

**ORDINANCE NO. 52 - 23**

**AMENDING TITLE 9 MOTOR VEHICLES AND TRAFFIC, CHAPTER 7 OPERATION, DIVISION 5 SPEED RESTRICTIONS BY ENACTING A NEW SECTION 9-7-321.286 AUTOMATED SPEED ENFORCEMENT REGARDING AUTOMATED SPEED ENFORCEMENT AND THE PROCESS FOR CHALLENGING AN AUTOMATED SPEED CITATION**

WHEREAS, the City Council has been presented with information and opinions concerning Automated Speed Enforcement; and

WHEREAS, the Dubuque City Council finds the use of Automated Speed Enforcement advances a multitude of public interests including but not limited to traffic safety, safety of emergency responders, acting as a police force multiplier, and as a cost effective mechanism for the enforcement of speed laws benefiting taxpayers; and

WHEREAS, the use of Automated Speed Enforcement devices which capture license plate image(s) strikes a desirable balance between the above-stated public interests and privacy interests of the motoring public; and

WHEREAS, the National Law Enforcement Telecommunications System is a cost effective means for determining ownership of vehicles detected as traveling in violation of speed laws within the City limits; and

WHEREAS, the technology underlying Automated Speed Enforcement is reliable and its accuracy is verified by a police officer.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:**

Section 1. Title 9, Chapter 7, Division 5 of the City of Dubuque Code of Ordinances is amended by adding the following section:

**9-7-321.286: AUTOMATED SPEED ENFORCEMENT:**

A. General: In accordance with its police powers, the City may deploy, erect, or cause to have erected an automated speed enforcement system for capturing images of motor vehicles that violate speed laws by failing to obey the posted speed regulations within the City. The system may be managed by an Automated Speed Enforcement Contractor that owns and operates the requisite equipment. The police department shall retain supervisory control over the system. The Automated Speed Enforcement 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 speed ordinances, the police department shall direct

that a notice of Automated Speed Citation be issued to the vehicle owner in accordance with this section.

B. Definitions:

1. Automated Speed Citation shall mean a notice of violation generated in connection with the Automated Speed Enforcement System.
2. Automated Speed Enforcement Contractor shall mean the company or entity, if any, with which the City of Dubuque contracts to provide equipment and/or services in connection with the Automated Speed Enforcement System.
3. Automated Speed Enforcement System shall mean an electronic system consisting of a photographic, video, electronic, or digital camera, a speed sensor, 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 speed limit ordinance.
4. Divided Highway shall mean a roadway that is separated by a median.
5. "Low or moderate income" also referred to as "LMI", means an individual earning no more than eighty percent of the higher of the median family income of the county or the statewide nonmetropolitan area as determined by the latest United States department of housing and urban development, section 8 income guidelines.
6. Undivided Highway shall mean a roadway without median separation.
7. 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 ordinance by failing to obey a speed regulation 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 section. 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 Speed Citations:

1. If a vehicle is detected traveling at a speed above the posted limit, the Vehicle Owner shall be subject to a civil penalty as scheduled below in subsection 9-7-321.286(D).

2. Exemptions from this section are set forth in subsection 9-7-321.286(G) and shall not be considered violations for purposes of the Automated Speed Enforcement System.

3. In no event will an Automated Speed 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 Speed Citation; Fines:

1. Upon a Dubuque Police Officer's determination that the Automated Speed Enforcement System has detected a violation described in subsection 9-7-321.286(C)(1), a notice of an Automated Speed Citation will be mailed to the Vehicle Owner for each such violation recorded by the Automated Speed Enforcement System. The Automated Speed Enforcement Contractor shall mail the notice within thirty (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 civil penalty; information as to the manner in which the Automated Speed Citation may be challenged; and that the basis of the notice is a photographic or video record generated by an Automated Speed Enforcement System.

2. Speed Zone Under 45 Miles Per Hour and Undivided Highways with Speed Zone 45 Miles Per Hour.

Any violation of subsection 9-7-321.286(C)(1) which occurs in an area:

- a. With a speed limit under 45 miles per hour or
- b. On an Undivided Highway where the speed zone is 45 miles per hour

shall be subject to a civil penalty as scheduled in the table below, and the civil penalty 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 statutory limit on civil penalties applicable to municipal infractions.

<b>&lt;45 mph Speed Limit and Undivided Highways with 45 miles per hour Speed Limit</b>						
Over Speed Limit (MPH)	First Offense Civil Penalties	Second Offense Civil Penalties	Third & Subsequent Offenses Civil Penalties*	Third Offense Community Service Options	Fourth Offense Community Service Options - LMI Individuals ONLY	Construction & School Zones Civil Penalties
1 – 5	N/A	N/A	N/A	N/A	N/A	\$0
6 – 10	N/A	N/A	N/A	N/A	N/A	\$100
11 – 15	\$100 Courtesy Waiver	\$125 50% reduction to \$62.50	\$150	Community Service Available	Community Service Available	1 <sup>st</sup> Offense: \$200 2 <sup>nd</sup> Offense: \$250 3 <sup>rd</sup> & Subsequent: \$300
16 – 20	\$125 Courtesy Waiver	\$150 50% reduction to \$75	\$175	Community Service Available	Community Service Available	1 <sup>st</sup> Offense: \$250 2 <sup>nd</sup> Offense: \$300 3 <sup>rd</sup> & Subsequent: \$350
21 – 25	\$150	\$175	\$200	N/A	Extra Community Service Required	1 <sup>st</sup> Offense: \$300 2 <sup>nd</sup> Offense: \$350 3 <sup>rd</sup> & Subsequent: \$400
26 – 30	\$175	\$200	\$225	N/A	Extra Community Service Required	1 <sup>st</sup> Offense: \$350 2 <sup>nd</sup> Offense: \$400 3 <sup>rd</sup> & Subsequent: \$450
31 +	\$200	\$225	\$250	N/A	Extra Community Service Required	1 <sup>st</sup> Offense: \$400 2 <sup>nd</sup> Offense: \$450 3 <sup>rd</sup> & Subsequent: \$500

\*After issuance of a First and Second offense all Third and Subsequent Offenses shall move into the civil penalty category for Third & Subsequent Offenses.

### 3. Divided Highways with a Speed Limit 45 Miles Per Hour or Higher.

Any violation of subsection 9-7-321.286(C)(1) which occurs on a divided highway with a speed limit 45 miles per hour or higher shall be subject to a civil penalty as scheduled in the table below, and the civil penalty 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 statutory limit on civil penalties applicable to municipal infractions.

Divided Highways with a Speed Limit 45 miles per hour or Higher						
Over Speed Limit (MPH)	First Offense Civil Penalties	Second Offense Civil Penalties	Third & Subsequent Offenses Civil Penalties*	Third Offense Community Service Options	Fourth Offense Community Service Options - LMI Individuals ONLY	Construction & School Zones Civil Penalties
<b>1 – 5</b>	N/A	N/A	N/A	N/A	N/A	\$0
<b>6 – 10</b>	N/A	N/A	N/A	N/A	N/A	\$100
<b>11 – 15</b>	N/A	N/A	N/A	N/A	N/A	\$200
<b>16 – 20</b>	\$125 Courtesy Waiver	\$150 50% reduction to \$75	\$175	Community Service Available	Community Service Available	1 <sup>st</sup> Offense: \$250 2 <sup>nd</sup> Offense: \$300 3 <sup>rd</sup> & Subsequent: \$350
<b>21 – 25</b>	\$150	\$175	\$200	N/A	Extra Community Service Required	1 <sup>st</sup> Offense: \$300 2 <sup>nd</sup> Offense: \$350 3 <sup>rd</sup> & Subsequent: \$400
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<b>31 +</b>	\$200	\$225	\$250	N/A	Extra Community Service Required	1 <sup>st</sup> Offense: \$400 2 <sup>nd</sup> Offense: \$450 3 <sup>rd</sup> & Subsequent: \$500

\*After issuance of a First and Second offense, all subsequent offenses shall move into the civil penalty category for Third & Subsequent Offenses.

**E. Challenging an Automated Speed Citation:** Within thirty (30) days from the date appearing at the top of a notice of Automated Speed 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 Dubuque Police Officer shall determine whether the citation should be rescinded. Within thirty (30) days after the City receives such a challenge, the City shall notify the Vehicle Owner whether the challenge to the Automated Speed 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 Speed Citation:** If the recipient of an Automated Speed 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 City Code § 1-4-2 and § 364.22 of the Code of Iowa, seeking judgment for the violation and the applicable civil penalty provided in subsections 9-7-321.286(C) and (D), plus state-mandated filing

fees 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 the judgment may include referral to the State of Iowa Offset Program administered by the Department of Administrative Services, State Accounting Enterprise, or any similar subsequent agency. 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.

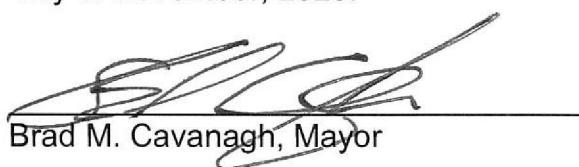
G. Exemptions from Section 9-7-321.386: The following shall not be considered violations of this ordinance:

1. The operator of the vehicle in question was issued a uniform traffic citation for the violation in question pursuant to City Code §9-7-321.285 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 Dubuque 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 9-7-321.286 shall not be construed as limiting the defenses available to challenge an Automated Speed Citation or defend against a municipal infraction.

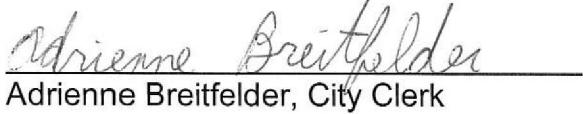
Section 2. This ordinance shall take effect upon publication.

Passed, approved, and adopted this 20<sup>th</sup> day of November, 2023.



Brad M. Cavanagh, Mayor

Attest:



Adrienne Breitfelder  
Adrienne Breitfelder, City Clerk