

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 light signal photo-monitoring systems.**

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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**

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12 . . .

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

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

22
23 *(b) The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to*
24 *this section if such vehicle is found, as evidenced by information obtained from a traffic*
25 *light signal violation monitoring system, to have failed to comply with a traffic light signal*
26 *within the city.*

27
28 *(c) Proof of a violation of this section shall be evidenced by information obtained from a*
29 *traffic light signal violation monitoring system authorized pursuant to this section. A*
30 *certificate, sworn to or affirmed by a law-enforcement officer employed by the city*
31 *authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon*
32 *inspection of photographs, microphotographs, videotape, or other recorded images*
33 *produced by a traffic light signal violation monitoring system, shall be prima facie evidence*
34 *of the facts contained therein. Any photographs, micrographs, videotape, or other*
35 *recorded images evidencing such a violation shall be available for inspection in any*
36 *proceeding to adjudicate the liability for such violation pursuant to this section.*

37
38 *(d) In the prosecution for a violation of this section, prima facie evidence that the vehicle*
39 *described in the summons issued pursuant to this section was operated in violation of this*
40 *section, together with proof that the defendant was at the time of such violation the owner,*
41 *lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that*
42 *such owner, lessee, or renter of the vehicle was the person who committed the violation.*
43 *Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle:*
44

45 (1) *Files an affidavit by regular mail with the clerk of the Hampton General District*
46 *Court that they were not the operator of the vehicle at the time of the alleged*
47 *violation; or*

48
49 (2) *Testifies in open court under oath that they were not the operator of the vehicle*
50 *at the time of the alleged violation.*

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

55 *(e) For purposes of this section, “owner” means the registered owner of such vehicle on*
56 *record with the Department of Motor Vehicles. For purposes of this section, “traffic light*
57 *signal violation monitoring system” means a vehicle sensor installed to work in*
58 *conjunction with a traffic light that automatically produces two or more photographs, two*
59 *or more microphotographs, video, or other recorded images of each vehicle at the time it*
60 *is used or operated in violation of Code of Virginia §§ 46.2-833, 46.2-835 or 46.2-836, or*
61 *a substantially similar ordinance in the Hampton City Code. For such vehicle, at least*
62 *one recorded image shall be of the vehicle before it has illegally entered the intersection,*
63 *and at least one recorded image shall be of the same vehicle after it has illegally entered*
64 *that intersection.*

65 *(f) Imposition of a penalty pursuant to this section shall not be deemed a conviction as*
66 *an operator and shall not be made part of the operating record of the person upon who*
67 *such liability is imposed, nor shall it be used for insurance purposes in the provision of*
68 *motor vehicle insurance coverage. No monetary penalty imposed under this section shall*
69 *exceed the maximum permitted by Code of Virginia § 15.2-968.1 at the time of conviction*
70 *hereunder, nor shall it include court costs. Any finding in a district court that an operator*
71 *has violated this ordinance shall be appealable to the Hampton Circuit Court in a civil*
72 *proceeding.*

73 *(g) A summons for a violation of this section may be executed pursuant to the provisions*
74 *of Code of Virginia § 19.2-76.2. Notwithstanding the provisions of Code of Virginia §*
75 *19.2-76, a summons for a violation of this section may be executed by mailing by first*
76 *class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of the*
77 *vehicle owner, the copy shall be mailed to the address contained in the records of the*
78 *Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be*
79 *mailed to the address contained in the records of the lessor or renter. In addition to the*
80 *summons, every such mailing shall include a notice of the following:*

81 (1) *the summoned person’s ability to rebut the presumption that he was the*
82 *operator of the vehicle at the time of the alleged violation through the filing of*
83 *an affidavit as provided in subsection (d);*
84

(2) 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 pursuant to the provisions of Code of Virginia § 19.2-76.3. No proceedings for contempt or arrest of a person summonsed by mailing shall be instated 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 the traffic light signal violation monitoring system in connection with the violation.

(h) 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:

(1) be open to the public;

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

(3) 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

(4) 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, or a substantially similar ordinance in the Hampton City Code, or 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 city 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.

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

(j) Before the implementation of a traffic light signal violation monitoring system at an intersection, the city manager shall cause to be completed 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

126 *analysis, the city shall make reasonable non-specific safety improvements, including*
127 *signs and pavement markers.*

128 *(k) The city manager shall cause the evaluation of the traffic light signal violation*
129 *monitoring system on a monthly basis to ensure all cameras and traffic signals are*
130 *functioning properly. Evaluation results shall be made available to the public.*

131 *(l) The city manager shall cause the placement of conspicuous signs within 500 feet of*
132 *the intersection approach at which the traffic light signal violation monitoring system is*
133 *sued to enforce traffic signals. There shall be a rebuttable presumption that such signs*
134 *were in place at the time of the commission of the traffic light signal violation.*

135 *(m) Prior to or coincident with the implementation or expansion of a traffic signal violation*
136 *monitoring system, the city manager shall cause the implementation of a public*
137 *awareness program, advising the public that the city is implementing or expanding a traffic*
138 *light signal violation monitoring system.*

139 *(n) Notwithstanding any other provision of this section, if a vehicle depicted in images*
140 *recorded by a traffic light signal photo-monitoring system is owned, leased, or rented by*
141 *the city, then the city may access and use the recorded images and associated*
142 *information for employee disciplinary purposes.*

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144 **State Law reference—** *Use of photo-monitoring systems to enforce traffic light signals,*
145 *Code of Virginia, § 15.2-968.1.*

146 **Secs. 21-49~~20~~ – 21-35. – Reserved.**

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