



INFORMATIONAL MEMORANDUM

TO: Community Services and Safety Committee

FROM: Eric Drever, Chief of Police

BY: Eric Lund, Deputy Chief of Police

CC: Thomas McLeod

DATE: September 3, 2024

SUBJECT: TMC 9.53 update – Automated Traffic Safety Cameras

ISSUE

As a result of the passage of State legislation in 2022, cities are now authorized to install automatic speed safety cameras in areas directly outside hospitals, public parks, and within a school's designated walk area. TMC 9.53 requires revision to reflect these changes and allow for enforcement.

BACKGROUND

The City of Tukwila has already installed speed safety cameras near Foster High School and Showalter Middle School. The cameras have proven effective in reducing the number of speeding violations in the School Zone, increasing safety in the area.

New legislation effective July 1, 2022 authorized cities to use a limited number of automated traffic safety cameras to detect speed violations on any roadway identified in a school walk area, public park speed zone, or hospital zone. The TMC must now be updated to reflect the changes in the state law.

DISCUSSION

The proposed changes in the TMC were reviewed and drafted by the City Attorney's Office. Also, fines for violations are limited to \$145 and can be doubled to \$290 in school zones. The fines may be adjusted for inflation every five years by the Office of Financial Management.

FINANCIAL IMPACT

There is no financial impact by making changes to this municipal code.

RECOMMENDATION

The Council is being asked to approve the ordinance, agreement and consider this item at the September 23, 2024 Committee of the Whole meeting and subsequent October 7, 2024 Regular Meeting.

ATTACHMENTS

Draft Ordinance TMC 9.53
RCW 46.63.210
RCW 46.63.220

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING ORDINANCE NOS. 2612 §2, §3, AND §6, 2616 §1, AND 2696 §2, AS CODIFIED IN VARIOUS SECTIONS OF TMC CHAPTER 9.53, "AUTOMATED TRAFFIC SAFETY CAMERAS"; TO COMPLY WITH RCW 46.63.220; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Tukwila ("City") adopted Tukwila Municipal Code ("TMC") Chapter 9.53, authorizing law enforcement to utilize automated safety cameras in school and park speed zones; and

WHEREAS, the City adopted TMC 9.53.050, which established fines for violations of school and park speed zones captured by automated traffic safety cameras; and

WHEREAS, in 2024, the Washington State Legislature passed Engrossed Substitute House Bill ("ESHB") 2384, adopting RCW 46.63.220, which limits the fines that a municipality could levy for violations of school and park speed zones captured by automated traffic safety cameras; and

WHEREAS, the current fines for violations of school and park speed zones using an automated traffic safety camera listed in TMC 9.53.050 do not comply with the maximum fines listed in RCW 46.63.220(16); and

WHEREAS, TMC Sections 9.53.010 and 9.53.020 reference state statutes repealed by ESHB 2384 and replaced with RCW 46.63.210 and RCW 46.63.220, respectively; and

WHEREAS, the City desires to amend the fines listed in TMC Section 9.53.050 to be consistent with RCW 46.23.220(16) as now enacted and hereafter amended, as well as amend TMC 9.53.010 and 9.53.020 to be consistent with RCW 46.63.210 and RCW 46.63.220, respectively;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. TMC Section 9.53.010 Amended. Ordinance Nos. 2612 §2 and 2696 §2, as codified at TMC Section 9.53.010, “Automated traffic safety cameras – Detection of violations- Restrictions,” **subparagraph A**, are hereby amended to read as follows:

9.53.010 Automated traffic safety cameras – Detection of violations – Restrictions

A. City law enforcement officers and persons commissioned by the Tukwila Police Chief are authorized to use automated traffic safety cameras and related automated systems to detect and record the image of vehicles engaged in violations in school speed zones and public park speed zones, as defined by defined by [RCW 46.63.210\(3\)](#)~~RCW 46.63.170(B)(ii)(A)~~; provided, however, pictures of the vehicle and the vehicle license plate may be taken only while an infraction is occurring, and the picture shall not reveal the face of the driver or of any passengers in the vehicle.

Section 2. TMC Section 9.53.020 Amended. Ordinance No. 2612 §3, as codified at TMC Section 9.53.020, “Notice of Infraction,” **subparagraph E**, is hereby amended to read as follows:

9.53.020 Notice of Infraction

E. All photographs, microphotographs or electronic images prepared under this chapter are for the exclusive use of law enforcement in the discharge of duties under this chapter and, as provided in [RCW 46.63.220\(11\)](#)~~RCW 46.63.170(1)(g)~~, they 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 under 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 to enforce this chapter.

Section 3. TMC Section 9.53.050 Amended. Ordinance Nos. 2612 §6 and 2616 §1, as codified at TMC Section 9.53.050, “Fines,” are hereby amended to read as follows:

9.53.050 Fine

A. The fine for an infraction detected under the authority of this chapter shall be ~~as follows:~~no more than the fines established in RCW 46.63.220(16), as now enacted or hereafter amended. 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, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall be \$145, as adjusted for inflation by the office of financial management every five years, beginning January 1, 2029, based upon changes in the consumer price index during that time period, and is doubled to \$290 for a school speed zone infraction generated through the use of an automated traffic safety camera.

~~1. \$210.00 for travelling at a speed greater than, but less than 11 miles per hour more than, the posted speed limit; and~~

~~2. \$240.00 for travelling at a speed at least 11 miles per hour more than the posted speed limit.~~

B. The maximum penalty for infractions detected pursuant to the provisions of this chapter shall not exceed the maximum amount of fine issued for parking infractions within the City.

Section 4. Corrections by City Clerk or Code Reviser Authorized. Upon approval of the City Attorney, the City Clerk, and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 5. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 6. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2024.

ATTEST/AUTHENTICATED:

Andy Youn, City Clerk

Thomas McLeod, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

Office of the City Attorney

RCW 46.63.210 Definitions. The definitions in this section apply throughout this section and RCW 46.63.220 through 46.63.260 unless the context clearly requires otherwise.

(1) "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 front or 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 as detected by a speed measuring device. "Automated traffic safety camera" also includes a device used to detect stopping at intersection or crosswalk violations; stopping when traffic obstructed violations; public transportation only lane violations; stopping or traveling in restricted lane violations; and public transportation bus stop zone violations detected by a public transportation vehicle-mounted system.

(2) "Hospital speed zone" means the marked area within hospital property and extending 300 feet from the border of the hospital property (a) consistent with hospital use; and (b) where signs are posted to indicate the location is within a hospital speed zone, where "hospital" has the same meaning as in RCW 70.41.020.

(3) "Public park speed zone" means the marked area within public park property and extending 300 feet from the border of the public park property (a) consistent with active park use; and (b) where signs are posted to indicate the location is within a public park speed zone.

(4) "Public transportation vehicle" means any motor vehicle, streetcar, train, trolley vehicle, ferry boat, or any other device, vessel, or vehicle that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers and that operates on established routes. "Transit authority" has the same meaning as provided in RCW 9.91.025.

(5) "Roadway work zone" means an area of any city roadway, including state highways that are also classified as city streets under chapter 47.24 RCW, or county road as defined in RCW 46.04.150, with construction, maintenance, or utility work with a duration of 30 calendar days or more. A roadway work zone is identified by the placement of temporary traffic control devices that may include signs, channelizing devices, barriers, pavement markings, and/or work vehicles with warning lights. A roadway work zone extends from the first warning sign or high intensity rotating, flashing, oscillating, or strobe lights on a vehicle to the end road work sign or the last temporary traffic control device or vehicle.

(6) "School speed zone" has the same meaning as described in RCW 46.61.440 (1) and (2).

(7) "School walk zone" means a roadway identified under RCW 28A.160.160 or roadways within a one-mile radius of a school that students use to travel to school by foot, bicycle, or other means of active transportation. [2024 c 307 s 1.]

RCW 46.63.220 Automated traffic safety cameras—City or county may authorize use—Local legislative authority analysis—Traffic ordinances—Annual reports—Signage—Images—Notice of infraction—Compensation for equipment—Revenue. (1) 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).

(2) Any city or county may authorize the use of automated traffic safety cameras and must adopt an ordinance authorizing such use through its local legislative authority.

(3) The local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located before adding traffic safety cameras to a new location or relocating any existing camera to a new location within the jurisdiction. The analysis must include equity considerations including the impact of the camera placement on livability, accessibility, economics, education, and environmental health when identifying where to locate an automated traffic safety camera. The analysis must also show a demonstrated need for traffic cameras based on one or more of the following in the vicinity of the proposed camera location: Travel by vulnerable road users, evidence of vehicles speeding, rates of collision, reports showing near collisions, and anticipated or actual ineffectiveness or infeasibility of other mitigation measures.

(4) Automated traffic safety cameras may not be used on an on-ramp to a limited access facility as defined in RCW 47.52.010.

(5) A city may use automated traffic safety cameras to enforce traffic ordinances in this section on state highways that are also classified as city streets under chapter 47.24 RCW. A city government must notify the department of transportation when it installs an automated traffic safety camera to enforce traffic ordinances as authorized in this subsection.

(6) (a) At a minimum, a local ordinance adopted pursuant to this section must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties must also post such restrictions and other automated traffic safety camera policies on the city's or county's website. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to adopt an authorizing ordinance.

(b) (i) Cities and counties using automated traffic safety cameras must post an annual report on the city's or county's website of the number of traffic crashes that occurred at each location where an automated traffic safety camera is located, as well as the number of notices of infraction issued for each camera. Beginning January 1, 2026, the annual report must include the percentage of revenues received from fines issued from automated traffic safety camera infractions that were used to pay for the costs of the automated traffic safety camera program and must describe the uses of revenues that exceeded the costs of operation and administration of the automated traffic safety camera program by the city or county.

(ii) The Washington traffic safety commission must provide an annual report to the transportation committees of the legislature, and post the report to its website for public access, beginning July 1, 2026, that includes aggregated information on the use of automated traffic safety cameras in the state that includes an assessment of the

impact of their use, information required in city and county annual reports under (b) (i) of this subsection, and information on the number of automated traffic safety cameras in use by type and location, with an analysis of camera placement in the context of area demographics and household incomes. To the extent practicable, the commission must also provide in its annual report the number of traffic accidents, speeding violations, single vehicle accidents, pedestrian accidents, and driving under the influence violations that occurred at each location where an automated traffic safety camera is located in the five years before each camera's authorization and after each camera's authorization. Cities and counties using automated traffic safety cameras must provide the commission with the data it requests for the report required under this subsection in a form and manner specified by the commission.

(7) All locations where an automated traffic safety camera is used on roadways or intersections must be clearly marked by placing signs at least 30 days prior to activation of the camera in locations that clearly indicate to a driver either that: (a) The driver is within an area where automated traffic safety cameras are authorized; or (b) the driver is entering an area where violations are enforced by an automated traffic safety camera. The signs must be readily visible to a driver approaching an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW. All public transportation vehicles utilizing a vehicle-mounted system must post a sign on the rear of the vehicle indicating to drivers that the vehicle is equipped with an automated traffic safety camera to enforce bus stop zone violations.

(8) Automated traffic safety cameras may only record images of the vehicle and vehicle license plate and only while an infraction is occurring. The image must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to record images of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties must consider installing automated traffic safety cameras in a manner that minimizes the impact of camera flash on drivers.

(9) A notice of infraction must be mailed to the registered owner of the vehicle within 14 days of the violation, or to the renter of a vehicle within 14 days of establishing the renter's name and address under subsection (17) of this section. The notice of infraction must 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 must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(10) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(d) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (17) of

this section. If appropriate under the circumstances, a renter identified under subsection (17)(a) of this section is responsible for an infraction.

(11) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images, or any other personally identifying data prepared under this section are for the exclusive use of authorized city or county employees, as specified in RCW 46.63.030(1)(d), in the discharge of duties under this section 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 under this section. No photograph, microphotograph, or electronic image, or any other personally identifying data may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section. Transit authorities must provide to the appropriate local jurisdiction that has authorized traffic safety camera use under RCW 46.63.260(2) any images or evidence collected establishing that a violation of stopping, standing, or parking in a bus stop zone has occurred for infraction processing purposes consistent with this section.

(12) If a county or city has established an automated traffic safety camera program as authorized under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment. If the contract between the city or county and manufacturer or vendor of the equipment does not provide for performance or quality control measures regarding camera images, the city or county must perform a performance audit of the manufacturer or vendor of the equipment every three years to review and ensure that images produced from automated traffic safety cameras are sufficient for evidentiary purposes as described in subsection (9) of this section.

(13)(a) Except as provided in (d) of this subsection, a county or a city may only use revenue generated by an automated traffic safety camera program as authorized under this section for:

(i) Traffic safety activities related to construction and preservation projects and maintenance and operations purposes including, but not limited to, projects designed to implement the complete streets approach as defined in RCW 47.04.010, changes in physical infrastructure to reduce speeds through road design, and changes to improve safety for active transportation users, including improvements to access and safety for road users with mobility, sight, or other disabilities; and

(ii) The cost to administer, install, operate, and maintain the automated traffic safety cameras, including the cost of processing infractions.

(b) Except as provided in (d) of this subsection:

(i) The automated traffic safety camera program revenue used by a county or city with a population of 10,000 or more for purposes described in (a)(i) of this subsection must include the use of revenue in census tracts of the city or county that have household incomes in the lowest quartile determined by the most currently available census data and areas that experience rates of injury crashes that are above average for the city or county. Funding contributed from traffic safety program revenue must be, at a minimum, proportionate to the share of the population of the county or city who are residents of

these low-income communities and communities experiencing high injury crash rates. This share must be directed to investments that provide direct and meaningful traffic safety benefits to these communities. Revenue used to administer, install, operate, and maintain automated traffic safety cameras, including the cost of processing infractions, are excluded from determination of the proportionate share of revenues under this subsection (13)(b); and

(ii) The automated traffic safety camera program revenue used by a city or county with a population under 10,000 for traffic safety activities under (a)(i) of this subsection must be informed by the department of health's environmental health disparities map.

(c) Except as provided in (d) of this subsection, beginning four years after an automated traffic safety camera authorized under this section is initially placed and in use after June 6, 2024, 25 percent of the noninterest money received for infractions issued by such cameras in excess of the cost to administer, install, operate, and maintain the cameras, including the cost of processing infractions, must be deposited into the Cooper Jones active transportation safety account created in RCW 46.68.480.

(d)(i)(A) Jurisdictions with an automated traffic safety camera program in effect before January 1, 2024, may continue to allocate revenue generated from automated traffic safety cameras authorized under RCW 46.63.230 and 46.63.250(2)(c) as determined by the jurisdiction, as well as for the purposes established in (a) through (c) of this subsection, by:

(I) Up to a 10 percent increase in the number of traffic safety camera locations authorized to detect violations for automated traffic safety cameras authorized under RCW 46.63.230; and

(II) Up to a 10 percent increase in the number of traffic safety camera locations authorized to detect violations for automated traffic safety cameras authorized under RCW 46.63.250(2)(c).

(B)(I) Any automated traffic safety camera program in effect before January 1, 2024, with fewer than 10 traffic safety camera locations for automated traffic safety cameras authorized under RCW 46.63.230, which adds automated traffic safety cameras to one additional location for the use of cameras authorized under RCW 46.63.230, may continue to allocate revenue generated from automated traffic safety cameras authorized under RCW 46.63.230 as determined by the jurisdiction, as well as for the purposes established in (a) through (c) of this subsection.

(II) Any automated traffic safety camera program in effect before January 1, 2024, with fewer than 10 traffic safety camera locations for automated traffic safety cameras authorized under RCW 46.63.250(2)(c) as of January 1, 2024, which adds automated traffic safety cameras to one additional location for the use of cameras authorized under RCW 46.63.250(2)(c), may continue to allocate revenue generated from automated traffic safety cameras authorized under RCW 46.63.250(2)(c) as determined by the jurisdiction, as well as for the purposes established in (a) through (c) of this subsection.

(C) For the purposes of this subsection (13)(d)(i), a location is:

(I) An intersection for automated traffic safety cameras authorized under RCW 46.63.230 where cameras authorized under RCW 46.63.230 are in use; and

(II) A school speed zone for automated traffic safety cameras authorized under RCW 46.63.250(2)(c) where cameras authorized under RCW 46.63.250(2)(c) are in use.

(ii) The revenue distribution requirements under (a) through (d) (i) of this subsection do not apply to automated traffic safety camera programs in effect before January 1, 2024, for which an ordinance in effect as of January 1, 2024, directs the manner in which revenue generated from automated traffic safety cameras authorized under RCW 46.63.230 or 46.63.250(2) (c) must be used.

(14) A county or city may adopt the use of an online ability-to-pay calculator to process and grant requests for reduced fines or reduced civil penalties for automated traffic safety camera violations.

(15) Except as provided in this subsection, registered owners of vehicles who receive notices of infraction for automated traffic safety camera-enforced infractions and are recipients of public assistance under Title 74 RCW or participants in the Washington women, infants, and children program, and who request reduced penalties for infractions detected through the use of automated traffic safety camera violations, must be granted reduced penalty amounts of 50 percent of what would otherwise be assessed for a first automated traffic safety camera violation and for subsequent automated traffic safety camera violations issued within 21 days of issuance of the first automated traffic safety camera violation. Eligibility for medicaid under RCW 74.09.510 is not a qualifying criterion under this subsection. Registered owners of vehicles who receive notices of infraction must be provided with information on their eligibility and the opportunity to apply for a reduction in penalty amounts through the mail or internet.

(16) 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 must be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). The amount of the fine issued for an infraction generated through the use of an automated traffic safety camera may not exceed \$145, as adjusted for inflation by the office of financial management every five years, beginning January 1, 2029, based upon changes in the consumer price index during that time period, but may be doubled for a school speed zone infraction generated through the use of an automated traffic safety camera.

(17) If the registered owner of the vehicle is a rental car business, the issuing agency must, before a notice of infraction being issued under this section, 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 18 days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. Timely mailing of this

statement to the issuing agency relieves a rental car business of any liability under this chapter for the notice of infraction. [2024 c 307 s 2.]