

ORDINANCE NO. 061-17

AN ORDINANCE AMENDING SECTION 61.138 OF THE CEDAR RAPIDS MUNICIPAL CODE
TO INCLUDE LONG-TERM LESSEES IN THE DEFINITION OF VEHICLE OWNER
AND TO MODIFY THE CONSEQUENCES FOR FAILURE TO TIMELY APPEAL
OR PAY 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. Subsection (b)(4) of Section 61.138 of the Cedar Rapids Municipal Code is hereby deleted and the following new Subsection (b)(4) of Section 61.138 is enacted in lieu thereof as follows:

“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 the vehicle. 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 liable for a violation of this section.”

Section 2. Subsection (d)(1) of Section 61.138 of the Cedar Rapids Municipal Code is hereby deleted and the following new Subsection (d)(1) of Section 61.138 is enacted in lieu thereof as follows:

“Notice of the violation will be mailed to the Vehicle Owner for each violation recorded by an Automated Traffic Enforcement System or traffic control signal monitoring device. 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, and registration number; the violation charged; the time; the date; and the location of the alleged violation; the applicable fine and monetary penalty which may be assessed for late payment pursuant to section §61.138(g); information as to the manner in which the notice may be contested on its merits; and that the basis of the notice is a photographic record obtained by an Automated Traffic Enforcement System.”

Section 3. Subsection (g) of Section 61.138 of the Cedar Rapids Municipal Code is hereby deleted and the following new Subsection (g) of Section 61.138 is enacted in lieu thereof as follows:

“Failure to Timely Pay or Contest. If the recipient of an Automated Traffic Citation does not either pay the fine by the due date stated on the original citation or contest the citation as provided herein, then the recipient shall be deemed to have waived all rights to contest the citation pursuant to subsection (e) of this section and, further, shall be liable for any fine imposed herein plus a late penalty of 25% of the fine imposed for failure to timely pay or appeal the citation, which sums together shall constitute a debt due and owing to the City of Cedar Rapids. In addition to and without limiting the foregoing, the City of Cedar Rapids may take one or more of the following actions:

1. File a municipal infraction citation in accordance with Cedar Rapids Code §1.12 and Iowa Code §364.22 for the fine and late penalty plus any state mandated court costs in the event the Court finds the Vehicle Owner guilty of the municipal infraction.
2. Pursue collection of any debt due and owing the City of Cedar Rapids pursuant to this Ordinance, together with interest as permitted by law, which may include referral to a private service agent to conduct collection.
3. Pursue the debt due and owing to the City by referring it to the State of Iowa Income Offset program administered by the Department of Administrative Services, State Accounting Enterprise.”

Section 4. 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 5. All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

Section 6. 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 7. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Introduced this 12th day of September, 2017.

Passed this 24th day of October, 2017.

Voting: Council member Poe moved the adoption of the ordinance; seconded by Council member Shey. Adopted, Ayes, Council members Gulick, Overland, Poe, Russell, Shey, Weinacht and Mayor Pro Tempore Shields.


Justin Shields, Mayor Pro Tempore

Attest:


Amy Stevenson, City Clerk

ORDINANCE NO. 020-09

AN ORDINANCE AMENDING CHAPTER 61 OF THE MUNICIPAL CODE, CEDAR RAPIDS, IOWA, AS ENACTED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA, BY ADDING SECTION 61.138 RELATING TO AUTOMATED TRAFFIC ENFORCEMENT AND PROVIDING A FINE FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA,
AS FOLLOWS:

Section 1. That the following Section 61.138 is hereby added:

61.138 AUTOMATED TRAFFIC ENFORCEMENT

(a.) General. The City of Cedar Rapids, in accordance with its police powers, 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 systems 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.

(b.) Definitions.

1. **Automated Traffic Citation** shall mean a notice of fine 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 registered with any other state vehicle registration office, as the registered owner of a vehicle.

(c.) Vehicle Owner's Civil Liability for Certain Traffic Offenses.

1. The Vehicle Owner shall be liable for a fine as imposed below if such a 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 arrow.

2. The Vehicle Owner shall be liable for a fine as imposed below if such vehicle travels at a speed above the posted limit.

3. The violation may be exempted from liability as outlined below in subsection (f.) of this section, and other defenses may be considered in connection with the appeal process.

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 Violation; Fine.

1. Notice of the violation will be mailed to the Vehicle Owner for each violation recorded by an Automated Traffic Enforcement System or traffic control signal monitoring device. 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, and registration number; the violation charged; the time; the date; and the location of the alleged violation; the applicable fine and monetary penalty which shall be assessed for late payment; information as to the availability of an administrative hearing in which the notice may be contested on its merits; and that the basis of the notice is a photographic record obtained by an Automated Traffic Enforcement System.

2. Any violation of subsequent section (c.)(1). above shall be subject to a civil fine of one hundred dollars, payable to the City of Cedar Rapids.

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

<u>Speed over the limit</u>	<u>Civil Fine</u>	<u>If in Construction Zone</u>
1 through 5 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.) Contesting an Automated Traffic Citation. A Vehicle Owner who has been issued an Automated Traffic Citation may contest the citation as follows:

1. By submitting in a form specified by the City a request for an administrative hearing to be held at the Cedar Rapids Police Department before an administrative

appeals board (the "Board") consisting of one or more impartial fact finders. Such a request must be filed within 30 days from the date on which Notice of the violation is sent to the Vehicle Owner. After a hearing, the Board may either uphold or dismiss the Automated Traffic Citation, and shall mail its written decision within 10 days after the hearing, to the address provided on the request for hearing. If the citation is upheld, then the Board shall include in its written decision a date by which the fine must be paid, and on or before that date, the Vehicle Owner shall either pay the fine or submit a request pursuant to the next paragraph, (e.)(2.).

2. By submitting in a form specified by the City a request that in lieu of the Automated Traffic Citation, a municipal infraction citation be issued and filed with the Small Claims Division of the Iowa District Court in Linn County. Such a request must be filed within 30 days from the date on which Notice of the violation is sent to the Vehicle Owner. Such a request will result in a court order requiring the Vehicle Owner to file an answer and appearance with the Clerk of Court, as well as setting the matter for trial before a judge or magistrate. If the Court finds the Vehicle Owner guilty of the municipal infraction, state mandated court costs will be added to the amount of the fine imposed by this section.

(f.) Exceptions to Owner Liability. There shall be no liability pursuant to this section if:

1. The operator of the vehicle in question was issued a uniform traffic citation for the violation in question pursuant to Cedar Rapids Code Chapter 61 or Iowa Code Chapter 321 (2008); or

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; or

3. The vehicle in question was an authorized emergency vehicle; or

4. The officer inspecting the recorded image determines that the vehicle in question was lawfully participating in a funeral procession; or

5. The 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.

(g.) Failure to Timely Pay or Appeal. If the recipient of an Automated Traffic Citation does not either pay the fine by the due date stated in the citation or appeal the citation as provided herein, a municipal infraction citation may be filed by the Cedar Rapids Police Department and a fine may be sought in accordance with Cedar Rapids Code section 1.12 rather than subsection (d.) above. If the Court finds the Vehicle Owner guilty of the municipal infraction, state mandated court costs will be added to the amount of the fine imposed by this section.

Section 2. That the civil penalties for violation of the foregoing provisions shall be the fines as set forth in Section 1. of this Ordinance, more particularly as Section 61.138(d.).

Section 3. That it is the intention of the Council that each section, paragraph, sentence, clause and provision of this 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. That the aforesaid additional section of Chapter 61 shall be included as 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 5. That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Introduced this 10th day of June, 2009.

Passed this 24th day of June, 2009.

Kay Helleman, Mayor

Attest:

Ann Ollinger, City Clerk