

ORDINANCE NO. 2138

AN ORDINANCE AMENDING CHAPTER 10 OF THE MUNICIPAL CODE, CITY OF FORT DODGE, IOWA AS ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT DODGE, IOWA BY ADDING SECTION 10.60 RELATING TO AUTOMATED TRAFFIC ENFORCEMENT AND PROVIDING A FINE FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT DODGE, IOWA

AS FOLLOWS:

Section 1 That the following Section 10.60 is hereby added to the Fort Dodge Municipal Code:

10.60 AUTOMATED TRAFFIC ENFORCEMENT

**10.60.010 Purpose** The City of Fort Dodge, 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 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 a 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.

**10.60.020 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 Fort Dodge 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.

**10.60.30 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 outlines below in subsection 10.60.60 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.

**10.60.040 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 15 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 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 10.060.030(1). above shall be subject to a civil fine of one hundred dollars, payable to the City of Fort Dodge.

3. Any violation of subsection 10.60.030(2). above shall be subject to a civil fine a listed in the table below, and the fine for any violation committed in a designated construction zone (as provided by Iowa Code), shall be double, 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 Fort Dodge.

<u>Speed over the limit</u>	<u>Civil Fine</u>	<u>Construction Zone</u>
1 through 5 MPH	\$25	\$50
6 through 10MPH	\$50	\$100
11 through 20MPH	\$75	\$150
21 through 25MPH	\$100	\$200
26 through 30MPH	\$225	\$450
Over 30 MPH	\$300	\$600

**10.60.050 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 Fort Dodge Police Department before an administrative Hearing Officer. 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 hearing, the Hearing Officer may either uphold or dismiss the Automated Traffic Citation, and shall mail the written decision within 10 days after the hearing, to the address provided on the request for hearing. If the citation is upheld, then the Hearing Officer shall include in the 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, 10.60.050(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 Webster 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.

**10.60.60 Exception 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 Fort Dodge Code Chapter 10 or Iowa Code Chapter 321 (2011); 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.

**10.60.070 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 Fort Dodge Police Department and a fine may be sought in accordance with Fort Dodge Code 10.20.020 (2) rather than subsection 10.60.040 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.

1. That the civil penalties for violation of the foregoing provisions shall be the fines set forth in Section 10.60.040 (1) of this Ordinance.
2. 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.

3. That the aforesaid additional section of Chapter 10.60 shall be included as part of the replacement pages of the Municipal Code, City of Fort Dodge, Iowa and made a part of said Code as provided by law.

EFFECTIVE DATE

This Ordinance shall be in effect after its final passage, approval, and publication, as by law provided. Passed and approved by the City Council of the City of Fort Dodge, Iowa, this 23<sup>rd</sup> day of May, AD, 2011.

Passed on first consideration by the City Council of the City of Fort Dodge, Iowa this 25<sup>th</sup> day of April, 2011.

AYE: Hindman, Flattery, Wilson, Halverson-Collins, Olson, and Fritz

NAY: Patterson

OTHER: None

Passed on second consideration by the City Council of the City of Fort Dodge, Iowa this 9<sup>th</sup> day of May, 2011.

AYE: Hindman, Halverson-Collins, Olson and Fritz

NAY: Wilson and Patterson

OTHER: Absent: Flattery

Passed on third consideration by the City Council of the City of Fort Dodge, Iowa this 23<sup>rd</sup> day of May, 2011.

AYE: Hindman, Halverson-Collins, Olson and Fritz

NAY: Flattery, Wilson and Patterson

OTHER: None

City of Fort Dodge, Iowa



Matt Bemrich, Mayor

ATTEST:



Dawn Siebken, Acting City Clerk

Published in The Messenger this 3<sup>rd</sup> day of June, 2011.