

**ORDINANCE NO. 252**

**AN ORDINANCE REGARDING AUTOMATED TRAFFIC ENFORCEMENT**

**WHEREAS**, having examined information and opinions concerning Automated Traffic Enforcement ("ATE"), the University Heights 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 University Heights taxpayers in an improved and cost-effective enforcement of traffic laws;

The use of ATE devices that 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 the City of University Heights; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, IOWA**, that the following Ordinance is hereby adopted:

**AUTOMATED TRAFFIC ENFORCEMENT (ATE)**

**Section 1. General.** In accordance with its police powers authorized by the State of Iowa for governing safe traffic flow, the City Council may cause to be deployed, 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 speed regulations within the City. The system may be managed by a private contractor that owns and operates the requisite equipment. The University Heights Police Chief shall retain supervisory control over the system and, with prior City Council approval, shall determine the exact deployment of the system components throughout the City. The initial installation and implementation of the ATE system shall be limited to those locations as previously identified, reviewed, and discussed by the City Council. The contractor shall provide photographic and/or video images of any potential violations to the University Heights Police Department ("UHPD") for review

and, in the event the UHPD determines a vehicle was operated in violation of the City's traffic control ordinances, UHPD shall direct that a notice of Automated Traffic Citation be issued to the vehicle owner in accordance with the provisions of this Section.

**Section 2. Definitions.**

**A. "Automated Traffic Citation"** means a notice of violation generated in connection with the automated traffic enforcement system.

**B. "Automated Traffic Enforcement Contractor"** means the company or entity, if any, with which the City of University Heights contracts to provide equipment and/or services in connection with the Automated Traffic Enforcement System.

**C. "Automated Traffic Enforcement System"** means an electronic system consisting of a photographic, video, or electronic camera(s) and a vehicle sensor(s) installed to work in conjunction with an official traffic controller(s) or UHPD employee(s) to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control device or speed restriction.

**D. "Vehicle Owner"** means 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 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 subsection. 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 subsection.

**Section 3. Vehicle Owner Subject to Civil Fine for Automated Traffic Citations.**

A. If a vehicle is detected to be traveling at a

speed above the posted limit, the Vehicle Owner shall be subject to a civil fine as scheduled below in Section 4(B).

- B. Exemptions from this Section are set forth in Section 7, and shall not be considered violations for purposes of the Automated Traffic Enforcement System.
- C. 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.

**Section 4. Notice of Automated Traffic Citation; Fines.**

- A. Upon a University Heights Police Officer's determination that the Automated Traffic Enforcement System has detected a violation described in Section 4(B), 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.
- B. Any violation of Section 3(A) after the first thirty (30) days of implementation shall be subject to a civil fine as scheduled in the table below. Payment for all civil fines shall be made to the order of "the City of University Heights." The fine for any violation committed in a designated Road Work Zone (as provided and defined by Iowa Code § 321.1), shall be increased, as scheduled below, subject in any event to the limit on fines sought in municipal infractions:

Speed over the limit in Miles Per Hour ("MPH")	Civil Fine	If in a Road Work Zone
11-15 MPH	\$105.00	\$390.00
16-20 MPH	\$120.00	\$390.00
20-25	\$140.00	\$640.00
26 and above	\$165.00	\$750.00

**Section 5. 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, as amended. 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's Automated Traffic Enforcement Contractor ("ATE Contractor") according to the instructions on that form. Upon receipt of a written challenge, a University Heights Police Officer shall determine whether the citation should be rescinded. Within forty-five (45) days after receipt of such a challenge, the City's ATE Contractor 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 Section 6.

**Section 6. 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 Iowa Code § 364.22, as amended, seeking judgment for the applicable civil fine provided in Section 4(B), 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. Court costs, surcharges, and other fees mandated by the Iowa Code shall be added to the amount of the fine imposed by

the applicable provisions of this Ordinance.

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.

**Section 7. Exemptions from Section 4(B).** The following shall not be considered violations for purposes of the Automated Traffic Enforcement System.

- A. The operator of the vehicle in question was issued a uniform traffic citation for the violation in question pursuant to University Heights Ordinance No. 120 and/or Iowa Code ch. 321.
- B. 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.
- C. The vehicle in question was an authorized emergency vehicle.

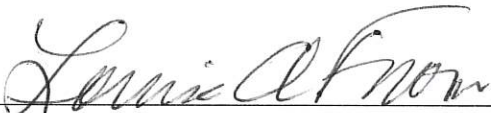
The foregoing list of exemptions from Section 4(B) shall not be construed as limiting the defenses available to challenge an Automated Traffic Citation or to defend a municipal infraction.

**Section 8 REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 9. SAVING CLAUSE.** If any section, provision, or part of this Ordinance shall be adjudged to be invalid or unconstitutional, this determination shall not affect the validity of the Ordinance as a whole or any section, provision, or part of the Ordinance not determined to be invalid or unconstitutional.

**Section 10. EFFECTIVE DATE.** This Ordinance shall be effective upon its passage and publication as provided by law.

Adopted by the University Heights City Council on this 12<sup>th</sup> day of September, 2023, and approved this 12<sup>th</sup> day of September, 2023.

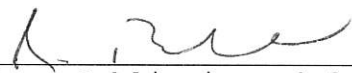
  
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Louise A. From, Mayor

(SEAL)

ATTEST:  
  
\_\_\_\_\_  
Mike Haverkamp, City Clerk

STATE OF IOWA                    )  
  )     SS:  
COUNTY OF JOHNSON         )

On the 15<sup>th</sup> day of September, 2023, before me, a notary public in and for the state of Iowa, personally appeared Louise A. From, Mayor, and Mike Haverkamp, Clerk of the City of University Heights, Iowa, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of University Heights, Iowa; that the seal affixed to this instrument is the corporate seal of the City; and that this instrument was acknowledged and sealed on behalf of the City, and that Louise A. From and Mike Haverkamp acknowledged the execution of this instrument to be their voluntary act and deed and the voluntary act and deed of the City, by it and by them voluntarily executed.

  
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Notary Public in and for the  
State of Iowa

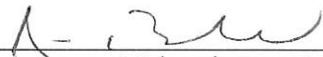


STATE OF IOWA     )  
                          )     SS:  
COUNTY OF JOHNSON     )

I, Mike Haverkamp, being first duly sworn, certify that the above ordinance was published in the Iowa City Press-Citizen the 26<sup>th</sup> day of OCTOBER, 2023.

  
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Mike Haverkamp

Signed and sworn to before me on the \_\_\_\_ day of \_\_\_\_\_, 2023,  
by Mike Haverkamp, Clerk of the City of University Heights, Iowa.

  
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Notary Public in and for the  
State of Iowa

