal information collected by the System shall be used exclusively for enforcing traffic light violations, and shall not:

- (i) be open to the public;
- (ii) be sold or used for sales, solicitation or marketing purposes;
- (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation 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 section 46.2-833, section 46.2-835 or section 46.2-836 of the Virginia Code.

(h) Information collected by the System with regard to a specific violation shall be purged and not retained later than sixty (60) days after the collection of any civil penalties. If the city does not execute a summons for a violation of this section within ten (10) business days of the occurrence of the violation, all information collected that pertains to said suspected violation shall be purged within twelve (12) business days of the of the suspected violation.

(i) The city manager, or the city manager's designee, shall annually certify compliance with section 15.2-968.1 of the Virginia Code, and shall make all records pertaining to the System available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.

(j) Any person who discloses personal information in violation of the provisions of subsections (h) or (i) shall be subject to a civil penalty of \$1,000.

(k) A private entity may enter into an agreement with the city to be compensated for providing the System or equipment, and all related support services, to include consulting, operations and administration. The city shall not enter into any such agreement in which compensation of the private entity is based upon the number of violations or monetary penalties imposed.

(l) When selecting potential intersections for installation of System equipment, the following factors shall be considered:

- (i) the accident rate for the intersection;
- (ii) the rate of red light violations occurring at the intersection, as measured by the number of violations per number of vehicles using the intersection;
- (iii) the difficulty experienced by law-enforcement officers in patrol cars or on foot in apprehending violators;

(iv) the ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the violations; and

(v) if applicable, the risk to pedestrians.

A list of intersections to be included in the System shall be submitted to the Virginia Department of Transportation for final approval.

(m) Before the implementation of a System at an intersection, the city shall complete an engineering safety analysis that addresses signal timing and other location-specific safety features. The length of the yellow phase shall be established based upon the recommended methodology of the Institute of Transportation Engineers. The System shall provide a minimum 0.5-second grace period between the time that the signal turns red and the time that the first violation is recorded. If recommended by the engineering safety analysis, the city shall make reasonable location-specific safety improvements, including signs and pavement markings.

(n) The city shall evaluate the System on a monthly basis, to ensure that all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

(o) Conspicuous signs shall be placed within five hundred (500) feet of the intersection approach of any intersection at which the System is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

(p) Prior to, or coincident with, the implementation or expansion of the System, the city shall conduct a public awareness program, advising the public that the System is being implemented or expanded.

Section 2. That this ordinance shall become effective on July 1, 2007.

WILLIAM D. EUILLE
Mayor

Final Passage: June 16, 2007