PEB:TR
6/17/2008
(Ver. 4)

ORDINANCE 122725

AN ORDINANCE relating to enforcement of traffic infractions and amending Seattle Municipal Code Section 11.31.090 and Seattle Municipal Code Subsection 11.31.120 C to provide that violations of Seattle Municipal Code Section 11.52.100 may be enforced through the use of evidence detected by an automated traffic safety camera and providing penalties for such violations.

WHEREAS, RCW 46.63.170 authorizes the use of automated traffic safety cameras for enforcement of traffic violations at two-arterial intersections, railroad crossings, and school speed zones; and

WHEREAS, the City Council has previously authorized automated traffic safety camera enforcement at two-arterial intersections for violations of Seattle Municipal Code Sections 11.50.140 and 11.50.150; and

WHEREAS, use of automated traffic safety cameras will enhance enforcement of speeding violations in school speed zones, thereby lowering speeds and decreasing the likelihood of pedestrian-traffic collisions and associated disabling injuries; and

WHEREAS, the City Council included funding in the 2008 Adopted Budget for implementation of a pilot project to test the use of automated traffic safety cameras for speed control in school zones; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 11.31.090 (added as a new section by Ordinance No. 121944, Section 3 and amended by Ordinance No. 122554) is amended as follows:

SMC 11.31.090 Traffic infractions detected through the use of an automated traffic safety camera.

A. A notice of infraction based on evidence detected through the use of an automated traffic safety camera must be mailed to the registered owner of the vehicle within fourteen (14)

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days of the violation, or to the renter of a vehicle within fourteen (14) days of establishing the renter's name and address under subsection C1 of this section. The peace 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 of Section 11.50.140((~~or~~)), Section 11.50.150, or Section 11.52.100. 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 for the infraction.

B. A person receiving such a notice of infraction may respond to the notice by mail. The registered owner of a vehicle is responsible for such an infraction unless the registered owner overcomes the presumption in subsection E of this section, or, in the case of a rental car business, satisfies the conditions under subsection C of this section. If appropriate under the circumstances, a renter identified under subsection C1 of this section is responsible for such an infraction.

C. If the registered owner of the vehicle is a rental car business, the peace officer shall, before such 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 peace officer 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

CITY CLERK

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; 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 peace officer relieves a rental car business of any liability under this chapter for the notice of infraction.

D. For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system or speed measuring device, and a camera synchronized to automatically record one (1) 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 exceeds a speed limit in a school speed zone as detected by a speed measuring device.

E. In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera, proof that the particular vehicle described in the notice of traffic infraction was in violation of Section 11.50.140((~~or~~)), Section 11.50.150, or Section 11.52.100, 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. 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,

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custody, or control of some person other than the registered owner. (((~~Laws of 2005, chapter 167, section 1 and RCW 46.63.075~~)))

Section 2. Seattle Municipal Code Section 11.31.120 C (added as a new subsection by Ordinance No. 121944, Section 4 and amended by Ordinance No. 122554) is amended as follows:

SMC 11.31.120 Monetary penalties.

* * *

C. A traffic infraction for violation of Section 11.50.140((~~or~~)), Section 11.50.150, or Section 11.52.100 detected through the use of an automated traffic safety camera shall be processed in the same manner as a parking infraction, with a monetary penalty equal to the total penalty, including the base penalty plus any statutory assessments authorized under state law, for ((~~similar~~)) violations of ((~~traffic control signals~~)) such Sections otherwise detected by a police officer.

Section 3. On or before September 1, 2009, the Executive will provide a report on the effectiveness of the use of automated traffic safety camera enforcement in school zones. If, based on the findings of this report, the City decides to continue the use of this enforcement mechanism, the Council intends to consider whether to designate the net revenues generated from such enforcement efforts for costs associated with making pedestrian improvements.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

CITY CLERK

PEB:TR
6/17/2008
(Ver. 4)

Passed by the City Council the 23rd day of June, 2008, and signed by me in open session in authentication of its passage this 23rd day of June, 2008.

President _____ of the City Council

Approved by me this 25th day of June, 2008.

Gregory J. Nickels, Mayor

Filed by me this 25th day of June, 2008.

City Clerk

(Seal)

2008 CITY CLERK

Form revised February 6, 2008

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Police Department	Mike Quinn/615-1230	Greg Doss/615-1759

Legislation Title:
AN ORDINANCE relating to enforcement of traffic infractions and amending Seattle Municipal Code Section 11.31.090 and Seattle Municipal Code Subsection 11.31.120 C to provide that violations of Seattle Municipal Code Section 11.52.100 may be enforced through the use of evidence detected by an automated traffic safety camera and providing penalties for such violations.

- **Summary of the Legislation**:

This legislation does two things: 1) it provides the City with authority to use automated traffic safety cameras to detect speed violations in school zones, as authorized in RCW 46.63.170; and 2) it provides that the penalty for violations of SMC 11.52.100 (school zone speed violations) detected by an automated traffic safety camera will be the same as the total penalty for violations of this section detected by a police officer. The monetary penalty for violation of this Code section is currently set at $189. In the future, the penalty for camera-generated violations will track the total penalty for officer-generated violations.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Following enactment of state enabling legislation, Ordinance No. 121944, enacted by the Council in September 2005, created SMC Section 11.31.090, which authorized the City to use automated camera equipment to detect violations of circular red signals at two-arterial intersections. Ordinance 122554, which passed in November 2007, amended the original legislation to allow for use of automated cameras to detect violations of red arrow signals. This ordinance also set the monetary penalty for camera-detected violations of red light signals to equal the officer- detected violation.

The 2008 Adopted Budget contains $176,000 for the Seattle Police Department to develop and implement a one-year pilot project designed to test the feasibility and effectiveness of automated cameras for detecting speed violations in school zones, as authorized in RCW 46.63.170. The intent of the pilot is to ascertain the degree to which cameras are effective for lowering speeds in school zones, thereby decreasing the likelihood of pedestrian-vehicle collisions and associated disabling injuries.

This legislation is needed to implement the pilot project.

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- *Please check one of the following:*

____ **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

__X__ **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

Appropriations: *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Notes: The 2008 Adopted Budget authorized a $176,000 appropriation for SPD to implement a pilot project designed to test the feasibility and effectiveness of cameras for detecting speed violations in school zones.

Anticipated Revenue/Reimbursement: Resulting From This Legislation: *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
TOTAL				

Notes: ***As a new project, it is not possible to precisely estimate the revenues that will be produced by automated speed enforcement in school zones. The Request for Proposals issued in connection with this project will give preference to bidders offering to hold the City harmless in the event revenues do not equal or exceed vendor costs.***

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: *This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.*

CITY CLERK

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2008 Positions	2008 FTE	2009 Positions*	2009 FTE*
TOTAL							

** 2009 positions and FTE are total 2009 position changes resulting from this legislation, not incremental changes. Therefore, under 2009, please be sure to include any continuing positions from 2008.*

Notes: Not Applicable.

- **Do positions sunset in the future?** *(If yes, identify sunset date):*

Not Applicable.

Spending/Cash Flow: *This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.*

Fund Name & #	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
TOTAL				

** See budget book to obtain the appropriate Budget Control Level for your department.*

Notes: Not Applicable.

- **What is the financial cost of not implementing the legislation?** *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)*

Without this legislation, the Police Department will not be able to implement the pilot project funded by the City Council.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

None.

CITY CLERK

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

No.

- **Other Issues** (*including long-term implications of the legislation*):

None.

Please list attachments to the fiscal note below:

None.

CITY CLERK

City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

May 20, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the accompanying proposed Council Bill, which amends Seattle Municipal Code (SMC) Section 11.31.090 and Subsection 11.31.120C to authorize the City to use automated traffic safety cameras to detect speeding violations in school zones. The proposed ordinance also sets the monetary penalty for camera-generated infractions equal to the total penalty for officer-generated school zone infractions, which is currently $189.

The City Council passed in 2006 legislation that authorized the use of traffic safety cameras to detect red light violations. Last year, the Council passed legislation that made a traffic camera generated fine equal to those issued by an officer. Like the preceding legislation, this ordinance would also set the monetary penalty for camera-detected violations of speed zones equal the officer-detected violation.

The 2008 Adopted Budget included funding for a 12-month pilot project to test the feasibility and effectiveness of automated traffic safety cameras for detecting speed violations in school zones, as authorized in state law. The Municipal Code revisions that will be realized by the accompanying Council Bill are needed to implement the pilot project.

Thank you for your consideration of this legislation. Passage of the proposed Council Bill will enable the City to prosecute speeding violations detected by automated camera equipment in school zones in a manner that will enhance the safety of school children while providing equitable monetary penalties that are consistent with officer-generated violations. Should you have questions, please contact Deputy Chief Clark Kimerer at 615-0764.

Sincerely,

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

2008 CITY CLERK

PEB:pa
5/27/2008
(Ver. 3)

ORDINANCE _____

AN ORDINANCE relating to enforcement of traffic infractions and amending Seattle Municipal Code Section 11.31.090 and Seattle Municipal Code Subsection 11.31.120 C to provide that violations of Seattle Municipal Code Section 11.52.100 may be enforced through the use of evidence detected by an automated traffic safety camera and providing penalties for such violations.

WHEREAS, RCW 46.63.170 authorizes the use of automated traffic safety cameras for enforcement of traffic violations at two-arterial intersections, railroad crossings, and school speed zones; and

WHEREAS, the City Council has previously authorized automated traffic safety camera enforcement at two-arterial intersections for violations of Seattle Municipal Code Sections 11.50.140 and 11.50.150; and

WHEREAS, use of automated traffic safety cameras will enhance enforcement of speeding violations in school speed zones, thereby lowering speeds and decreasing the likelihood of pedestrian-traffic collisions and associated disabling injuries; and

WHEREAS, the City Council included funding in the 2008 Adopted Budget for implementation of a pilot project to test the use of automated traffic safety cameras for speed control in school zones; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 11.31.090 (added as a new section by Ordinance No. 121944, Section 3 and amended by Ordinance No. 122554) is amended as follows:

SMC 11.31.090 Traffic infractions detected through the use of an automated traffic safety camera.

A. A notice of infraction based on evidence detected through the use of an automated traffic safety camera must be mailed to the registered owner of the vehicle within fourteen (14)

2008 CITY CLERK

days of the violation, or to the renter of a vehicle within fourteen (14) days of establishing the renter's name and address under subsection C1 of this section. The peace 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 of Section 11.50.140((~~or~~)), Section 11.50.150, or Section 11.52.100. 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 for the infraction.

B. A person receiving such a notice of infraction may respond to the notice by mail. The registered owner of a vehicle is responsible for such an infraction unless the registered owner overcomes the presumption in subsection E of this section, or, in the case of a rental car business, satisfies the conditions under subsection C of this section. If appropriate under the circumstances, a renter identified under subsection C1 of this section is responsible for such an infraction.

C. If the registered owner of the vehicle is a rental car business, the peace officer shall, before such 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 peace officer 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

BOS CITY CLERK

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; 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 peace officer relieves a rental car business of any liability under this chapter for the notice of infraction.

D. For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system <u>or speed measuring device,</u> and a camera synchronized to automatically record one (1) 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 <u>or exceeds a speed limit in a school speed zone as detected by a speed measuring device</u>.

E. In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera, proof that the particular vehicle described in the notice of traffic infraction was in violation of Section 11.50.140((~~or~~)), Section 11.50.150<u>, or Section 11.52.100</u>, 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. 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,

BMS CITY CLERK

custody, or control of some person other than the registered owner. (((~~Laws of 2005, chapter 167, section 1 and RCW 46.63.075~~)))

Section 2. Seattle Municipal Code Section 11.31.120 C (added as a new subsection by Ordinance No. 121944, Section 4 and amended by Ordinance No. 122554) is amended as follows:

SMC 11.31.120 Monetary penalties.

* * *

C. A traffic infraction for violation of Section 11.50.140((~~or~~)), Section 11.50.150, or Section 11.52.100 detected through the use of an automated traffic safety camera shall be processed in the same manner as a parking infraction, with a monetary penalty equal to the total penalty, including the base penalty plus any statutory assessments authorized under state law, for ((~~similar~~)) violations of ((~~traffic control signals~~)) such Sections otherwise detected by a police officer.

CITY CLERK

PEB:pa
5/27/2008
(Ver. 3)

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2008, and signed by me in open session in authentication of its passage this

_____ day of _____, 2008.

_____
President _____of the City Council

Approved by me this ____ day of _____, 2008.

_____
Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2008.

_____
City Clerk

(Seal)

CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

226272 No.
CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122725 ORDINANCE

was published on

07/02/08

The amount of the fee charged for the foregoing publication is the sum of $ 252.90, which amount has been paid in full.

Subscribed and sworn to before me on

07/02/08

Notary public for the State of Washington,
residing in Seattle

JENNIFER A. PATZER
COMMISSION EXPIRES
NOTARY
PUBLIC
OCT. 24, 2011
STATE OF WASHINGTON

City of Seattle

ORDINANCE 122725

AN ORDINANCE relating to enforcement of traffic infractions and amending Seattle Municipal Code Section 11.31.090 and Seattle Municipal Code Subsection 11.31.120 C to provide that violations of Seattle Municipal Code Section 11.52.100 may be enforced through the use of evidence detected by an automated traffic safety camera and providing penalties for such violations.

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WHEREAS, the City Council has previously authorized automated traffic safety camera enforcement at two-arterial intersections for violations of Seattle Municipal Code Sections 11.50.140 and 11.50.150; and

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A. A notice of infraction based on evidence detected through the use of an automated traffic safety camera must be mailed to the registered owner of the vehicle within fourteen (14) days of the violation, or to the renter of a vehicle within fourteen (14) days of establishing the renter's name and address under subsection C1 of this section. The peace 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 of Section 11.50.140((~~or~~)), Section 11.50.150, or Section 11.52.100. 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 for the infraction.

B. A person receiving such a notice of infraction may respond to the notice by mail. The registered owner of a vehicle is responsible for such an infraction unless the registered owner overcomes the presumption in subsection E of this section, or, in the case of a rental car business, satisfies the conditions under subsection C of this section. If appropriate under the circumstances, a renter identified under subsection C1 of this section is responsible for such an infraction.

C. If the registered owner of the vehicle is a rental car business, the peace officer shall, before such 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 peace officer by return mail:

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Section 2. Seattle Municipal Code Section 11.31.120 C (added as a new subsection by Ordinance No. 121944, Section 4 and amended by Ordinance No. 122554) is amended as follows:

SMC 11.31.120 Monetary penalties.

* * *

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Section 3. On or before September 1, 2009, the Executive will provide a report on the effectiveness of the use of automated traffic safety camera enforcement in school zones. If, based on the findings of this report, the City decides to continue the use of this enforcement mechanism, the Council intends to consider whether to designate the net revenues generated from such enforcement efforts for costs associated with making pedestrian improvements.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 23rd day of June, 2008, and signed by me in open session in authentication of its passage this 23rd day of June, 2008.

Nick Licata

President of the City Council

Approved by me this 25th day of June, 2008.

Gregory J. Nickels, Mayor

Filed by me this 25th day of June, 2008.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, July 2, 2008.

7/2(226272)

State of Washington, King County