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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5868

AN ORDINANCE adding a new Chapter 11.49 to the City Code authorizing the use of automated traffic safety and school speed zone cameras for issuance of notices of red light infraction at arterial intersections and speeding infractions at elementary schools within the City limits; authorizing execution of a five-year agreement with American Traffic Solutions, Inc. (ATS) to provide red light and school zone photo enforcement services; and amending the 2009-2010 General Fund budget by increasing the appropriation by \$588,000.

WHEREAS, the Legislature of the State of Washington has added a new section to RCW 46.63 regulating the use of automated traffic safety cameras; and

WHEREAS, the City Council of Bellevue recognizes the value of implementing an automated enforcement program in the furtherance of its goals in maintaining a safe traffic/pedestrian environment for its citizenry; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The Bellevue City Code shall be amended to adopt a new Chapter 11.49 Automated Traffic Safety Cameras to read as follows:

**Section 1. Chapter 11.49
Automated Traffic Safety Cameras**

Section 11.49.010 Authorized Use of Automated Traffic Safety Cameras

Section 11.49.020 Notice of Infraction

Section 11.49.030 Request for Hearing

Section 11.49.040 Presumption of Committed Infraction/Presumption Overcome

Section 11.49.050 Infractions Processed

Section 11.49.060 Issuing Infractions

Section 11.49.070 Definition of Automated Traffic Safety Camera

Section 11.49.080 Penalties

Section 11.49.100 Authorization for Use of Electronic Signatures

Section 11.49.010 Authorized Use of Automated Traffic Safety Cameras

A. Law enforcement officers of the City of Bellevue and persons commissioned by the Bellevue Police Department are authorized to use automated

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traffic cameras and related automated systems to detect one or more of the following: (1) stoplight violations; and (2) school speed zone violations.

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

1. Use of traffic safety cameras is restricted to arterial intersections and school speed zones only; and

2. 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 of 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 the driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

Section 11.49.020 Notice of Infraction

A. Whenever any vehicle is photographed by an automatic traffic safety camera, a notice of infraction shall 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. If the registered owner of the vehicle is a rental car business, the law enforcement agency 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 days of receiving the written notice, provide to the issuing agency 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; 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 or any liability under this chapter for the notice of infraction.

C. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotos or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is

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prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter.

Section 11.49.030 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.

Section 11.49.040 Presumption of Committed Infraction/Presumption Overcome

A. In a traffic infraction case involving an infraction detected through the use of a photo enforcement system under RCW 46.63.170, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.170, 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 11.49.050 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 11.49.060 Issuing Infractions

Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1)(a), (b), or (c).

Section 11.49.070 Definition of Automated Traffic Safety Camera

For the purposes of this ordinance, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic 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

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vehicle fails to stop when facing a steady read traffic control signal or exceeds a speed limit in a school zone as detected by a speed measuring device.

Section 11.49.080 Penalties

- A. The penalty for a red light violation shall be \$124.00.
- B. The penalty for a school zone speed violation shall be \$124.00
- C. Fees and penalties for failure to respond shall follow the standard court schedule for infractions.

Section 11.49.100 Authorization for Use of Electronic Signatures

In connection with the traffic safety program, the police chief, or his or her designee, is authorized to utilize electronic signatures in accordance with the provisions of Chapter 19.34 RCW.

Section 2. Severability. If any section, sentence, clause or phrase of Chapter 11.49 of the Bellevue City Code shall be held to be valid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. The City Manager or his designee is authorized to execute a five-year agreement with American Traffic Solutions, Inc. (ATS) to provide red light and school zone photo enforcement services, a copy of which Agreement has been given Clerk's Receiving No. 44164;

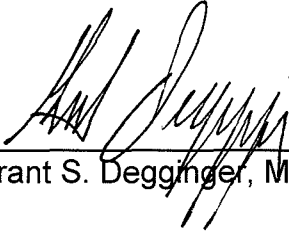
Section 4. The 2009-2010 General Fund budget adopted pursuant to Ordinance No. 5851 on December 1, 2008, as previously amended, is hereby further amended by \$588,000 to increase the budget and appropriation to said Fund.

Section 5. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

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Passed by the City Council this 6th day of April, 2009
and signed in authentication of its passage this 6th day of April,
2009.


(SEAL)



Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney



Monica Buck, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published _____