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City of Falls Church

Meeting Date: 1/26/09	Title: Ordinance to Amend Chapter 20, "Motor Vehicles And Traffic," Of The Code Of The City Of Falls Church, Virginia, By Amending and Reenacting Section 20-18 "Use of Photo-Monitoring Systems to Enforce Traffic Light Signals; Penalty" (TO9-01)	Agenda No.: 10 (b) (1)
Proposed Motion: MOVE that TO9-01 be approved on first reading, advertised according to law, and that a public hearing and final adoption be scheduled for February 9, 2009.		
Originating Dept. Heads: John E. Foster, City Attorney 703.248.5010 Harry Reitze, Chief of Police 703.248.5057		Disposition by Council:
City Manager: Wyatt Shields 703.248.5004 FWS 01/22/09	City Attorney: John Foster 703.248.5010	CFO: John Tuohy 703.248.5092 JHT 01-22-2009

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REQUEST: Council is requested to approve on first reading an ordinance to authorize use of photo-monitoring systems to enforce traffic light signals within the City of Falls Church, and repeal a former ordinance adopted for this purpose in 2000. This request is made by the Falls Church Police Department and the City Attorney to improve public safety within the City.

RECOMMENDATION: City Staff recommends that TOx-xx be approved on first reading, and that a public hearing and final adoption be scheduled for February 9, 2009.

BACKGROUND: The Virginia General Assembly adopted Va. Code Ann. § 15.2-968.1 in 2007, which authorizes localities to adopt an ordinance establishing a traffic light signal enforcement program. Va. Code Ann. § 15.2-968.1 authorizes localities in Planning District 8, which includes the City of Falls Church, to install photo-monitoring systems at no more than 10 intersections within the City. The ordinance proposed for adoption by City Council parallels the language of Va. Code Ann. § 15.2-968.1.

The relevant provisions include the following:

- A limit of \$50.00 on any penalty imposed by the Court for a violation of the photo-red ordinance. (Sec. 20-18(f)).

- 25 • A law-enforcement officer must sign a certificate stating that there has been a
26 violation of the proposed ordinance. A private entity or its employees that
27 provide the City with a photo-monitoring system may not sign such certificate.
28 (Sec. 20-18(d)).
- 29 • The City must complete an engineering safety analysis for each intersection
30 before implementing a violation monitoring system at that intersection. (Sec. 20-
31 18(k)).
32

33 FISCAL IMPACT: The City will incur costs from a third-party vendor for the
34 installation and operation of the photo-red monitoring system, which are expected to be
35 off set in part by revenues from violations. The public bid process continues and a final
36 contract has not yet been completed.
37

38 TIMING: The proposed Ordinance must be approved either before or simultaneously
39 with the award of the photo-red contract. Therefore, City Council is requested to
40 approve the proposed ordinance in February, 2009.
41

42 ATTACHMENTS: None.
43

44 (TO9-01)
45

46 ORDINANCE TO AMEND CHAPTER 20, "MOTOR VEHICLES AND
47 TRAFFIC," OF THE CODE OF THE CITY OF FALLS CHURCH, VIRGINIA,
48 BY AMENDING AND REENACTING SECTION 20-18 "USE OF PHOTO-
49 MONITORING SYSTEMS TO ENFORCE TRAFFIC LIGHT SIGNALS;
50 PENALTY"
51

52 THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS THAT
53 Chapter 20, "Motor Vehicles and Traffic" of the Code of the City of Falls Church,
54 Virginia, Section 20-18, "Use of Photo-Monitoring Systems to Enforce Traffic Light
55 Signals; Penalty" be amended and reenacted as follows:
56

57 **Sec. 20-18. Use of photo-monitoring systems to enforce traffic light signals;**
58 **penalty.**
59

60 **(a) For purposes of this section, "owner" means the registered owner of a vehicle**
61 **on record with the Department of Motor Vehicles. "Traffic light signal violation**
62 **monitoring system" means a vehicle sensor installed to work in conjunction with a**
63 **traffic light that automatically produces two or more photographs, two or more**
64 **microphotographs, video, or other recorded images of each vehicle at the time that**
65 **the operator of the vehicle fails to stop or remain stopped at a steady red traffic**
66 **light signal in violation of Code of Virginia, §§ 46.2-833, 46.2-835; or 46.2-836, as**
67 **amended, which are incorporated by reference in section 98-1. For each such**
68 **vehicle, at least one recorded image shall be of the vehicle before it has illegally**
69 **entered the intersection, and at least one recorded image shall be of the same**
70 **vehicle after it has illegally entered that intersection.**
71

72 **(b) The City Manager or the City Manager's designee may install and operate**
73 **traffic light signal violation monitoring systems at no more than ten intersections**
74 **in the City for the purpose of imposing monetary liability on the operator of a**
75 **motor vehicle for failure to comply with traffic light signals in the City in**
76 **accordance with the provisions of this section.**
77

78 **(c) The operator of a vehicle shall be liable for a monetary penalty imposed**
79 **pursuant to this section if such vehicle is found, as evidenced by information**
80 **obtained from a traffic light signal violation monitoring system, to have failed to**
81 **comply with a traffic light signal within the City.**
82

83 **(d) Proof of a violation of this section shall be evidenced by information obtained**
84 **from a traffic light signal violation monitoring system authorized pursuant to this**
85 **section. A certificate, sworn to or affirmed by a law enforcement officer employed**
86 **by the City authorized to impose penalties pursuant to this section, or a facsimile**
87 **thereof, based upon inspection of photographs, microphotographs, videotape, or**
88 **other recorded images produced by a traffic light signal violation monitoring**
89 **system, shall be prima facie evidence of the facts contained therein. Any**
90 **photographs, microphotographs, videotape, or other recorded images evidencing**
91 **such a violation shall be available for inspection in any proceeding to adjudicate**
92 **the liability for such violation pursuant to this section.**
93

94 **(e) In the prosecution of an offense established under this section, prima facie**
95 **evidence that the vehicle described in the summons issued pursuant to subsection**
96 **(d) above was operated in violation of this section, together with proof that the**
97 **defendant was at the time of such violation the owner, lessee, or renter of the**
98 **vehicle, shall constitute in evidence a rebuttable presumption that such owner,**
99 **lessee, or renter of the vehicle was the person who committed the violation. Such**
100 **presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files**
101 **an affidavit by regular mail with the clerk of the general district court for the City**
102 **that he or she was not the operator of the vehicle at the time of the alleged**
103 **violation or (ii) testifies in the general district court for the City, under oath that he**
104 **or she was not the operator of the vehicle at the time of the alleged violation. Such**
105 **presumption shall also be rebutted if a certified copy of a police report, showing**
106 **that the vehicle had been reported to the police as stolen prior to the time of the**
107 **alleged violation of this section, is presented, prior to the return date established**
108 **on the summons issued pursuant to this section, to the general district court for the**
109 **City adjudicating the alleged violation.**
110

111 **(f) Imposition of a penalty pursuant to this section shall not be deemed a**
112 **conviction as an operator and shall not be made a part of the operating record of**
113 **the person upon whom such liability is imposed, nor shall it be used for insurance**
114 **purposes in the provision of motor vehicle insurance coverage. No monetary**
115 **penalty imposed pursuant to this section shall exceed \$50.00, nor shall it include**
116 **court costs.**
117

118 (g) A summons for a violation of this section may be executed pursuant to Code of
119 Virginia, § 19.2-76.2, as amended. Notwithstanding the provisions of Code of
120 Virginia, § 19.2-76, as amended, the summons for a violation of this section may be
121 executed by mailing by first class mail a copy thereof to the address of the owner,
122 lessee, or renter of the vehicle as shown, in the case of vehicle owners, in the
123 records of the Department of Motor Vehicles or, in the case of the vehicle lessees or
124 renters, in the records of the lessee or renter. Every such mailing shall include, in
125 addition to the summons, a notice of (i) the summoned person's ability to rebut the
126 presumption that he was the operator of the vehicle at the time of the alleged
127 violation through the filing of an affidavit as provided in subsection (e) and (ii)
128 instructions for filing such affidavit, including the address to which the affidavit is
129 to be sent. If the summoned person fails to appear on the date of return set out in
130 the summons mailed pursuant to this section, the summons shall be executed in the
131 manner set out in Code of Virginia, § 19.2-76.3, as amended. No proceedings for
132 contempt or arrest of a person summoned by mailing shall be instituted for failure
133 to appear on the return date of the summons. Any summons executed for a
134 violation of this section shall provide to the person summoned at least 60 business
135 days from the mailing of the summons to inspect information collected by a traffic
136 light signal violation monitoring system in connection with the violation.

137
138 (h) Information collected by a traffic light signal violation monitoring system
139 installed and operated pursuant to this section shall be limited exclusively to that
140 information that is necessary for the enforcement of traffic light violations. A
141 private entity may not obtain records on behalf of the City regarding the
142 registered owners of vehicles that fail to comply with traffic light signals.
143 Notwithstanding any other provision of law, all photographs, microphotographs,
144 electronic images, or other personal information collected by a traffic light signal
145 violation monitoring system shall be used exclusively for enforcing traffic light
146 violations and shall not (i) be open to the public; (ii) be sold or used for sales,
147 solicitation, or marketing purposes; (iii) be disclosed to any other entity except as
148 may be necessary for the enforcement of a traffic light violation or to a vehicle
149 owner or operator as part of a challenge to the violation; or (iv) be used in a court
150 in a pending action or proceeding unless the action or proceeding relates to a
151 violation of Code of Virginia, §§ 46.2-833, 46.2-835, or 46.2-836, as amended, or is
152 requested upon order from a court of competent jurisdiction. Information
153 collected under this section pertaining to a specific violation shall be purged and
154 not retained later than 60 days after the collection of any civil penalties. If the City
155 does not execute a summons for a violation of this section within ten business days,
156 all information collected pertaining to that suspected violation shall be purged
157 within two business days. The City shall annually certify compliance with this
158 section and make all records pertaining to such system available for inspection and
159 audit by the Commonwealth Transportation Commissioner or the Commissioner
160 of the Department of Motor Vehicles or his designee. Any person who discloses
161 personal information in violation of the provisions of this subsection shall be
162 subject to a civil penalty of \$1,000.00.

163

164 (i) A private entity may enter into an agreement with the City to be compensated
165 for providing the traffic light signal violation monitoring system or equipment, and
166 all related support services, to include consulting, operations and administration.
167 However, only a law enforcement officer employed by the City may swear to or
168 affirm the certificate required by subsection (d). The City shall not enter into an
169 agreement for compensation based on the number of violations or monetary
170 penalties imposed.

171
172 (j) When selecting potential intersections for a traffic light signal violation
173 monitoring system, the City shall consider factors such as (i) the accident rate for
174 the intersection, (ii) the rate of red light violations occurring at the intersection
175 (number of violations per number of vehicles), (iii) the difficulty experienced by
176 law enforcement officers in patrol cars or on foot in apprehending violators, and
177 (iv) the ability of law enforcement officers to apprehend violators safely within a
178 reasonable distance from the violation. The City may consider the risk to
179 pedestrians as a factor, if applicable. The City shall submit a list of intersections to
180 the Virginia Department of Transportation for final approval.

181
182 (k) Before the implementation of a traffic light signal violation monitoring system
183 at an intersection, the City shall complete an engineering safety analysis that
184 addresses signal timing and other location-specific safety features. The length of
185 the yellow phase shall be established based on the recommended methodology of
186 the Institute of Transportation Engineers. All traffic light signal violation
187 monitoring systems shall provide a minimum 0.5-second grace period between the
188 time the signal turns red and the time the first violation is recorded. If
189 recommended by the engineering safety analysis, the City shall make reasonable
190 location-specific safety improvements, including signs and pavement markings.

191
192 (l) The City shall evaluate the traffic light signal violation monitoring system on a
193 monthly basis to ensure all cameras and traffic signals are functioning properly.
194 Evaluation results shall be made available to the public.

195
196 (m) The City shall place conspicuous signs within 500 feet of the intersection
197 approach at which a traffic light signal violation monitoring system is used. There
198 shall be a rebuttable presumption that such signs were in place at the time of the
199 commission of the traffic light signal violation.

200
201 (n) Prior to or coincident with the implementation or expansion of a traffic light
202 signal violation monitoring system, the City shall conduct a public awareness
203 program, advising the public that the City is implementing or expanding a traffic
204 light signal violation monitoring system.

205
206 ~~Sec. 20-18. Demonstration program for traffic light signal violation monitoring system.~~

207 (a) ~~Definitions.~~ For the purposes of this section, the following words and phrases
208 shall have the meanings respectively ascribed to them by this subsection:

209 ~~Owner means the owner, lessee, or renter of the vehicle as shown, in the case~~
210 ~~of vehicle owners, in the records of the department of motor vehicles or, in the case of~~
211 ~~vehicle lessees or renters, in the records of the lessor or renter.~~

212 ~~Traffic light signal violation monitoring system means a vehicle sensor installed~~
213 ~~to work in conjunction with a traffic light that automatically produces two (2) or more~~
214 ~~photographs, two (2) or more microphotographs, a videotape, or other recorded~~
215 ~~images of each vehicle at the time it is used or operated in violation of this section.~~

216 (b) ~~Monetary penalty. The operator of a vehicle shall be liable for a monetary~~
217 ~~penalty imposed pursuant to this section if such vehicle is found, as evidenced~~
218 ~~by information obtained from a traffic light signal violation monitoring system, to~~
219 ~~have failed to comply with a traffic light signal within the city.~~

220 (c) ~~Proof; certificate. Proof of a violation of this section shall be evidenced by~~
221 ~~information obtained from a traffic light signal violation monitoring system~~
222 ~~authorized pursuant to Section 46.2-833.01 of the Code of Virginia. A~~
223 ~~certificate, sworn to or affirmed by a technician employed by the city, or a~~
224 ~~facsimile thereof, based upon inspection of photographs, microphotographs,~~
225 ~~videotape, or other recorded images produced by a traffic light signal violation~~
226 ~~monitoring system, shall be prima facie evidence of the facts contained therein.~~
227 ~~Any photographs, microphotographs, videotape, or other recorded images~~
228 ~~evidencing such a violation shall be available for inspection in any proceeding~~
229 ~~to adjudicate the liability for such violation pursuant to this section.~~

230 (d) ~~Evidence of violation; presumption. In the prosecution of an offense established~~
231 ~~under this section, prima facie evidence that the vehicle described in the~~
232 ~~summons issued pursuant to this section was operated in violation of this~~
233 ~~section, together with proof that the defendant was at the time of such violation~~
234 ~~the owner, lessee, or renter of the vehicle, shall constitute in evidence a~~
235 ~~rebuttable presumption that such owner, lessee, or renter of the vehicle was the~~
236 ~~person who committed the violation. Such presumption shall be rebutted if the~~
237 ~~owner, lessee, or renter of the vehicle~~

238 (1) ~~Files an affidavit by regular mail with the clerk of the general district~~
239 ~~court for the city that he or she was not the operator of the vehicle at the~~
240 ~~time of the alleged violation or~~

241 (2) ~~Testifies in open court under oath that he or she was not the operator of~~
242 ~~the vehicle at the time of the alleged violation. Such presumption shall~~
243 ~~also be rebutted if a certified copy of a police report, showing that the~~
244 ~~vehicle had been reported to the police as stolen prior to the time of the~~
245 ~~alleged violation of this section, is presented, prior to the return date~~
246 ~~established on the summons issued pursuant to this section, to the court~~
247 ~~adjudicating the alleged violation.~~

248 (e) ~~Penalty; effect of a conviction. Imposition of a penalty pursuant to this section~~
249 ~~shall not be deemed a conviction as an operator and shall not be made part of~~
250 ~~the operating record of the person upon whom such liability is imposed nor shall~~
251 ~~it be used for insurance purposes in the provision of motor vehicle insurance~~
252 ~~coverage. The monetary penalty imposed by this section for each violation shall~~
253 ~~be fifty dollars (\$50.00) and shall not include court costs.~~

254 (f) ~~Summons. A summons for a violation of this section may be executed pursuant~~

255 ~~to Section 19.2-76.2 of the Code of Virginia. Notwithstanding the provisions of~~
256 ~~Section 19.2-76 of the Code of Virginia, a summons for a violation of this~~
257 ~~section may be executed by mailing by first-class mail a copy thereof to the~~
258 ~~address of the owner, lessee, or renter of the vehicle as shown, in the case of~~
259 ~~vehicle owners, in the records of the department of motor vehicles or, in the~~
260 ~~case of vehicle lessees or renters, in the records of the lessor or renter. Every~~
261 ~~such mailing shall include, in addition to the summons, a notice of~~

262 ~~(1) The summoned person's ability to rebut the presumption that he was the~~
263 ~~operator of the vehicle at the time of the alleged violation through the~~
264 ~~filing of an affidavit as provided in subsection (d) of this section; and~~

265 ~~(2) Instructions for filing such affidavit, including the address to which the~~
266 ~~affidavit is to be sent.~~

267 ~~If the summoned person fails to appear on the date of return set out in the summons~~
268 ~~mailed pursuant to this section, the summons shall be executed in the manner set out~~
269 ~~in Section 19.2-76.3 of the Code of Virginia. No proceedings for contempt or arrest of a~~
270 ~~person summoned by mailing shall be instituted for failure to appear on the return date~~
271 ~~of the summons.~~

272 ~~(g) *Admissibility of evidence.* In any action at law brought by any person or entity~~
273 ~~as the result of personal injury or death or damage to property, such evidence~~
274 ~~derived from a photo-monitoring system shall be admissible in the same~~
275 ~~method prescribed as required in the prosecution of an offense established~~
276 ~~under this section without the requirements of authentication as otherwise~~
277 ~~required by law.~~

278 ~~(h) *Private entities.* On behalf of the city, a private entity may not obtain records~~
279 ~~regarding the registered owners of vehicles which failed to comply with traffic~~
280 ~~light signals. A private entity may enter into an agreement with the city to be~~
281 ~~compensated for providing the traffic light signal violation monitoring system or~~
282 ~~equipment, and all related support services, to include consulting, operations~~
283 ~~and administration. However, only an employee of the city may swear to or~~
284 ~~affirm the certificate required by subsection (c) of this section.~~

285 ~~(i) Pursuant to Section 46.2-833.01(j) of the Code of Virginia, the provisions of this~~
286 ~~section shall expire on February 1, 2005.~~

287 ~~(Ord. No. 1669, 2-28-00)~~

288
289

290 1st Reading: 1/26/09

291 2nd Reading: _____

292 Adoption: ____

293 (TO9-01)

294