ORDINANCE NO. 2009-30

AN ORDINANCE, amending Ordinance No. 2009-10 as it relates to automated traffic safety cameras and responding to notices of traffic infractions for violations of such.

WHEREAS, the State Legislature has passed a law authorizing local jurisdictions to use automated traffic safety cameras subject to restrictions specified in that legislation;

WHEREAS, the City has enacted Ordinance 2009-10 allowing for the use of automated traffic safety cameras;

WHEREAS, the City wishes to expedite the processing of notices of traffic infractions issued pursuant to Ordinance 2009-10.

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

SECTION I

Ordinance No. 2009-10, Section III (in part), also cited as WCC 8.06.020, is hereby amended to read as follows:

8.06.020 Notice of infraction.

A. Whenever any vehicle is photographed by an automatic traffic safety camera, a notice of the infraction shall 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 this section. 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 shall be available for inspection or admission into evidence in a proceeding to adjudicate the liability for the infraction.

B. The registered owner of a vehicle is responsible for such an infraction unless the registered owner overcomes the presumption in this Section. If appropriate under the circumstances, a renter identified under subsection E of this Section is responsible for such an infraction.

C. In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera system, proof that the particular vehicle described in the notice of traffic infraction was in violation of this Section, together with proof that that 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.

D. This presumption may be overcome only if the registered owner timely responds to the notice of traffic infraction with a written statement made under oath or in testimony before the court made under oath that the vehicle involved was stolen and had not been returned to the registered owner at the time of the violation or was sold prior to the time of the violation. If the registered owner is not alleging that the vehicle was stolen or sold, but is alleging that the

vehicle was, at the time, in the care, custody, or control of some person other than the registered owner, then 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 of the violation, in the care, custody, or control of some person other than the registered owner.

E. 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

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.

SECTION II

If any section, subsection, sentence, clause, phrase or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this Ordinance.

SECTION III

This Ordinance shall be in full force and effect thirty (30) days after passage and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY WENATCHEE, at a regular meeting thereof, this 27th day of August, 2009.

CITY OF WENATCHEE

By: Dennis Johnson
DENNIS JOHNSON, Mayor

ATTEST:

By: Brenda Guske
BRENDA GUSKE, Interim City Clerk

APPROVED:

By:_____
STEVE D. SMITH, City Attorney

City of Wenatchee
Office of City Attorney

MEMORANDUM

To: Mayor Dennis Johnson and City Council

From: Danielle R. Marchant, Assistant City Attorney

Date: August 24, 2009

Re: Ordinance No. 2009-30

Ordinance No. 2009-30 amends Ordinance No. 2009-10 in part. Specifically, it amends Section III of the Ordinance which is also cited as Wenatchee City Code 8.06.020. The only part of Wenatchee City Code 8.06.020 that is being amended is Section D.

There is a presumption that the violator of an automated traffic safety camera system is the registered owner. Section D explains how the presumption may be overcome. In Ordinance No. 2009-10, it required the registered owner to appear in court if they were alleging that the vehicle had been stolen or was in the care, custody or control of a person other than the registered owner. To expedite this process and to allow less court filings, the Wenatchee Police Department would like an alleged violator to appear in court only if they were alleging that the vehicle was in the care, custody or control of a person other than the registered owner. As a result, no court appearance would be required if the registered owner was alleging that the vehicle had been sold or that the vehicle was stolen at or prior to the time of the alleged violation.

Even though no court appearance would be required if the registered owner was alleging that the vehicle had been sold or stolen, the registered owner would still have to provide a statement under oath stating such.

As stated previously, Ordinance No. 2009-30 is intended to reduce the amount of court filings that the City would have and to allow the violation where it is alleged a vehicle was sold or stolen to be processed expeditiously in a manner consistent with the remaining sections of Ordinance No. 2009-10.

DRM/tls

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