

**AN ORDINANCE AMENDING THE GREENE COUNTY CODE OF ORDINANCES TO
AMEND SECTIONS OF CHAPTER 70 TRAFFIC AND VEHICLES ARTICLE II
MOTOR VEHICLES; TRAFFIC CONTROL AND TO ADD AN ARTICLE TITLED
PHOTO AND VIDEO MONITORING TRAFFIC ENFORCEMENT, TO AUTHORIZE
PHOTO AND VIDEO MONITORING SYSTEMS IN SCHOOL ZONES, EXTERNALLY
ON SCHOOL BUSES, AND IN HIGHWAY WORK ZONES FOR THE PURPOSE OF
ENFORCING THE SPEED LIMIT**

WHEREAS, Sections 15.2-1427 and 15.2-1433 of the Code of Virginia, 1950, as may be amended from time to time, enable a local governing body to adopt, amend, and codify ordinances or portions thereof; and

WHEREAS, Section 46.2-882.1 of the Code of Virginia, 1950, as may be amended from time to time, enables a local government to operate a photo speed monitoring device in school crossing zones and highway work zones for the purpose of recording speeding violations; and

WHEREAS, Section 46.2-882.1(B)(6) of the Code of Virginia, 1950, as may be amended from time to time, enables a local government to enter into an agreement with a private vendor that will provide hardware, software, and support for photo speed monitoring devices; and

WHEREAS, Section 46.2-844(B)(2) of the Code of Virginia, 1950, as may be amended from time to time, enables localities to authorize school divisions to install and operate a video monitoring system on school buses and to contract with a private vendor to provide hardware, software, and support for said monitoring device; and

WHEREAS, this ordinance amendment was initiated by the Board of Supervisors; and

WHEREAS, the proper advertisement and public hearing was conducted as required by law; and

WHEREAS, the full text of this amendment was available for public inspection in the County Administrator's Office, Greene County Administration Building, 40 Celt Road, Stanardsville, Virginia 22973; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF GREENE that the Code of the County of Greene is amended as follows:

CODE OF THE COUNTY OF GREENE, VIRGINIA

CHAPTER 70 TRAFFIC AND VEHICLES

ARTICLE III PHOTO AND VIDEO MONITORING TRAFFIC ENFORCEMENT

Sec. 70-xx Use of photo monitoring systems to enforce speed limits in school zones and highway work zones

- (a) Pursuant to Section 46.2-882.1(B) of the Code of Virginia, the Greene County Sheriff's Office is hereby authorized to install and operate a photo speed monitoring system in school crossing zones and highway work zones for the purposes of recording violations.
- (b) For purposes of this section, "speed monitoring system" 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 as in Virginia Code § 46.2-873. "Highway work zone" has the same meaning as ascribed to it in Virginia Code § 46.2-878.1.
- (c) A private vendor may enter into an agreement with Greene County to be compensated for providing photo speed monitoring devices 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 Greene County pursuant to this section may enter into an agreement with the Sheriff's Office in accordance with the provisions of Virginia Code § 46.2-208(B)(31), to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of Virginia Code § 46.2-873 or 46.2-878.1. Any such information provided to such private vendor shall be protected in a database.
- (d) A summons for a violation of Virginia Code § 46.2-873 or § 46.2-878.1 issued by mail pursuant to this section may be executed pursuant to Virginia Code § 19.2-76.2. Notwithstanding the provisions of Virginia Code § 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 Sheriff's Office. 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 Virginia Code § 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 Virginia Code § 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 Virginia Code § 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, pursuant to this section and shall comply with the requirements of Virginia Code § 46.2-882.1(B)(5).

- (e) All speed monitoring systems placed in school crossing zones or highway work zones shall, at a minimum, produce 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.
- (f) The driver of a motor vehicle found to be in violation of Sections 46.2-873 or 46.878.1 of the Code of Virginia based upon evidence obtained from a video monitoring system, shall be liable for a civil penalty of one hundred dollars (\$100.00) imposed in accordance with this section if such vehicle is found as evidenced by information obtained from a speed monitoring system placed in a school crossing zone to have violated Sections 46.2-873 or 46.878.1 of the Code of Virginia.
- (g) 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 Code of Virginia §§ 46.2-873 or 46.2-878.1. Notwithstanding any other provisions 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:
 - Open to the public;
 - Sold or used for sales, solicitation or marketing purposes;
 - 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
 - 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.
- (h) Any person found liable under this ordinance may contest the summons charging the violation, as provided by Code of Virginia Section 46.2-882.1(B)(3).

- (i) 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 Virginia Code §§ 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.
- (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.
- (k) The Greene County Sheriff's Office shall report to the Virginia 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 Virginia State Police shall aggregate such information and report it to the General Assembly by February 15 of each year.

Sec. 70-xx Use of Video-Monitoring Systems in or on School Buses.

- (a) The Greene County School Board is authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board, or to contract with a private vendor to do so on its behalf for the purpose of recording violations of Virginia Code § 46.2-844 (passing a stopped school bus). 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 video-monitoring device, to be passing a stopped school bus. Such civil penalty shall not exceed \$250.00 and any prosecution shall be instituted and conducted in the same manner as prosecution for traffic infractions.
- (b) For purposes of this section, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recording video of vehicles being operated in violation of Code of Virginia, § 46.2-859. All such systems installed shall, at minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded. "School Bus" has the same meaning ascribed to it as in the Virginia Code § 46.2-844(A).
- (c) Proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (Code of Virginia, § 46.2-600 et

seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if: (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the Greene County General District Court that he was not the operator of the vehicle at the time of the alleged violation; (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation; or (iii) 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 this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence. The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in Code of Virginia, § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

- (d) A summons for a violation of subsection b may be executed as provided in Code of Virginia, § 19.2-76.2 and, notwithstanding the provisions of Code of Virginia, § 19.2-76 the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the department. 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 (c); 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 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. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.
- (e) Any private vendor contracting with the Greene County School Division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection (a) and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed \$100.00 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed \$25.00.
- (f) Any private vendor contracting with the Greene County School Division pursuant to this subsection may enter into an agreement with the department of motor vehicles, in accordance with the provisions of Code of Virginia, § 46.2-208(B)(30) to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the department of motor vehicles' system and

used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision 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 their 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 vendor.

(g) Any person found liable under this ordinance may contest the summons charging the violation, as provided by the Virginia Code § 46.2-844(A).

In all other respects said Code of the County of Greene shall remain unchanged and be in full force and effect.

This amendment shall take effect immediately upon passage.

ADOPTED BY THE GREENE COUNTY BOARD OF SUPERVISORS ON JULY 25, 2023.

Dale Herring, Chair
Greene County Board of Supervisors

ATTEST:

Cathy Schafrik, Clerk
Greene County Board of Supervisors

Recorded Vote:

Motion:

Second:

Votes:

Bowman:

Durrer:

Herring:

Lamb:

Heflin: