

1 **Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia by**
2 **Enacting Chapter 21, Motor Vehicles and Traffic, Article I, In General, Sec. 21-19 to**
3 **Authorize Traffic Control Device Violation Monitoring Systems.**

4
5 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that Section 21-
6 19 of Article I, Chapter 21 of the City Code of the City of Hampton, Virginia be adopted to
7 read as follows:

8
9 **Chapter 21 – MOTOR VEHICLES AND TRAFFIC**

10 **ARTICLE I. – IN GENERAL**

11
12 . . .

13
14 **Sec. 21-19. –Traffic light signal Violation monitoring systems.**

15
16 *(1)(a) Terms used within this section shall have the same meaning provided by Code of*
17 *Virginia § 15.2-968.1.*

18
19 *(ab) The city manager is hereby authorized to establish a traffic signal enforcement*
20 *program and to impose monetary liability on the operator of a motor vehicle for failure to*
21 *comply with traffic light signals in accordance with the provisions of Code of Virginia §*
22 *15.2-968.1. The city manager shall cause the installation and operation of traffic light*
23 *signal violation photo-monitoring systems at no more than one intersection for every*
24 *10,000 residents within the city at any one time.*

25
26 *(c) The city manager is further authorized to establish a traffic control device violation*
27 *monitoring system and to impose monetary liability on the operator of a motor vehicle for*
28 *failure to comply with traffic control devices at any intersection the city manager deems*
29 *to be negatively impacted by traffic due to the Hampton Roads Bridge-Tunnel Express*
30 *Lanes Hampton Segment (4C) Project (HREL-P).*

31
32 *(bd) The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to*
33 *this section if such vehicle is found, (i) as evidenced by information obtained from a traffic*
34 *light signal violation monitoring system, to have failed to comply with a traffic light signal*
35 *within the city or (ii) as evidenced by information obtained from a traffic control device*
36 *violation monitoring system, to have failed to comply with a traffic control device within*
37 *the city. No operator shall be liable for a penalty pursuant to clause (i) and a penalty*
38 *pursuant to clause (ii) arising out of the same act. No monetary penalty shall be imposed*
39 *pursuant to this section for a first offense of failing to comply with a traffic control device,*
40 *as evidenced by information obtained from a traffic control device violation monitoring*
41 *system, and such operator shall be issued a written warning.*

42
43 *(ee) Proof of a violation of this section shall be evidenced by information obtained from*
44 *a traffic light signal violation monitoring system or traffic control device violation*
45 *monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed*

46 by a law-enforcement officer employed by the city authorized to impose penalties
47 pursuant to this section, or a facsimile thereof, based upon inspection of photographs,
48 microphotographs, videotape, or other recorded images produced by a traffic light signal
49 violation monitoring system *or traffic control device violation monitoring system*, shall be
50 prima facie evidence of the facts contained therein. Any photographs, microphotographs,
51 videotape, or other recorded images evidencing such a violation shall be available for
52 inspection in any proceeding to adjudicate the liability for such violation pursuant to this
53 section.

54
55 (d) In the prosecution for a violation of this section, prima facie evidence that the vehicle
56 described in the summons issued pursuant to this section was operated in violation of this
57 section, together with proof that the defendant was at the time of such violation the owner,
58 lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that
59 such owner, lessee, or renter of the vehicle was the person who committed the violation.
60 Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle:

- 61 (1) Files an affidavit by regular mail with the clerk of the Hampton General District
62 Court that they were not the operator of the vehicle at the time of the alleged
63 violation; or
64
65 (2) Testifies in open court under oath that they were not the operator of the vehicle
66 at the time of the alleged violation.

67 Such presumption shall also be rebutted if a certified copy of a police report, showing that
68 the vehicle had been reported to the police as stolen prior to the time of the alleged
69 violation of this section, is presented, prior to the return date established on the summons
70 issued pursuant to this section, to the court adjudicating the alleged violation.

71 ~~(e) For purposes of this section, "owner" means the registered owner of such vehicle on~~
72 ~~record with the Department of Motor Vehicles. For purposes of this section, "traffic light~~
73 ~~signal violation monitoring system" means a vehicle sensor installed to work in~~
74 ~~conjunction with a traffic light that automatically produces two or more photographs, two~~
75 ~~or more microphotographs, video, or other recorded images of each vehicle at the time it~~
76 ~~is used or operated in violation of Code of Virginia §§ 46.2-833, 46.2-835 or 46.2-836, or~~
77 ~~a substantially similar ordinance in the Hampton City Code. For such vehicle, at least~~
78 ~~one recorded image shall be of the vehicle before it has illegally entered the intersection,~~
79 ~~and at least one recorded image shall be of the same vehicle after it has illegally entered~~
80 ~~that intersection.~~

81 (f) Imposition of a penalty pursuant to this section shall not be deemed a conviction as
82 an operator and shall not be made part of the operating record of the person upon who
83 such liability is imposed, nor shall it be used for insurance purposes in the provision of
84 motor vehicle insurance coverage. No monetary penalty imposed under this section shall
85 exceed the maximum permitted by Code of Virginia § 15.2-968.1 at the time of conviction
86 hereunder, nor shall it include court costs. Any finding in the district court that an

87 operator has violated this ordinance shall be appealable to the Hampton Circuit Court
88 in a civil proceeding.

89 (g) A summons for a violation of this section may be executed pursuant to the provisions
90 of Code of Virginia § 19.2-76.2. Notwithstanding the provisions of Code of Virginia §
91 19.2-76, a summons for a violation of this section may be executed by mailing by first
92 class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of the
93 vehicle owner, the copy shall be mailed to the address contained in the records of the
94 Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be
95 mailed to the address contained in the records of the lessor or renter. In addition to the
96 summons, every such mailing shall include a notice of the following:

97 (1) The summoned person's ability to rebut the presumption that they were the
98 operator of the vehicle at the time of the alleged violation through the filing of
99 an affidavit as provided in subsection (f); and

100
101 (2) Instructions for filing such affidavit, including the address to which the affidavit
102 is to be sent. If the summoned person fails to appear on the date of return set
103 out in the summons mailed pursuant to this section, the summons shall be
104 executed pursuant to the provisions of Code of Virginia § 19.2-76.3. No
105 proceedings for contempt or arrest of a person summoned by mailing shall be
106 instituted for failure to appear on the return date of the summons. Any
107 summons executed for a violation of this section shall provide to the person
108 summoned at least 30 business days from the mailing of the summons to
109 inspect information collected by a traffic light signal violation monitoring
110 system *or traffic control device violation monitoring system* in connection with
111 the violation.

112 (h) Notwithstanding any other provision of law, all photographs, microphotographs,
113 electronic images, or other personal information collected by a traffic light signal violation
114 monitoring system *or traffic control device violation monitoring system* shall be used
115 exclusively for enforcing traffic light *or traffic control device* violations and shall not:

116 (1) be open to the public;

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118 (2) be sold or used for sales, solicitation or marketing purposes;

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120 (3) be disclosed to any other entity except as may be necessary for the
121 enforcement of a traffic light *or traffic control device* violation or to a vehicle
122 owner or operator as part of a challenge to the violation; or

123
124 (4) be used in a court in a pending action or proceeding unless the action or
125 proceeding relates to a violation of Code of Virginia §§ *46.2-830*, 46.2-833,
126 46.2-835 or 46.2-836, or a substantially similar ordinance in the Hampton City
127 Code, or requested upon order from a court of competent jurisdiction.

128 Information collected under this section pertaining to a specific violation shall be purged
129 and not retained later than 60 days after the collection of any civil penalties. If the city
130 does not execute a summons for a violation of this section within ten business days, all
131 information collected pertaining to that suspected violation shall be purged within two
132 business days.

133 (i) When selecting potential intersections for the traffic light signal violation monitoring
134 system, the city manager shall consider factors such as those contained in Code of
135 Virginia § 15.2-968.1 (J).

136 (j) Before the implementation of a traffic light signal violation monitoring system at an
137 intersection, the city manager shall cause to be completed an engineering safety analysis
138 that addresses signal timing and other location-specific safety features. The length of the
139 yellow phase shall be established based on the recommended methodology of the
140 Institute of Transportation Engineers. All traffic light signal violation monitoring systems
141 shall provide a minimum 0.5 second grace period between the time the signal turns red
142 and the time the first violation is recorded. If recommended by the engineering safety
143 analysis, the city shall make reasonable non-specific safety improvements, including
144 signs and pavement markers.

145 (l) *Before the implementation of a traffic control device violation monitoring system at an*
146 *intersection, the city manager shall cause to be completed an engineering safety analysis*
147 *that addresses the impact of the HREL-P on congestion, accident rates, and driver*
148 *disregard for traffic control devices. If recommended by the engineering safety analysis,*
149 *the locality shall make reasonable location-specific safety improvements, including signs*
150 *and pavement markings.*

151 (m) The city manager shall cause the evaluation of the traffic light signal violation
152 monitoring system *or traffic control device violation monitoring system* on a monthly basis
153 to ensure all cameras and traffic signals are functioning properly. Evaluation results shall
154 be made available to the public.

155 (n) The city manager shall cause the placement of conspicuous signs within 500 feet of
156 the intersection approach at which the traffic light signal violation monitoring system is
157 used to enforce traffic signals. There shall be a rebuttable presumption that such signs
158 were in place at the time of the commission of the traffic light signal violation.

159 (o) Prior to or coincident with the implementation or expansion of a traffic signal
160 violation monitoring system *or traffic control device violation monitoring system*, the city
161 manager shall cause the implementation of a public awareness program, advising the
162 public that the city is implementing or expanding a traffic light signal violation monitoring
163 system *or traffic control device violation monitoring system*.

164 (p) Notwithstanding any other provision of this section, if a vehicle depicted in images
165 recorded by a traffic light signal *violation photo-monitoring system or traffic control device*
166 *violation monitoring system* is owned, leased, or rented by the city, then the city may

167 access and use the recorded images and associated information for employee
168 disciplinary purposes.

169 *(2) All provisions of this section associated with traffic control device violation monitoring*
170 *systems shall expire on July 1, 2027, or upon certification by the Secretary of*
171 *Transportation that the Hampton Roads Express Lanes Hampton Segment (4C) is*
172 *complete, whichever is earlier.*

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174 **State Law reference**— Use of photo-monitoring systems to enforce traffic light signals
175 and certain traffic control devices, Code of Virginia, § 15.2-968.1.

176 **Secs. 21-20 – 21-35. – Reserved.**

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