

## Addendum 09-18-07-A – Code Chapter 14.2

### ORDINANCE TO AMEND, REENACT AND RECODIFY SECTION 14.2-23.1 OF THE ARLINGTON COUNTY CODE IN ACCORDANCE WITH THE PROVISIONS OF VIRGINIA CODE SECTION 15.2-968.1

I. BE IT ORDAINED that Chapter 14.2 (Motor Vehicles and Traffic Provisions) of the Arlington County Code is hereby amended, reenacted and recodified to read, in pertinent part, as follows:

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#### § 14.2-23.1. Photo-monitoring of traffic light signals.

(a) 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 each vehicle at the time it is used or operated **in violation of Virginia Code §46.2-833, §46.2-835, or §46.2-836, as amended, which are incorporated by reference in §14.2-1 of this Chapter 14.2. 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.**

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

(b) The County Manager or the manager's designee may install and operate, **at no more than one intersection for every 10,000 residents within the County,** a System for the purpose of imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals **within the County.**

(c) Proof of violation; presumption.

(1) Proof of a violation of this section shall be evidenced by information obtained from the System. A certificate, sworn to or affirmed by ~~a technician employed~~ **a law enforcement officer employed** by the county, or a facsimile thereof, 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 (e) 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~~ **the owner, lessee or renter of the vehicle,** shall constitute in evidence a rebuttable presumption that ~~the registered owner of the vehicle~~ such **owner, lessee or renter of the vehicle** was the person who committed the violation. This presumption shall be rebutted if ~~the registered owner of the vehicle~~ **owner, lessee or renter of the vehicle** files an affidavit by regular mail with the clerk of the general district court that he or she was not the operator of the vehicle at the time of the alleged violation or testifies in open court under oath that he or she was not the operator of the vehicle at the time of 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, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

(d) The operator of a vehicle shall have violated this section and shall be liable for a monetary penalty of up to (\$50.00) if the operator is found, as evidenced by information obtained from the system, to have failed to comply with a 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.

(e) 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 owner ~~of the vehicle,~~ **lessee or renter** of the vehicle as

shown on the records of the Department of Motor Vehicles. **In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of Motor Vehicles; 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 subsection D 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 mailed summons, the summons shall be executed in the manner set out in Section 19.2-76.3 of the Code of Virginia. No proceedings for the contempt or arrest of a person summoned by mailing shall be instituted or 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 60 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.** (Ord. No. 98-1, 1-17-98)