

COMMON COUNCIL



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I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 17th day of February, 2014, that the following Ordinance is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 11th day of February 2014.

AN ORDINANCE TO ADOPT SECTIONS 14-15 OF THE WINCHESTER CITY CODE PERTAINING TO USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES

WHEREAS, Winchester Public Schools (“WPS”) is concerned regarding the safety of students boarding and exiting school buses; and

WHEREAS, it is the belief of WPS that vehicles unlawfully passing school buses while loading and unloading its passengers poses a significant danger; and

WHEREAS, the use of a photo-monitoring enforcement system on school buses is authorized under the Code of Virginia; and

WHEREAS, the implementation of such as system requires that Common Council adopt an Ordinance authorizing WPS to operate such a system; and

WHEREAS, Common Council for the City of Winchester believes that the implementation of such a system will be of benefit to the citizens of the City of Winchester.

NOW therefore be it ORDAINED that Section 14-45 of the Winchester City Code is hereby adopted as follows:

14-15 USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES, PENALTY.

(a) For purposes of this ordinance, “school division” means the Winchester City Public Schools. “Video-monitoring system” means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Code of Virginia, §46.2-859.

(b) All such video-monitoring systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090, and the time, date, and location of the vehicle when the image is recorded.

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed in accordance with this ordinance, if such vehicle is found, as evidenced by information obtained from a videomonitoring system, to have failed to comply with Code of Virginia, § 46.2-859.

(d) The school division may install and operate a video-monitoring system on any school bus operated by the division for the purpose of recording violations of Code of Virginia, § 46.2-859 and imposing monetary liability in accordance with Code of Virginia, § 46.2-844.B and the provisions in this ordinance.

(e) The school division may also contract with a private vendor to install and operate such video-monitoring systems on behalf of the school division for the same purposes. Such agreement shall:

(1) Ensure adequate and proper retrieval, storage, and disposal of video-monitoring system recordings in accordance with this section;

(2) Specify the appropriate format, method and frequency of delivery of video recordings to designated and duly authorized law enforcement officers;

(3) Provide that the vendor shall on request of the City or the school division, submit a report to the City and the school division that includes, but is not limited to: (i) the total number of citations issued as a result of a violation detected and recorded by the monitoring system, and (ii) the total amount of funds collected.

(f) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school bus stopping violations. Notwithstanding any other provision of law, all images or video or other personal information recorded by a video- monitoring system shall be used exclusively for enforcing school bus stopping violations pursuant to this ordinance, 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 school bus stopping 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 §§46.2-859 or 46.2-844 of the Code of Virginia, or is requested upon order from a court of competent jurisdiction.

(g) Information collected under this ordinance pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of civil penalties. If an authorized law enforcement officer does not issue a summons or notice of violation within 10 business days of the date on which the violation of this section was recorded, all information collected pertaining to that suspected violation shall be purged.

(h) The school division shall annually certify compliance with this ordinance, and shall make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.

(i) Violations of the foregoing sections shall carry a civil penalty of \$250 and shall be prosecuted in the same manner as prosecutions for traffic infractions. Such violations 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 such violations be used for insurance purposes in the provision of motor vehicle insurance coverage.

(j) Whenever a violation of Code of Virginia, § 46.2-859 is detected and recorded by a videomonitoring system operated in accordance with this ordinance, the vendor or school division shall promptly submit the recorded video to a law enforcement officer employed by the city and authorized to impose penalties pursuant to this ordinance for review. If, after such review, such law enforcement officer determines that there are reasonable grounds to believe that a violation of Code of Virginia, §46.2-859 has occurred, the officer may issue a summons or notice of violation by first-class mail to the address of the registered owner of the vehicle involved as shown on the records of the Department of Motor Vehicles.

(k) Any person who receives a summons or notice of violation from a law enforcement officer pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Code of Virginia, § 16.1-69.40:1.B. The waiver shall be effective when the person voluntarily pays \$250.00 to the city treasurer's office within 15 business days after receipt of the summons or notice of violation.

(l) In any prosecution pursuant to this ordinance, proof that the vehicle described in such summons or notice was operated in violation of this ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.), shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. A photographic or digital still or video image recorded by a videomonitoring system that clearly shows the license plate number of a vehicle violating Code of Virginia, § 46.2-859 shall be sufficient proof of the identity of such vehicle for purposes of this ordinance.

(m) Notwithstanding the exception in Code of Virginia, § 46.2-1308, all fines imposed for violations of this ordinance, shall be paid into the city treasury. The city treasurer shall remit to the school division all fine amounts received in respect to the violations of this section after crediting the city's general fund with amount equal to the costs incurred in administering the video enforcement measures under this ordinance.

(n) Prosecution under this ordinance, shall not be permitted where a prosecution or proceeding for the same act has otherwise been initiated under Code of Virginia, § 46.2-859.

Ordinance No. 2014-02

ADOPTED by the Common Council of the City of Winchester on the 11th of February, 2014.

Witness my hand and the seal of the City of Winchester, Virginia.

*Kari J. Van Diest, CMC
Deputy Clerk of the Common Council*