

**ORDINANCE NO. 4392**

**AN ORDINANCE** of the City of Pasco, Washington, creating Chapter 10.22 "Automated Traffic Camera Systems"; and Amending Section 1.02.020 "Initiation of Civil Infraction Proceedings".

**WHEREAS**, Pasco's significant growth has resulted in growing traffic enforcement concerns with increasing numbers of signalized intersections, school zones, traffic volume, and additional miles of road, the Pasco Police Department has conducted considerable research to find means to address this growing concern; and

**WHEREAS**, that research has demonstrated that the worse traffic accidents are the result of running red lights at signed or signalized intersections, and the most tragic traffic accidents involve school children as the result of speeding in school zones; and

**WHEREAS**, the Washington legislature, pursuant to RCW 46.63.170, authorizes the use by cities of automated traffic safety cameras for certain traffic enforcement including red-light safety cameras and school zone cameras; and

**WHEREAS**, it is determined that strategic placement of automated cameras in school zones and arterial intersections would provide an efficient and economical means for traffic enforcement; and

**WHEREAS**, an analysis has been prepared of the locations within the City of Pasco where automated traffic safety cameras are proposed to be located on either a permanent or temporary basis, and shall post an annual report of the number of traffic accidents that have occurred at each location where an automated traffic safety camera is located, as well as the number of notices of infractions issued for each camera, and such other relevant information as appropriate which shall be posted on the City's website. **NOW, THEREFORE**,

**THE CITY COUNCIL OF THE CITY OF PASCO, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** That a new Chapter 10.22 entitled "Automated Traffic Camera Systems" of the Pasco Municipal Code shall be and hereby is created and shall read as follows:

Chapter 10.22

AUTOMATED TRAFFIC CAMERA SYSTEMS

Sections:

- 10.22.010 Authorized Use of Automated Traffic Safety Cameras.
- 10.22.020 Notice of Infraction for Automated Traffic Control System.
- 10.22.030 Response to Notice of Infraction for Automated Traffic Control System.
- 10.22.040 Presumption of Committed Infraction – Presumption Overcome.
- 10.22.050 Infractions Processed.

- 10.22.060 Fines.
- 10.22.070 Nonexclusive Enforcement.
- 10.22.080 Authorization for Use of Electronic Signatures.

10.22.010 AUTHORIZED USE OF AUTOMATED TRAFFIC SAFETY CAMERAS.

A) Law enforcement officers of the City of Pasco and persons commissioned by the Police Chief are authorized to use automated traffic safety cameras and related automated systems to detect one or more of the following infractions:

- 1) Stop light infractions.
- 2) Railroad crossing violations.
- 3) School speed zone violations.

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

1) The use of automated traffic safety cameras is restricted to “two arterial intersections” (the intersection of two arterial streets), railroad crossings, school speed zones, and as authorized in RCW 46.63.170.

2) Approval of the City Council shall be obtained for each location proposed for the use of automated traffic safety cameras.

3) Automated traffic safety cameras may only take pictures of the vehicle and the vehicle license plate and only while the infraction is occurring. Pictures taken by the automated traffic safety camera 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 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 automated traffic safety cameras.

D) For the purpose 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 sequential photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time vehicle:

- 1) Fails to stop when facing a steady red traffic control signal; or
- 2) Fails to stop when facing an activated railroad grade crossing control

signal; or

3) Exceeds a speed limit in a school speed zone as detected by a speed-measuring device; or

10.22.020 NOTICE OF INFRACTION FOR AUTOMATED TRAFFIC CONTROL SYSTEM.

A) Whenever any vehicle is photographed by an automated traffic safety camera, a notice of infraction shall be mailed to the registered owner of the vehicle within fourteen (14) days of establishing the registered owner's name and address under this section.

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

- 1) A statement under oath stating the name and known address of the individual driving or renting the vehicle when the infraction occurred; or
- 2) A statement under oath stating 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 Pasco Police Department relieves the rental car business of 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 the inspection of photographs, microphotographs, or electronic images 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.

D) 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. All photographs, microphotographs, or electronic images prepared under this Chapter are for the exclusive use of law enforcement and the discharge of duties under this Chapter, and are not open to the public and may not be used in a Court in a pending action or proceeding unless the action or proceeding relates to a violation of this Chapter. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this Chapter, nor retained longer than necessary for its enforcement.

10.22.030 RESPONSE TO NOTICE OF INFRACTION FOR AUTOMATED TRAFFIC CONTROL SYSTEM. Any person receiving a notice of infraction based upon the evidence detected by an automated traffic safety camera shall respond to such notice within fifteen (15) days of the date of notice as required by PMC 1.02.050; and, within said period, may request a contested hearing as provided by PMC 1.02.060, or a mitigation hearing as provided by PMC 1.02.070.

10.22.040 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 PMC 10.22, as now enacted or hereafter amended, or detected through the use of an automated traffic safety camera under this section, proof that a particular vehicle described in the notice of infraction was in violation of any such provision of PMC 10.22, together with proof that the person named in the notice of infraction was at the time of the violation the registered owner of the vehicle, constitutes 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 for which the violation occurred.

B) This presumption may be overcome at a contested hearing 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.

10.22.050 INFRACTIONS PROCESSED. Except as provided in this Chapter, infractions detected through the use of automated traffic safety cameras shall be processed as provided in PMC 1.02. 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 RCW 46.52.120, as now enacted or hereafter amended. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions prosecuted under this code, including for the purposes of RCW 3.46.120, RCW 3.50.100, RCW 3.62.040, RCW 46.152.216 and RCW 46.20.270(3) and any other applicable statutes.

10.22.060 FINES. The fine for infractions committed pursuant to the provisions of this Chapter shall constitute a Class 2 civil infraction pursuant to PMC 1.02.080 (\$125.00).

10.22.070 NONEXCLUSIVE ENFORCEMENT. Nothing in this section prohibits a law enforcement officer from issuing a notice of infraction to a person in control of a vehicle at the time the violation occurs:

A) When the infraction is committed in the officer's presence (except as provided in RWC 46.06.485);

B) When the officer is acting upon the request of a law enforcement officer in his

presence of the traffic infraction committed; or

C) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of the motor vehicle involved in the accident has committed a traffic infraction pursuant to RCW 46.63.030(1)(a) through (c).

10.22.080 AUTHORIZATION FOR USE OF ELECTRONIC SIGNATURES. In connection with the traffic safety, safety camera program, the police chief, or designee, is authorized to utilize electronic signatures in accordance with the provisions of Chapter 19.34 RCW.

**Section 2.** That Section 1.02.020 entitled "Initiation of Civil Infraction Proceedings" of the Pasco Municipal Code shall be and hereby is amended and shall read as follows:

1.02.020 INITIATION OF CIVIL INFRACTION PROCEEDINGS

1) A civil infraction proceeding is initiated by the issuance, service, and filing of a Notice of Civil Infraction.

2) A notice of civil infraction may be issued by an enforcement officer when the civil infraction occurs in the officer's presence.

3) A Court may issue a Notice of Civil Infraction if an enforcement officer files with the Court a written statement that the civil infraction was committed in the officer's presence or that the officer has reasonable cause to believe that a civil infraction was committed.

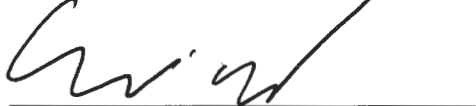
4) Service of a Notice of Civil Infraction was issued under subsection (2) or (3) of this section shall be as provided by Court Rule. Until such a rule is adopted, service shall be as provided in JTUR 2.2(c)(1) and (3), as applicable.

5) A Notice of Infraction, except an infraction issued pursuant to PMC 10.22 (Automated Traffic Camera Systems). Shall be filed with the Clerk of the Pasco Municipal Court within forty-eight (48) hours of issuance, excluding Saturdays, Sundays and holidays. An infraction issued under PMC 10.22 shall be filed with the Clerk of the Pasco Municipal Court within five (5) calendar days. A Notice of Infraction not filed within the time limits prescribed in this section may be dismissed without prejudice. (Ord. 2743 Sec. 2,1989.)

**Section 3.** Fine revenue received from the use of automated traffic safety cameras shall be used, at the discretion of the City Council, to pay for the costs of the program, including court, vendor and administrative costs and thereafter, for the sole purpose of increasing traffic safety conditions in the City through by funding infrastructure and programming initiatives consistent with the City of Pasco's Comprehensive Transportation Plans.

**Section 4.** This Ordinance shall take full force and effect five (5) days after its approval, passage, and publication as required by law.

**PASSED** by the City Council of the City of Pasco, Washington, and approved as provided by law this 6th day of August, 2018.



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Craig Maloney, Mayor Pro-Tem


ATTEST:



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Daniela Erickson, City Clerk

APPROVED AS TO FORM:



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Leland B. Kerr, City Attorney