

ORDINANCE NO. 024-19

AN ORDINANCE AMENDING CHAPTER 61 OF THE CEDAR RAPIDS
MUNICIPAL CODE BY DELETING SECTION 61.138 THEREFROM AND
ENACTING IN ITS PLACE A NEW SECTION 61.138 REGARDING
AUTOMATED TRAFFIC ENFORCEMENT AND THE MEANS FOR
CHALLENGING AN AUTOMATED TRAFFIC CITATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA, that Chapter 61 of the Cedar Rapids Municipal Code, specifically Section 61.138, is amended as follows:

Section 1. Having been presented with information and opinions concerning Automated Traffic Enforcement (“ATE”), the Cedar Rapids City Council finds as follows:

The use of ATE advances public interests of traffic safety and safety of emergency responders, as well as the interests of Cedar Rapids taxpayers in cost effective enforcement of traffic laws;

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;

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 Cedar Rapids; and

The technology underlying ATE is self-calibrating and reliable, and its accuracy is readily verifiable.

Section 2. Section 61.138 of the Cedar Rapids Municipal Code is hereby deleted and the following is enacted in lieu thereof:

“61.138 - AUTOMATED TRAFFIC ENFORCEMENT.

- (a) **General.** In accordance with its police powers, the City may deploy, erect or cause to have erected an automated traffic enforcement system for capturing images of motor vehicles that violate traffic laws by failing to obey red light traffic signals at intersections designated by the city manager or designee or failing to obey speed regulations within the city. The system may be managed by a private contractor that owns and operates the requisite equipment. The police department shall retain supervisory control over the system. The contractor shall provide photographic and/or video images of any potential violations to the police department to review and, in the event the police department determines a vehicle was operated in violation of the city's traffic control ordinances, the police department shall direct that a notice of Automated Traffic Citation be issued to the vehicle owner in accordance with this §61.138.
- (b) **Definitions.**
 - 1. **Automated Traffic Citation** shall mean a notice of violation generated in connection with the automated traffic enforcement system.

2. **Automated Traffic Enforcement Contractor** shall mean the company or entity, if any, with which the City of Cedar Rapids contracts to provide equipment and/or services in connection with the Automated Traffic Enforcement System.
3. **Automated Traffic Enforcement System** shall mean 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.
4. **Vehicle Owner** shall mean the person or entity identified by the Iowa Department of Transportation, or identified by any other state vehicle registration office, as the registered owner of a vehicle detected violating a traffic law by failing to obey red light traffic signals at intersections designated by the city manager or official designee or failing to obey speed regulations within the City. Notwithstanding the foregoing, in the event the Iowa Department of Transportation or any other state vehicle registration office identifies a person or entity as the lessee of the vehicle, that lessee shall be the vehicle owner for purposes of this §61.138. In the event a state registration office does not specify whether a person or entity listed on the registration for the vehicle is the owner or the lessee of the vehicle, any person or entity listed on that vehicle registration may be deemed the vehicle owner and held jointly and severally responsible for a violation of this section.

(c) **Vehicle Owner Subject to Civil Fine for Automated Traffic Citations.**

1. If a vehicle is detected crossing 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 arrow, the Vehicle Owner shall be subject to a civil fine as scheduled below in subsection 61.138(d).
2. If a vehicle is detected traveling at a speed above the posted limit, the Vehicle Owner shall be subject to a civil fine as scheduled below in subsection 61.138(d).
3. Exemptions from this §61.138 are set forth in subsection 61.138(g), and shall not be considered violations for purposes of the Automated Traffic Enforcement System.
4. In no event will an Automated Traffic Citation be sent or 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.

(d) **Notice of Automated Traffic Citation; Fines.**

1. Upon a Cedar Rapids Police Officer's determination that the Automated Traffic Enforcement System has detected a violation described in subsections 61.138(c)(1) or (2), a notice of an Automated Traffic Citation will be mailed to the Vehicle Owner for each such violation recorded by the Automated Traffic Enforcement System. The Automated Traffic Enforcement Contractor shall mail the notice within 30 days after receiving information about the Vehicle Owner. The notice shall include the name and address of the Vehicle Owner; the vehicle make, if available and readily discernable; the vehicle registration number; the violation alleged; the time, date and location of the alleged violation; the applicable fine; information as to the manner in which the Automated Traffic Citation may be challenged; and that the basis of the notice is a photographic or video record generated by an Automated Traffic Enforcement System.
2. Any violation of subsection 61.138(c)(1). above shall be subject to a civil fine of one hundred dollars.

3. Any violation of subsection 61.138 (c.)(2). above shall be subject to a civil fine as scheduled in the table below, and the fine for any violation committed in a designated construction zone (as provided by the Code of Iowa), shall be doubled, as scheduled below, subject in any event to the limit on fines sought in municipal infractions.

Speed over the limit	Civil Fine	If in Construction Zone
1 through 5 miles per hour ("MPH")	\$25	\$50
6 through 10 MPH	\$50	\$100
11 through 20 MPH	\$75	\$150
21 through 25 MPH	\$100	\$200
25 through 30 MPH	\$250	\$500
Over 30 MPH	\$500	\$750

- (e) **Challenging an Automated Traffic Citation.** Within 30 days from the date appearing at the top of a notice of Automated Traffic Citation sent to the Vehicle Owner, the Vehicle Owner may either pay the fee associated with the citation or challenge the citation by submitting a written challenge to the citation or requesting that a municipal infraction be filed pursuant to Iowa Code §364.22. Any such written challenge or request must be on a form specified by and available from the City as indicated on the notice, and be sent to the City according to the instructions on that form. Upon receipt of a written challenge, a Cedar Rapids Police Officer shall determine whether the citation should be rescinded. Within 30 days after the City receives such a challenge, the City shall notify the Vehicle Owner whether the challenge to the Automated Traffic Citation is successful, in which case, the citation shall be rescinded. Otherwise, the citation shall stand. Thereafter, the City may seek voluntary payment and/or file the citation as a municipal infraction against the Vehicle Owner, all as set forth in subsection (f) hereof.
- (f) **Failure to Timely Pay or Challenge Automated Traffic Citation.** If the recipient of an Automated Traffic Citation does not either pay the fine by the due date stated on the original citation or successfully challenge the citation as provided herein, the City may file a municipal infraction against the Vehicle Owner in accordance with Cedar Rapids Municipal Code §1.12 and §364.22 of the Code of Iowa, seeking judgment for the applicable civil fine provided in subsections 61.138(c) and (d) plus state mandated filing fee and court costs. If judgment is entered for the City in the municipal infraction proceeding, the City may, subject to applicable law, pursue enforcement of the judgment together with interest as permitted by law. Collection of that judgment may include referral to the State of Iowa Income Offset program administered by the Department of Administrative Services, State Accounting Enterprise. Notwithstanding the City's right to file a municipal infraction, the City may first seek voluntary payment of the fine by sending a written request for payment to the Vehicle Owner and/or referring the matter to a private service agent to conduct collection in accordance with all applicable law.
- (g) **Exemptions from Section 61.138.** The following shall not be considered violations for purposes of the Automated Traffic Enforcement System.
1. The operator of the vehicle in question was issued a uniform traffic citation for the violation in question pursuant to Cedar Rapids Municipal Code Chapter 61 or Chapter 321 of the Code of Iowa).

2. The violation occurred at any time after the vehicle in question or its state registration plates were reported to a law enforcement agency as having been stolen, provided, however, the vehicle or its plates had not been recovered by the Vehicle Owner at the time of the alleged violation.
3. The vehicle in question was an authorized emergency vehicle.
4. The Cedar Rapids Police Officer inspecting the recorded image determines that the vehicle in question entered the intersection in order to yield the right-of-way to an emergency vehicle.
5. The Cedar Rapids Police Officer inspecting the recorded image determines that the vehicle in question was lawfully participating in a funeral procession.

The foregoing list of exemptions from Section 61.138 shall not be construed as limiting the defenses available to challenge an Automated Traffic Citation or defend a municipal infraction.”

Section 3. Separability of Provisions. It is the intention of the Council that each section, paragraph, sentence, clause, and provision of the Ordinance is separable, and, if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that affected by such decision.

Section 4. All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

Section 5. The changes as provided in this Ordinance shall be made a part of the replacement pages of the Municipal Code, City of Cedar Rapids, Iowa, and made a part of said Code as provided by law.

Section 6. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Introduced this 14th day of May, 2019.

Passed this 28th day of May, 2019.

Voting: Council member Olson (Scott) moved the adoption of the ordinance; seconded by Council member Overland. Adopted, Ayes, Council members Olson (Scott), Olson (Tyler), Overland, Poe, Todd, Vanorny and Weinacht. Abstain, Mayor Hart.



Bradley G. Hart, Mayor

Attest:



Amy Stevenson, City Clerk