

FIRST READING: July 21, 2022
SECOND READING/ADOPTION: July 21, 2022
POSTED: July 22, 2022
EFFECTIVE DATE: July 21, 2022

CITY OF MOUNT RAINIER, MARYLAND

Emergency Ordinance NO. 07-2022

Introduced by the Mayor & City Council

Amending the Code of Ordinances of the City of Mount Rainier, Chapter 13 “Traffic” to add Section 13-123 “Speed Monitoring Systems,” thereby codifying the City of Mount Rainier Speed Monitoring System (Ordinance No. 9-2009) and amending the City’s Speed Monitoring System to Reflect Recent Changes in State law

WHEREAS, pursuant to § 5-202 of the Local Government Article of the Annotated Code of Maryland, the Council of the City of Mount Rainier, Maryland (the “City Council”) has the authority to adopt such ordinances as it deems necessary to protect the health, safety and welfare of the residents of the municipality; and

WHEREAS, § 21-809 of the Transportation Article, Annotated Code of Maryland, as amended (hereinafter “§ 21-809”), authorizes the City, by local law of its governing body, to operate a speed monitoring system to enforce the speed limit in school zones and within ½ mile of an institution of higher education in the City, provided that the City follows the procedures and requirements set forth in § 21-809; and

WHEREAS, pursuant to this authority, the City Council adopted an ordinance authorizing use of photo speed monitoring systems in school zones in the City of Mount Rainier, Ordinance No. 9-2009; and

WHEREAS, § 21-809 was amended by the Maryland General Assembly to authorize municipalities in Prince George’s County to place speed cameras on highways in residential districts with a maximum posted speed limit of 35 miles per hour; and

WHEREAS, the City Council has determined that the adoption of the expanded authority provided by the amendment to § 21-809 will further protect the health, safety and welfare of the residents of the City; and

WHEREAS, the City’s previously adopted ordinance authorizing the placement of speed monitoring systems in the City was not codified; and

WHEREAS, the Mayor and Council believe the codification of the City’s speed monitoring system regulations will serve the public interest in assisting its residents to understand the content of the ordinances to which they are subject.

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WHEREAS, while the City Charter, in Section 306, generally prevents the adoption of an ordinance at a meeting held less than fourteen days after introduction, the Charter also provides that, in cases of emergency affecting the City's financial health, that provision may be suspended by the affirmative votes of four members of the Mayor and Council; and

WHEREAS, the Mayor and Council, by the affirmative vote of at least 4 members, deem the impending summer recess to constitute an emergency affecting the City's financial health,

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland that Chapter 13, "Traffic", Section 13-123, "Speed Monitoring Systems", of the Code of Ordinances shall be and hereby is enacted to read as follows:

SECTION 13-123. SPEED MONITORING SYSTEMS.

(A) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

- (1) "BUSINESS DISTRICT" MEANS AN AREA THAT ADJOINS AND INCLUDES A HIGHWAY WHERE AT LEAST 50 PERCENT OF THE FRONTAGE ALONG THE HIGHWAY, FOR A DISTANCE OF AT LEAST 300 FEET, IS OCCUPIED BY BUILDINGS USED FOR BUSINESS.
- (2) "DEPARTMENT" MEANS THE MOUNT RAINIER POLICE DEPARTMENT.
- (3) "OWNER" MEANS THE REGISTERED OWNER OF A MOTOR VEHICLE OR A LESSEE OF A MOTOR VEHICLE UNDER A LEASE OF 6 MONTHS OR MORE, EXCEPT THAT "OWNER" DOES NOT INCLUDE:
 - (A) A MOTOR VEHICLE RENTAL OR LEASING COMPANY; OR
 - (B) A HOLDER OF A SPECIAL REGISTRATION PLATE ISSUED UNDER MD. CODE ANN., TRANSP. ART., TITLE 13, SUBTITLE 9, PART III.
- (4) "RECORDED IMAGE" MEANS AN IMAGE RECORDED BY A SPEED MONITORING SYSTEM ON A PHOTOGRAPH, A MICROPHOTOGRAPH, AN ELECTRONIC IMAGE, A VIDEOTAPE, OR ANY OTHER MEDIUM, AND SHOWING:
 - (A) THE REAR OF A MOTOR VEHICLE.
 - (B) AT LEAST TWO TIME-STAMPED IMAGES OF THE MOTOR VEHICLE THAT INCLUDE THE SAME STATIONARY OBJECT NEAR THE MOTOR VEHICLE; AND
 - (C) ON AT LEAST ONE IMAGE OR PORTION OF TAPE, A CLEAR AND LEGIBLE IDENTIFICATION OF THE ENTIRE REGISTRATION PLATE NUMBER OF THE MOTOR VEHICLE.
- (5) "RESIDENTIAL DISTRICT" MEANS AN AREA THAT:
 - (1) IS NOT A BUSINESS DISTRICT; AND
 - (2) ADJOINS AND INCLUDES A HIGHWAY WHERE THE PROPERTY ALONG THE HIGHWAY, FOR A DISTANCE OF AT LEAST 300 FEET, IS IMPROVED MAINLY WITH RESIDENCES OR RESIDENCES AND BUILDINGS USED FOR BUSINESS.
- (6) "SCHOOL ZONE" MEANS A DESIGNATED ROADWAY SEGMENT WITHIN UP TO A HALF-MILE RADIUS OF A SCHOOL FOR ANY OF GRADES KINDERGARTEN THROUGH GRADE 12 WHERE SCHOOL-RELATED ACTIVITY OCCURS, INCLUDING: TRAVEL BY STUDENTS TO OR FROM

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SCHOOL ON FOOT OR BY BICYCLE, OR THE DROPPING OFF OR PICKING UP OF STUDENTS BY SCHOOL BUSES OR OTHER VEHICLES.

(7) "SPEED MONITORING SYSTEM" MEANS A DEVICE WITH ONE OR MORE MOTOR VEHICLE SENSORS PRODUCING RECORDED IMAGES OF MOTOR VEHICLES TRAVELING AT SPEEDS AT LEAST 12 MILES PER HOUR ABOVE THE POSTED SPEED LIMIT.

(8) "SPEED MONITORING SYSTEM OPERATOR" MEANS A REPRESENTATIVE OF THE DEPARTMENT OR A CONTRACTOR THAT OPERATES A SPEED MONITORING SYSTEM.

(9) "SPEED ZONE" MEANS AN AREA IN WHICH THE CITY IS AUTHORIZED BY STATE LAW TO MONITOR VEHICULAR SPEED AND TO ISSUE CITATIONS TO THE VEHICLE OPERATOR FOR VIOLATIONS OF THE POSTED SPEED LIMIT USING A SPEED MONITORING SYSTEM, INCLUDING AREAS PROPERLY DESIGNATED IN ACCORDANCE WITH THE SECTION THAT ARE ADJACENT TO PRIMARY OR SECONDARY SCHOOLS, INSTITUTIONS OF HIGHER EDUCATION, AND ON HIGHWAYS IN RESIDENTIAL DISTRICTS WITH A MAXIMUM POSTED SPEED LIMIT OF 35 MILES PER HOUR

(B) THE CITY IS AUTHORIZED TO OPERATE A SPEED MONITORING SYSTEM TO ENFORCE THE SPEED LIMIT IN SPEED ZONES ESTABLISHED IN COMPLIANCE WITH § 21-809 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(C) THE CITY COUNCIL, BY RESOLUTION, FOLLOWING REASONABLE NOTICE TO THE PUBLIC AND A PUBLIC HEARING, MAY ESTABLISH A SCHOOL ZONE ON ANY ROAD UNDER THE CITY'S JURISDICTION WITHIN ONE-HALF MILE OF A SCHOOL AND AN AUTHORIZED SPEED ZONE. FOR ANY SCHOOL ZONE AND SPEED ZONE SO ESTABLISHED, THE CITY COUNCIL SHALL SET A MAXIMUM SPEED LIMIT, PROVIDED THAT THE DESIGNATION OF SUCH ZONE AND THE MAXIMUM SPEED LIMIT SET FOR SUCH ZONE SHALL NOT BECOME EFFECTIVE UNTIL THE CITY INSTALLS SIGNS DESIGNATING THE SCHOOL ZONE AND INDICATING THE MAXIMUM SPEED LIMIT APPLICABLE IN THE SCHOOL ZONE.

(D) THE CITY MAY INSTALL OR ERECT TRAFFIC CONTROL DEVICES IN A DESIGNATED SPEED ZONE IN ADDITION TO THE SIGNS REQUIRED IN SECTION C ABOVE, INCLUDING TIMED FLASHING WARNING LIGHTS AND INCLUDING A SPEED MONITORING SYSTEM AS DEFINED IN SUBSECTION (A) OF THIS SECTION.

(E) BEFORE ACTIVATING A SPEED MONITORING SYSTEM, THE CITY MANAGER OR THEIR DESIGNEE SHALL:

(1) PUBLISH NOTICE OF THE LOCATION OF THE SPEED MONITORING SYSTEM ON THE CITY'S WEBSITE AND IN A NEWSPAPER OF GENERAL CIRCULATION IN THE CITY; AND

(2) ENSURE THAT EACH SIGN THAT DESIGNATES A SPEED ZONE INDICATES THAT A SPEED MONITORING SYSTEM IS IN USE IN THE SPEED ZONE; AND

(3) IS IN ACCORDANCE WITH THE MANUAL FOR AND THE SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES ADOPTED BY THE STATE HIGHWAY ADMINISTRATION UNDER § 25-104 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

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(F) A SPEED MONITORING SYSTEM IN A SCHOOL ZONE MAY OPERATE ONLY MONDAY THROUGH FRIDAY BETWEEN 6:00 A.M. AND 8:00 P.M. A SPEED MONITORING SYSTEM WITHIN ½ MILE OF THE GROUNDS OF AN INSTITUTION OF HIGHER LEARNING OR ON A HIGHWAY IN A RESIDENTIAL DISTRICT WITH A MAXIMUM POSTED SPEED LIMIT OF 35 MILES PER HOUR MAY BE OPERATED 24 HOURS PER DAY, SEVEN DAYS PER WEEK.

(G) A SPEED MONITORING SYSTEM OPERATOR SHALL:

(1) COMPLETE TRAINING BY A MANUFACTURER OF SPEED MONITORING SYSTEMS IN THE PROCEDURES FOR SETTING UP AND OPERATING THE SPEED MONITORING SYSTEM.

(2) FILL OUT AND SIGN A DAILY SET-UP LOG FOR A SPEED MONITORING SYSTEM THAT STATES THAT THE SPEED MONITORING SYSTEM OPERATOR SUCCESSFULLY PERFORMED THE MANUFACTURER-SPECIFIED SELF-TEST OF THE SPEED MONITORING SYSTEM PRIOR TO PRODUCING A RECORDED IMAGE.

(3) THE DAILY SET-UP LOG REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION SHALL BE KEPT ON FILE AND SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(H) A SPEED MONITORING SYSTEM MANUFACTURER SHALL ISSUE A SIGNED CERTIFICATE TO THE SPEED MONITORING SYSTEM OPERATOR ON COMPLETION OF THE TRAINING, WHICH CERTIFICATE SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(I) A SPEED MONITORING SYSTEM SHALL UNDERGO AN ANNUAL CALIBRATION CHECK PERFORMED BY AN INDEPENDENT CALIBRATION LABORATORY AND THE INDEPENDENT CALIBRATION LABORATORY SHALL ISSUE A SIGNED CERTIFICATE OF CALIBRATION AFTER THE ANNUAL CALIBRATION CHECK. THE CERTIFICATE OF CALIBRATION SHALL BE KEPT ON FILE AND SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(J) (1) UNLESS A DRIVER OF A MOTOR VEHICLE RECEIVED A CITATION FROM A POLICE OFFICER AT THE TIME OF A VIOLATION, THE OWNER OR, IN ACCORDANCE WITH SUBSECTION (M)(4) OF THIS SECTION, THE DRIVER OF A MOTOR VEHICLE IS SUBJECT TO A CIVIL PENALTY IF THE MOTOR VEHICLE IS RECORDED BY A SPEED MONITORING SYSTEM WHILE BEING OPERATED AT LEAST TWELVE MILES PER HOUR ABOVE THE POSTED SPEED LIMIT.

(2) THE PENALTY FOR A VIOLATION ESTABLISHED BY A SPEED MONITORING SYSTEM UNDER THIS SUBSECTION SHALL BE FORTY DOLLARS (\$40).

(K) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION, THE DEPARTMENT SHALL MAIL TO AN OWNER LIABLE UNDER SUBSECTION (J) OF THIS SECTION A CITATION, UPON A FORM TO BE PRESCRIBED BY THE DISTRICT COURT OF MARYLAND, THAT SHALL INCLUDE THE INFORMATION REQUIRED BY THE MD. CODE ANN., TRANSP. ART., SECTION 21-809(D)(1).

(2) THE DEPARTMENT MAY MAIL A WARNING NOTICE INSTEAD OF A CITATION TO THE OWNER LIABLE UNDER SUBSECTION (J) OF THIS SECTION AND, FOR A PERIOD OF THIRTY (30) DAYS AFTER THE

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CITY INSTALLS THE FIRST SPEED MONITORING SYSTEM, THE DEPARTMENT SHALL MAIL ONLY A WARNING NOTICE AND MAY NOT ISSUE A CITATION.

(3) EXCEPT AS PROVIDED IN SUBSECTION (M)(4) OF THIS SECTION, THE CITY MAY NOT MAIL A CITATION TO A PERSON WHO IS NOT AN OWNER.

(4) EXCEPT AS PROVIDED IN SUBSECTION (M)(4) OF THIS SECTION, A CITATION ISSUED UNDER THIS SECTION SHALL BE MAILED NO LATER THAN 2 WEEKS AFTER THE ALLEGED VIOLATION IF THE VEHICLE IS REGISTERED IN THIS STATE, AND 30 DAYS AFTER THE ALLEGED VIOLATION IF THE VEHICLE IS REGISTERED IN ANOTHER STATE.

(5) A PERSON WHO RECEIVES A CITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY:

(A) PAY THE CIVIL PENALTY, IN ACCORDANCE WITH INSTRUCTIONS ON THE CITATION, DIRECTLY TO THE CITY; OR

(B) ELECT TO STAND TRIAL IN THE DISTRICT COURT FOR THE ALLEGED VIOLATION.

(L) (1) A CERTIFICATE ALLEGING THAT THE VIOLATION OF THIS SECTION OCCURRED AND SATISFYING THE REQUIREMENTS OF MD. CODE ANN., TRANSP. ART., SECTION 21-809(B) SHALL BE EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER THIS SECTION WITHOUT THE PRESENCE OR TESTIMONY OF THE SPEED MONITORING SYSTEM OPERATOR.

(2) IF A PERSON WHO RECEIVED A CITATION UNDER SUBSECTION (J) OF THIS SECTION DESIRES THE SPEED MONITORING SYSTEM OPERATOR TO BE PRESENT AND TESTIFY AT TRIAL, THE PERSON SHALL NOTIFY THE COURT AND THE STATE IN WRITING NO LATER THAN 20 DAYS BEFORE TRIAL.

(3) ADJUDICATION OF LIABILITY SHALL BE BASED ON A PREPONDERANCE OF EVIDENCE.

(M) (1) PURSUANT TO MD. CODE ANN., TRANSP. ART., SECTION 21-809, THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A VIOLATION:

(A) SUBJECT TO SUBPARAGRAPH (2) OF THIS SUBSECTION, THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES OF THE MOTOR VEHICLE WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF VIOLATION;

(B) SUBJECT TO SUBPARAGRAPH (3) OF THIS SUBSECTION, EVIDENCE THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION;
AND

(C) ANY OTHER ISSUES AND EVIDENCE THAT THE DISTRICT COURT DEEMS PERTINENT.

(2) TO DEMONSTRATE THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION, THE OWNER SHALL SUBMIT PROOF THAT A POLICE REPORT REGARDING THE STOLEN MOTOR VEHICLE OR REGISTRATION PLATES WAS FILED IN A TIMELY MANNER.

(3) TO SATISFY THE EVIDENTIARY BURDEN UNDER SUBPARAGRAPH (1)(B) OF THIS SUBSECTION, THE PERSON NAMED IN THE CITATION SHALL PROVIDE TO THE DISTRICT COURT A LETTER, SWORN TO OR AFFIRMED BY THE PERSON AND MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THAT:

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(A) STATES THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION; AND

(B) INCLUDES ANY OTHER CORROBORATING EVIDENCE.

(4) (A) IF THE DISTRICT COURT FINDS THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION OR RECEIVES EVIDENCE UNDER SUBPARAGRAPH (L) OF THIS SUBSECTION IDENTIFYING THE PERSON DRIVING THE VEHICLE AT THE TIME OF THE VIOLATION, THE CLERK OF THE COURT SHALL PROVIDE TO THE DEPARTMENT A COPY OF ANY EVIDENCE SUBSTANTIATING WHO WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

(B) ON RECEIPT OF SUBSTANTIATING EVIDENCE FROM THE DISTRICT COURT UNDER PARAGRAPH 4(A) ABOVE, THE DEPARTMENT MAY ISSUE A CITATION AS PROVIDED IN SUBSECTION (I) OF THIS SECTION TO THE PERSON WHO THE EVIDENCE INDICATES WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

(C) A CITATION ISSUED UNDER SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL BE MAILED NO LATER THAN 2 WEEKS AFTER RECEIPT OF THE EVIDENCE FROM THE DISTRICT COURT.

(N) PURSUANT TO MD. CODE ANN., TRANSP. ART., SECTION 21-809, IF A PERSON LIABLE UNDER THIS SECTION DOES NOT PAY THE CIVIL PENALTY OR CONTEST THE VIOLATION, THE MARYLAND MOTOR VEHICLE ADMINISTRATION:

(1) MAY REFUSE TO REGISTER OR REREGISTER THE MOTOR VEHICLE CITED FOR THE VIOLATION, OR

(2) MAY SUSPEND THE REGISTRATION OF THE MOTOR VEHICLE CITED FOR THE VIOLATION.

(O) PURSUANT TO MD. CODE ANN., TRANSP. ART., SECTION 21-809, A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS SECTION:

(1) IS NOT A MOVING VIOLATION FOR THE PURPOSE OF ASSESSING POINTS UNDER MD. CODE ANN., TRANSP. ART., SECTION 16-402.

(2) MAY NOT BE RECORDED BY THE MOTOR VEHICLE ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER OR DRIVER OF THE VEHICLE.

(3) MAY BE TREATED AS A PARKING VIOLATION FOR PURPOSES OF MD. CODE ANN., TRANSP. ART., SECTION 26-305; AND

(4) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

(P) SEVERABILITY. IF ANY SUBSECTION, SENTENCE, CLAUSE, PHRASE, WORD OR PROVISION OF THIS SECTION SHALL BE FOUND TO BE INVALID, ILLEGAL, UNCONSTITUTIONAL OR UNENFORCEABLE, THAT FINDING SHALL NOT AFFECT OR UNDERMINE THE VALIDITY OF ANY OTHER SUBSECTION, SENTENCE, CLAUSE, PHRASE, WORD, PROVISION OF APPLICATION WHICH CAN BE ENFORCED WITHOUT THE USE OF THE OFFENDING PORTION OF THIS SECTION.

Section 2. This Emergency Ordinance is adopted by the Mayor and Council of the City of Mount Rainier this 21 day of July, 2022 and shall take effect on the 21 day of July, 2022, provided that a fair summary has been read at the meeting at which it is introduced and adopted,

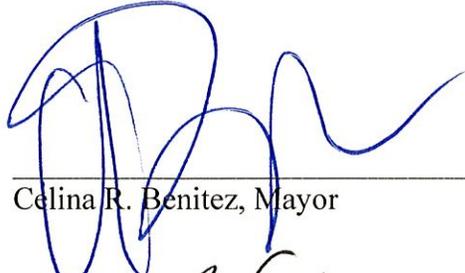
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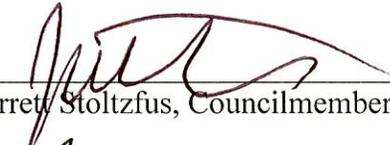
that a copy shall be posted at City Hall for at least two weeks after it becomes effective, and that a fair summary is published at least once in a newspaper having general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every City household, and further provided that the Mayor and Council shall hold a public hearing on the emergency ordinance at a meeting held not less than fourteen (14) days nor more than forty-five (45) days after its adoption.

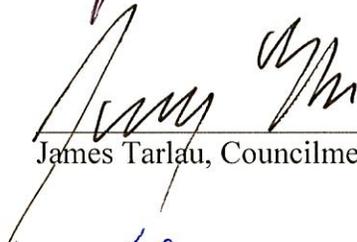
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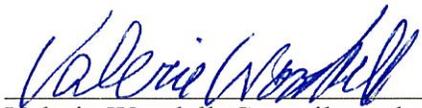
M Sam
Melissa Sam, City Clerk


Celina R. Benitez, Mayor


Luke Chesek, Councilmember Ward 1


Jarrett Stoltzfus, Councilmember Ward 2


James Tarlau, Councilmember Ward 1


Valerie Woodall, Councilmember Ward 2

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