



Roll Call Number

Agenda Item Number

70

Date July 15, 2024

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended, by amending Section 114-243, relating to civil automated traffic enforcement",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage. Second by _____.

(First of three required readings)

FORM APPROVED:

/s/ Megan Norberg
Megan E. Norberg
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 114-243, relating to civil automated traffic enforcement.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 114-243, relating to civil automated traffic enforcement, as follows:

Sec. 114-243. Civil Automated Traffic Enforcement.

- (a) Policy Statement. Having been presented with information and opinions concerning Automated Traffic Enforcement (“ATE”), the Des Moines city council finds as follows:
 - (1) The use of ATE advances public interests of traffic safety and safety of emergency responders, as well as the interests of Des Moines taxpayers in cost effective enforcement of traffic laws;
 - (2) The use of ATE devices which capture an image of only the rear license plate strikes a desirable balance between the above stated public interests and privacy interests of the motoring public;
 - (3) The National Law Enforcement Telecommunications System (“Nlets”) is a cost effective means for determining ownership of vehicles detected as traveling in violation of traffic laws within the city limits of Des Moines; and
 - (4) The technology underlying ATE is self-calibrating and reliable, and its accuracy is readily verifiable.
- (b) General. The city of Des Moines, in accordance with the police powers authorized it by the state of Iowa for governing safe traffic flow and pursuant to Iowa Code section 321P, may deploy, erect or cause to have erected an automated traffic enforcement system for making video images of vehicles that fail to obey red light traffic signals at intersections designated by the city manager or his designee or fail to obey speed regulations at other locations in the city. The system may be managed by the private contractor that owns and operates the requisite equipment with supervisory control vested in the city's police department. Video images shall be provided to the police department by the contractor for review. The police department will determine which vehicle owners are in violation of the city's traffic control ordinances and are to receive a notice of violation for the offense.
- (c) Definitions. The following phrases or terms when used in this section shall have the meanings ascribed to them herein:
 - Automated traffic enforcement system* means an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic controller or police department employee to

automatically produce photographs, video or digital images of each vehicle violating a standard traffic control device or speed restriction.

Vehicle owner means the person or entity identified by the Iowa Department of Transportation, or registered with any other state vehicle registration office, as the registered owner of a vehicle. However, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor is deemed the owner, or if the motor vehicle is leased as defined in Iowa Code section 321.493, the lessee is deemed the owner for this section.

(d) Offense.

- (1) The vehicle owner shall be liable for a civil penalty as imposed below if such vehicle crosses a marked stop line or the intersection plane at a system location when the traffic signal for that vehicle's direction is emitting a steady red light or red arrow.
- (2) The vehicle owner or vehicle driver if the vehicle owner submitted evidence that the owner was not operating the motor vehicle at the time of the violation shall be liable for a civil penalty as imposed below if such vehicle travels at a speed above the posted speed limit.
- (3) The violation may be rebutted by a showing that a stolen vehicle report was made on the vehicle encompassing the time period in question.
- (4) The notice of violation shall not be reported to the Iowa Department of Transportation or similar department of any other state for the purpose of being added to the vehicle owner's driving record.

(e) Penalty and Appeal.

- (1) Any violation of subsection (d)(1) or subsection (d)(2) above shall be considered for a notice of violation for which a civil penalty in the amount specified in the schedule of administrative penalties adopted by city council by resolution shall be imposed, payable to the city at the city's finance department or a designee.
- (2) A recipient of an automated traffic enforcement notice of violation may dispute the notice of violation by requesting an administrative hearing pursuant to chapter 3 or by requesting issuance of a municipal infraction by the police department. The owner of a motor vehicle who receives a citation for speeding may submit evidence at the hearing that the owner was not operating the motor vehicle at the time of the violation. As part of the proceeding, the owner shall provide the name and address of the person who was operating the motor vehicle at the time of the violation. The request for an administrative hearing or issuance of a municipal infraction must initially be made within 30 days of the date that the notice of violation is issued. If the recipient of an automated traffic notice of violation who requests an administrative hearing is not satisfied with the determination of the hearing officer, he or she may request the police department to issue a municipal infraction within 30 days of the date of determination. If a timely request is made to the police department for the issuance of a municipal infraction, the city may issue a municipal infraction or dismiss the notice.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

/s/ Megan Norberg

Megan E. Norberg
Assistant City Attorney