

Ordinance No. 00401

[City Council meeting minutes of Dec 5 2005](#)

ORDINANCE NO. 401

AN ORDINANCE of the City Council of the City of Lakewood, Washington amending Chapter 10.04 of the Lakewood Municipal code and section 10.12.040 of the Lakewood Municipal Code to authorize the use of automated traffic safety cameras and establishing a penalty for violation of infractions recorded by automated traffic safety cameras.

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 Lakewood City Council has long recognized the value of implementing an automated traffic enforcement program in the furtherance of its goals of creating a safe environment for its citizenry; and

WHEREAS, the Lakewood City Council has previously authorized participation in the automated traffic safety camera pilot program;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

Section 1. That section 10.4.00 of the Lakewood Municipal Code shall be amended to read as follows:

10.4.000 - Model Traffic Ordinance

Chapter 10.04

Model Traffic Ordinance

Sections:

10.04.010 Adoption of Model Traffic Ordinance.

10.04.020 Copy on File.

10.04.030 Additional code sections adopted by reference.

10.04.040 Authorized use of automated traffic safety cameras

10.04.050 Penalty

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10.4.010 - Adoption of Model Traffic Ordinance

The "Washington Model Traffic Ordinance", as set forth in Chapter 308-330 of the Washington Administrative Code (WAC), is hereby adopted by reference as the traffic ordinances of the City of Lakewood, as set forth in full. (Ord. 26 ? 1, 1995.)

10.4.020 - Copy on File

A copy of the provisions of Chapter 308-330, WAC, containing the Washington Model Traffic Ordinance as adopted by reference pursuant to Section 10.04.010 of this Chapter, shall be on file in the Office of the City Clerk. (Ord. 26 ? 2, 1995.)

10.4.030 - Additional Code Sections Adopted by Reference

The following sections of Title 46 of the Revised Code of Washington, as they currently are and as they may be amended in the future, not having been included in the MTO, are hereby adopted by reference into the Lakewood Traffic Code:

46.16.160 Vehicle trip permits - Restrictions and requirements - Fees and taxes - Penalty - Rules.

46.20.055 Violation of instructional permit restrictions.

46.20.205 Failure to notify DOL of address change.

46.20.730 Ignition interlock device - Definition.

46.29.610 Requirements - Surrender of license - Penalty.

46.29.620 Forge proof of financial responsibility - Penalty.

46.44.080 Local weight regulations - Authority to establish.

46.63.160 Use of Automated Traffic Safety Cameras

46.61.165 Violation of transit/carpool lane.

46.70.090 Unlawful/improper use of dealer license plates.

(Ord. 110 ? 1, 1997.)

10.4.040- Authorized use of automated traffic safety cameras

1. Authority.

A. Law enforcement officers of the City of Lakewood and persons commissioned by the Chief of Police for the City of Lakewood 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.

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

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1. Use of traffic safety cameras is restricted to two arterial intersections, railroad crossings, and school speed zones only.
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.

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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.

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2. Notice of Infraction

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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 a vehicle within fourteen days of establishing the renter's name and address under this section.

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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 of any liability under this chapter for the notice of infraction.
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C. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, micro-photos, 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.

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3. 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.

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4. Presumption of Committed Infraction/ Presumption Overcome

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A. In a traffic infraction case involving an infraction detected through the use of a photo enforcement system under RCW 46.63.160 or detected through the use of an automated traffic safety camera under this section, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.160, 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.

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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.

5. 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 RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216 and 46.20.270(3).

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6. 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).

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7. 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, 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 to a school speed zone as detected by a speed measuring device.

10.04.050- Penalty for violation of infraction noted by automated traffic safety cameras

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A violation of any portion of this ordinance shall be a violation punishable by infraction penalties established by the Washington Administrative Codes except that the maximum fine to be assessed for violations of an infraction recorded by an automated traffic safety camera will not exceed \$250.00 .

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Section 2. Lakewood Municipal Code section 10.12.040 shall be amended to read as follows:

10.12.040 - Traffic Control Devices

The City Manager or designee is directed to post City streets and roads with the proper traffic-control devices to regulate the maximum speed limits as established by the City, including traffic control signs in school zones pursuant to RCW 46.61.440, and said speed limits shall become effective when posted. In addition, the City shall be authorized to use automated traffic safety cameras in school speed zones and 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. The maximum legal speed limit on any City street or road or portion thereof which is not posted with a regulatory speed limit sign is twenty-five miles per hour. (Ord. 28? 4, 1995.)

Section 3. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 4. Effective Date. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 5th day of December, 2005.

CITY OF LAKEWOOD

Douglas G. Richardson, Mayor
Attest:

Alice Bush, MMC, City Clerk

Approved as to Form:

Heidi Ann Wachter City Attorney