ORDINANCE NO. 1647

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the Des Moines Traffic Code, authorizing the use of automated red light running enforcement cameras, adding a new chapter to Title 10 DMMC, establishing a penalty, and codifying a new chapter in Title 10 DMMC.

WHEREAS, pursuant to chapter 10.04 DMMC, the City adopted by reference the State's Model Traffic Ordinance which authorizes issuance of citations for school zone speed violations, and

WHEREAS, a red light running study was conducted for certain intersections in Des Moines and the results indicated a significant number of violations, and

WHEREAS, RCW 46.63.170 authorizes the use of automated traffic safety cameras to detect violations at traffic control signals upon passage of a local ordinance authorizing the use of said automated cameras, and

WHEREAS, consistent with the requirements of RCW 47.36.020, the duration of the yellow change intervals at the City's signalized intersections are at least as long as the minimum yellow change interval identified in the manual of uniform traffic control devices, and

WHEREAS, the City desires to use automated traffic safety cameras to detect red light running violations consistent with the authority granted in RCW 46.63.170; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. A new chapter is added to Title 10 DMMC entitled *"Automated Red Light Running Enforcement"*, to read as follows:

(1) Definitions - Use of words and phrases. As used in this Ordinance, unless the context or subject matter clearly requires otherwise, the words or phrase defined in this section shall have the indicated meaning.

"Automated red light running enforcement camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle whenever a vehicle fails to stop when facing a steady red traffic control signal.

(2) Authorized use.

(a) Consistent with the authority granted in RCW 46.63.170, City law enforcement officers and persons commissioned by the Chief of Police are authorized to use automated red light running enforcement cameras and related automated systems only to detect and record the image of red light running violations.

(b) Use of automated red light running enforcement cameras is restricted to intersections of two arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement of the camera.

(c) Use of automated red light running enforcement cameras is limited to taking pictures of the vehicle and vehicle license plate only, and only while an infraction is occurring. Pictures may not reveal the face of the driver or of passengers in the vehicle.

(d) Each location where an automated red light running enforcement camera is used shall be clearly identified by the City Traffic Engineer with the posting of signage placed in a manner that clearly indicates to a driver that the driver is entering a zone where traffic laws are enforced by an automated camera.

(e) Notwithstanding any other provision of law, all photographs, microphotographs and electronic images prepared under this Ordinance and, as provided in RCW 46.63.170(1)(f), 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 may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(3) Notice of infraction.

(a) A notice of infraction based on evidence detected through the use of an automated red light running enforcement camera 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 subsection (c)(i) of this section. A law enforcement officer shall authorize the issuance of the notice of infraction, which shall include with it a certificate or facsimile thereof, based upon the inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, citing the infraction and stating the facts supporting the notice of infraction. This certificate or facsimile shall be prima facie evidence of the facts contained in it and shall be admissible in a proceeding charging a violation under this Ordinance. 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 red light running enforcement camera may respond to the notice by mail.

(b) The registered owner of a vehicle is responsible for a notice of infraction detected through use of an automated red light running enforcement camera unless the registered owner overcomes the presumption stated in this Ordinance, or, in the case of a rental car business, satisfies the conditions under subsection (c) of this section. If appropriate under the circumstances, a renter identified under subsection (c)(i) of this section is responsible for such an infraction.

(c) If the registered owner of a vehicle responsible for a notice of infraction detected through use of an automated red light running enforcement camera is a rental car business, the Chief of Police or his designee 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 Des Moines Police Department by return mail:

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

(ii) 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.

Timely mailing of this statement to the Des Moines Police Department relieves a rental car business of any liability under this Ordinance for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

(4) Prima facie presumption.

(a) In a traffic infraction case involving an infraction detected through the use of an automated red light running enforcement camera under this Ordinance, proof that the particular vehicle described in the notice of traffic infraction was involved in red light running violation, 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, shall constitute 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 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) Processing of infractions. Infractions detected through the use of automated red light running enforcement cameras are not part of the registered owner's driving record and shall be processed in the same manner as parking infractions.

(6) Nonexclusive enforcement. Nothing in this Ordinance 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) as now in effect or hereinafter amended.

(7) Penalty.

(a) The maximum penalty for infractions detected under authority of, and committed pursuant to, the provisions of this Ordinance shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments. The monetary penalty shall not exceed the maximum amount of fine issued for other parking infractions within the City of Des Moines.

(b) Revenue from fines assessed under authority of this Ordinance shall be used solely for public safety purposes or as otherwise provided by state law. For purposes of this section, the term "public safety purposes" may include, but is not limited to, the following:

(i) Personnel costs for employees or contractors who are involved in automated red light running enforcement planning and implementation, including professional services such as traffic engineering services;

(ii) Personnel costs for employees or contractors who are involved in automated red light running enforcement, court hearings, fine collection or other processing, including expert witness fees, and/or technology enhancements to efficiently support program administration;

(iii) Costs associated with training of employees or contractors involved with the automated red light running enforcement program;

(iv) Purchase and/or maintenance of equipment, including signage, related to the automated red light running enforcement program;

(v) Costs associated with public safety including general fund expenditures for police services unrelated to the automated red light running enforcement program;

(vi) Costs associated with intersection safety projects in the transportation capital fund, unrelated to the automated red light running enforcement program.

(8) Compensation for services. The compensation paid to the manufacturer or vendor of the automated red light running enforcement camera equipment used shall be based only upon the value of the equipment and services provided or rendered in support of the system, and shall not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

Sec. 2. Codification. Section 1 of this Ordinance shall be codified as a new chapter in Title 10 DMMC entitled *"Automated Red Light Running Enforcement"*.

Sec. 3. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

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Sec. 4. Effective date. This Ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this 7th day of April, 2016 and signed in authentication thereof this 7th day of April, 2016.

MAYOR

APPROVED AS TO FORM:

Assistant City Attorney

ATTEST:

City Clerk

Published: April 12, 2016

Effective Date: May 7, 2016

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1647, Adopted April 7, 2016.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to the Des Moines Traffic Code, authorizes the use of automated red light running enforcement cameras, adds a new chapter to Title 10 DMMC, establishes a penalty, and codifies a new chapter in Title 10 DMMC.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins, CMC
City Clerk

Published: April 12, 2016