

ORDINANCE NO. 2022-_____

**CAMERA SPEED MONITORING AND ENFORCEMENT IN HIGHWAY
WORK ZONES AND SCHOOL CROSSING ZONES
ORDINANCE
OF WYTHE COUNTY, VIRGINIA**

This Ordinance is adopted pursuant to the authority of Virginia Code Annotated § 46.2-882.1, as amended.

(a) For purposes of this section, "*highway work zone*" has the same meaning ascribed to it in Code of Virginia, § 46.2-878.1. "*Photo speed monitoring device*" means equipment that uses radar or LIDAR-based speed detection and produces one or more photographs, microphotographs, videotapes, or other recorded images of vehicles. "*School crossing zone*" has the same meaning ascribed to it in Code of Virginia, § 46.2-873.

(b) The Wythe County Sheriff's Office may install and operate photo speed monitoring devices, within the boundaries of Wythe County, in school crossing zones for the purposes of recording violations of Code of Virginia, § 46.2-873 and in highway work zones for the purposes of recording violations of Code of Virginia, § 46.2-878.1.

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a photo speed monitoring device, to be traveling at speeds of at least 10 miles per hour above the posted school crossing zone or highway work zone speed limit within such school crossing zone or highway work zone, while such zone is active. Such civil penalties shall be \$100.00. Any prosecution under this section shall be instituted and conducted in the same manner as prosecution for traffic infractions. Civil penalties collected under this section resulting from a summons issued by the Wythe County Sheriff's Office shall be paid to Wythe County. (d) If a photo speed monitoring device is used, proof of a violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1 shall be evidenced by information obtained from such device. A certificate, or a facsimile thereof, sworn to or affirmed by a law enforcement officer employed by the County authorized to impose penalties pursuant to this section, based upon inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo speed monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1.

(e) In the prosecution for a violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1 in which a summons was issued by mail, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such

presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court for the County that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the alleged violation or (ii) testifies in open court, under oath that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who was operating the vehicle at the time of the 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 of Code of Virginia, §§ 46.2-873 or 46.2-878.1, is presented, prior to the return date established on the summons issued pursuant to this section, to the general district court for the County adjudicating the alleged violation.

(f) Imposition of a civil penalty pursuant to this section by mailing a summons 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 it be used for insurance purposes in the provision of motor vehicle insurance coverage. However, if a law enforcement officer employed by the County uses a photo speed monitoring device to record a violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1 and personally issues a summons at the time of the violation, the conviction that results shall be made a part of such driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) A summons for a violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1 issued by mail pursuant to this section may be executed pursuant to Code of Virginia, § 19.2-76.2. Notwithstanding the provisions of Code of Virginia, § 19.2-76, a summons issued by mail pursuant to this section may be executed by mailing by first class mail a copy thereof to the address of the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to 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 lessee 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 above 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 summons mailed pursuant to this section, the summons shall be executed in the manner set out in Code of Virginia, § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed pursuant to and for a violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1 issued pursuant to this section shall provide to the person summoned at least 30 days following the mailing of the summons to inspect information collected by a photo speed monitoring device in connection with the violation. If the Wythe County Sheriff's Office does not execute a summons for a violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1 issued pursuant to this section within 30 days following the date of the violation, all information collected pertaining to the suspected violation shall be purged within 60 days following the date of the violation.

(h) A private vendor may enter into an agreement with the Wythe County Sheriff's Office to be compensated for providing a photo speed monitoring device and all related support services, including consulting, operations and administration. However, only a law enforcement officer may swear to or affirm the certificate required by this section. Any such agreement for compensation shall be based on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed. Any private entity contracting with a law enforcement agency pursuant to this section may enter into an agreement with the department of motor vehicles, in accordance with the provisions of subdivision B 31 of Code of Virginia, § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of Code of Virginia, §§ 46.2-873 or 46.2-878.1. Any such information provided to such private vendor shall be protected in a database.

(i) Information collected by a photo speed monitoring device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school crossing zone and highway work zone speeding violations. Information provided to the operator of photo speed monitoring device shall be protected in a database and used only for enforcement against individuals who violate this section or Code of Virginia, §§ 46.2-873 or 46.2-878.1. Notwithstanding any other provision of law, all photographs, microphotographs, videotapes, or other personal information collected by a photo speed monitoring device shall be used exclusively for enforcing school crossing zone and highway work zone speed limits and shall not be (i) open to the public; (ii) sold or used for sales, solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for the enforcement of school crossing zone and highway work zone speed limits 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 this section or Code of Virginia, §§ 46.2-873 or 46.2-878.1, or such information is 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. The Wythe County Sheriff's Office shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the commissioner of highways or the commissioner of the department of motor vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000.00 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the department of motor vehicles and the private entity.

(j) Conspicuous signs shall be placed within 1,000 feet of any school crossing zone or highway work zone at which a photo speed monitoring device is used, indicating the use of the device. There shall be a rebuttable presumption that such sign was in place at the time of the commission of the speed limit violation.

(k) Ordinance Approval. This ordinance was duly considered following the required public hearing held on _____, 2022; _____ made a motion to approve this ordinance; the motion was seconded by _____, and this ordinance was adopted by the Board of Supervisors of Wythe County, Virginia. This ordinance shall become effective on 12:01 a.m. on _____, 2022. The Board of Supervisors voted in the following manner:

<u>Name</u>	<u>For</u>	<u>Against</u>	<u>Absent</u>
Jesse Burnett			
Rolland R. Cook			
B.G. Horney, Jr.			
Ryan M. Lawson			
James D. Smith			
Stacy A. Terry			
Brian W. Vaught			

I certify that this is a true and correct copy taken from the _____, 2022 minutes of the Wythe County Board of Supervisors meeting.

Martha Collins, Clerk