

ORDINANCE NO. 2010-12-064

AN ORDINANCE ADDING A NEW CHAPTER BMC 11.16 TO THE BELLINGHAM MUNICIPAL CODE TO AUTHORIZE AND REGULATE AUTOMATED TRAFFIC SAFETY CAMERAS

WHEREAS, the City of Bellingham prosecutes, under its own laws and within its own municipal court, all traffic offenses occurring within the City of Bellingham; and

WHEREAS, RCW 46.63.170 allows for the use of automated traffic safety cameras for stoplight, railroad crossing, and school speed zone violations; and

WHEREAS, RCW 46.63.170 provides that the local legislative authority must enact an ordinance for the use of automated traffic safety cameras to regulate stoplight, railroad crossing, and school zone violations; and

WHEREAS, the City of Bellingham wishes to protect the public health and safety and promote the general welfare of the community by enhancing the enforcement of the traffic code through automated traffic safety cameras;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. A new chapter 11.16 is added to the Bellingham Municipal Code Title 11, which shall read as follows:

11.16 – Automated Traffic Safety Cameras

Section 2. A new section 11.16.010 is added to BMC chapter 11.16, which shall read as follows:

11.16.010 – Definition of Automated Traffic Safety Camera. For purposes of this chapter, “automated traffic safety camera” means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device.

Section 3. A new section 11.16.020 is added to BMC chapter 11.16, which shall read as follows:

11.16.020 – Authorized Use of Automated Traffic Safety Cameras and Restrictions

A. Consistent with the authority granted in RCW 46.63.170, law enforcement officers of the City of Bellingham and persons commissioned by the Chief of Police for the City of Bellingham are authorized to use automated traffic cameras and related automated systems to detect one or more of the following: (1) stoplight violations, (2) railroad crossing violations, and (3) school speed zone violations.

B. The use of automated traffic safety cameras is subject to the following restrictions:

1. Use of automated traffic safety cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only.
2. For stoplight violations, the use of automated traffic safety cameras shall be limited to the following intersections: westbound E. Holly at N. Forest; northbound Ellis St. at Lakeway Drive; northbound Meridian St. at Telegraph Road; southbound Samish Way at 36th St., and northbound 36th St. at Samish Way.
3. For school speed zone violations, the use of automated traffic safety cameras shall be limited to the following locations: Shuksan Middle School on Northwest Ave between W. Maplewood Ave and Alderwood Ave, and Roosevelt Elementary on Alabama St. between Michigan St. and Woburn St.
4. Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. Pictures taken by automated traffic safety cameras may not reveal the face of the driver or the passengers in the vehicle.

C. The City shall clearly mark all locations where automated traffic safety cameras are in use by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

D. Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this chapter are for the exclusive use of law enforcement in the discharge of duties under this chapter and are not open to the public and may not be used in court in a pending action or proceeding unless the action or proceeding relates to a violation under this chapter. No photograph, microphotograph, or electric image may be used for any

purpose other than enforcement of violations under this chapter nor retained longer than necessary to enforce this section.

Section 4. A new section 11.16.030 is added to BMC chapter 11.16, which shall read as follows:

11.16.030 – Notice of Infraction

A. Whenever any vehicle is photographed by an automatic traffic safety camera, a notice of infraction under this chapter must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of the vehicle within fourteen days of establishing the renter's name and address under this section.

B. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability of the infraction. A person receiving notice of the infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

C. If the registered owner of the vehicle is a rental car business, the Bellingham Police Department shall, before a notice of infraction is issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen (18) days of receiving the written notice, provide to the Bellingham Police Department by return mail:

1. A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

2. A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

3. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

Section 5. A new section 11.16.040 is added to BMC chapter 11.16, which shall read as follows:

11.16.040 – Request for Hearing. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail. The person receiving the infraction may also request a hearing in the Bellingham Municipal Court consistent with the procedures, rules, and regulations governing other infractions.

Section 6. A new section 11.16.050 is added to BMC chapter 11.16, which shall read as follows:

11.16.050 – Presumption of Committed Infraction

A. Consistent with RCW 46.63.075, in a traffic case involving an infraction detected through the use of an automated traffic safety camera, proof that the particular vehicle described in the notice of infraction was involved in a stoplight violation, railroad crossing violation and/or school speed zone violation, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

B. This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

Section 7. A new section 11.16.060 is added to BMC chapter 11.16, which shall read as follows:

11.16.060 – Infractions Processed. Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

Section 8. A new section 11.16.070 is added to BMC chapter 11.16, which shall read as follows:

11.16.070 – No Limitation on Authority. Nothing in this chapter prohibits a law enforcement officer from issuing a notice of infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1), (b), or (c).

Section 9. A new section 11.16.080 is added to BMC chapter 11.16, which shall read as follows:

11.16.080 – Monetary Penalty. The monetary penalty for a violation of this chapter shall not exceed \$250.00 consistent with the authority of RCW 46.63.170 (2) and shall be consistent with penalties set by state law for stoplight and school speed zone violations.

Section 10. A new section 11.16.090 is added to BMC 11.16, which shall read as follows:

11.16.090 – Use of Electronic Signature Authorized. In connection with the automated traffic safety camera program for stoplight violations, railroad crossing violations, and school speed zone violations, the Police Chief and/or his or her designee is authorized to utilize electronic signatures in accordance with the provisions of Chapter 19.34 RCW.

Section 11. A new section 11.16.100 is added to BMC 11.16, which shall read as follows:

11.16.100 – City Council Review. City Council shall review the use of the automated traffic safety cameras no later than one year from the date of authorization to determine whether the program shall continue and/or other locations should be considered for use of automated traffic safety cameras.

PASSED by the Council this 6th day of December, 2010.



Council President

APPROVED by me this 9th day of December, 2010.

D. M. V. M.
Mayor

ATTEST: [Signature]
Finance Director

APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

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