

MOTION: BAILEY

**July 2, 2024
Regular Meeting
Ord. No. 24-47**

SECOND: BODDYE

RE: AUTHORIZE THE EXTENSION OF ORDINANCE NUMBER 23-15, AN ORDINANCE TO USE PHOTO-MONITORING SYSTEMS TO ENFORCE TRAFFIC LIGHT SIGNALS, PURSUANT TO THE AUTHORITY GRANTED BY SECTION 15.2-968.1 OF THE CODE OF VIRGINIA – VARIOUS MAGISTERIAL DISTRICTS

ACTION: APPROVED

WHEREAS, on April 11, 2023, the Prince William Board of County Supervisors (Board) unanimously voted to adopt Ordinance Number (Ord. No.) 23-15, an ordinance to use photo-monitoring systems to enforce the enforcement of traffic light signals pursuant to the authority granted by Section 15.2-968.1 of the Code of Virginia; and

WHEREAS, Virginia State Code Section 15.2-968.1, "Use of photo-monitoring systems to enforce traffic light signals," allows for the governing body of any jurisdiction to provide by ordinance for the establishment of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of Section 15.2-968.1 of the Code of Virginia, for the purposes of recording violations of traffic lights, right turn on a steady red light after stopping, or left turn on a steady red light after stopping; and

WHEREAS, under Section 15.2-968.1 of the Code of Virginia, no monetary penalty imposed shall exceed \$50, nor shall it include court costs; and

WHEREAS, Ord. No. 23-15 shall only remain in effect until August 31, 2024; and

WHEREAS, the Board recognizes and finds that such ordinance secures and promotes the health, safety, and general welfare of the County and members of the public; and

WHEREAS, the Board initiated the Prince William County Automated Enforcement Pilot Program (Pilot Program) through Resolution Number (Res. No.) 23-204 on April 11, 2023; and

WHEREAS, due to the complexities of implementing the Pilot Program and the delays the Pilot Program has experienced, the Pilot Program is currently unable to determine if a permanent automated enforcement program should be implemented; and

WHEREAS, the Pilot Program requires additional time to make this determination and recommends extending the Pilot Program by an additional one (1) year; and

WHEREAS, such ordinance is required to allow the Pilot Program to continue and should be reauthorized to remain in effect until August 31, 2025; and

Sec. 13-279. Use of photo-monitoring systems to enforce traffic light signals; penalty.

- (a) For purposes of this section, "owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles. "Traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of Code of Virginia, § 46.2-833, 46.2-835; or 46.2-836, as amended. 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 that intersection.
- (b) The county executive or the county executive's designee may install and operate traffic light signal violation monitoring systems at no more than ten intersections in the county at any given time for the purpose of imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in the county in accordance with the provisions of this section.
- (c) The operator of a vehicle shall be liable for a monetary penalty of \$50.00 if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within the county.
- (d) Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a law enforcement officer employed by the county authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring 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 the liability for such violation pursuant to this section.
- (e) In the prosecution of an offense established under this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section 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 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 county that he or she was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in the general district court for the county, under oath that he or she was not the operator of 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 this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the general district court for the county adjudicating the alleged violation.
- (f) Imposition of a penalty pursuant to this section 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. No monetary penalty imposed pursuant to this section shall exceed \$50.00, nor shall it include court costs.
- (g) A summons for a violation of this section may be executed pursuant to Code of Virginia, § 19.2-76.2, as amended. Notwithstanding the provisions of Code of Virginia, § 19.2-76, as amended, the summons for a violation of 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 as shown, in the case of vehicle owners, in the records of the Department of Motor Vehicles or, in the case of the vehicle lessees or renters, 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 subsection (e) 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, 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. Any summons executed for a 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 traffic light signal violation monitoring system in connection with the violation.

- (h) Information collected by a traffic light signal violation monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. On behalf of a locality, a private entity that operates a traffic signal violation monitoring system may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B21 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that fail to comply with a traffic signal. Information provided to the operator of a traffic signal violation monitoring system 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. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring 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 Code of Virginia, § 46.2-833, 46.2-835, or 46.2-836, as amended, or 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. If the county does not execute a summons for a violation of this section within ten business days, all information collected pertaining to that suspected violation shall be purged within two business days. The county 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.
- (i) A private entity may enter into an agreement with the county to be compensated for providing the traffic light signal violation monitoring system or equipment, and all related support services, to include consulting, operations and administration. However, only a law enforcement officer employed by the county may swear to or affirm the certificate required by subsection (d) of this section. The county shall not enter into an agreement for compensation based on the number of violations or monetary penalties imposed.
- (j) When selecting potential intersections for a traffic light signal violation monitoring system, the county shall consider factors such as:
 - i. the accident rate for the intersection,
 - ii. the rate of red light violations occurring at the intersection (number of violations per number of vehicles),
 - iii. the difficulty experienced by law enforcement officers in patrol cars or on foot in apprehending violators, and
 - iv. the ability of law enforcement officers to apprehend violators safely within a reasonable distance from the violation. The county may consider the risk to pedestrians as a factor, if applicable.

- (k) Before the implementation of a traffic light signal violation monitoring system at an intersection, the county 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 on the recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns red and the time the first violation is recorded. If recommended by the engineering safety analysis, the county shall make reasonable location-specific safety improvements, including signs and pavement markings.
- (l) The county shall evaluate the traffic light signal violation monitoring system on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.
- (m) The county shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light signal violation monitoring 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.
- (n) Prior to or coincident with the implementation or expansion of a traffic light signal violation monitoring system, the county shall conduct a public awareness program, advising the public that the county is implementing or expanding a traffic light signal violation monitoring system.
- (o) Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a traffic light signal photo-monitoring system is owned, leased, or rented by a county, county, or town, then the county, county, or town may access and use the recorded images and associated information for employee disciplinary purposes.
- (p) This section shall remain in effect until August 31, 2025.

(Ord. No. 23-15, 4-11-23)