

ORDINANCE NO. 517

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF INDEPENDENCE, IOWA, BY ADOPTING CHAPTER 71 CONCERNING AUTOMATED TRAFFIC ENFORCEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, IOWA:

Section 1. Purpose. The purpose of this ordinance is to adopt and add Chapter 71, concerning Automated Traffic Enforcement, to the Municipal Code of Ordinances of Independence, Iowa.

Section 2. Amendment. The Municipal Code of Ordinances is hereby amended to include the following Chapter and provisions:

CHAPTER 71 - AUTOMATED TRAFFIC ENFORCEMENT.

71.01 Authority and Management.

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 either (1) failing to obey speed regulations within the city. The police department shall retain supervisory control over the System. The System may be managed by a private contractor that owns and operates the requisite equipment. 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 Chapter 71.

71.02 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 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, and/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, and/or digital images of each vehicle violating a speed restriction standard or traffic control device.
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 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 Chapter 71. 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.

71.03 Civil Fine for Automated Traffic Citations; No Reporting.

Unless an exemption applies, as set forth in 71.04, the following violations shall be subject to a civil fine:

1. If a vehicle is detected traveling at a speed above the posted limit, the Vehicle Owner shall be subject to a civil fine as set forth in Section 70.02 of this Code of Ordinances.
3. 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.

71.04 Exemptions from Civil Fine for Automated Traffic Citations.

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 the City of Independence Code of Ordinances Chapter 70 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 foregoing list of exemptions from Section 71.03 shall not be construed as limiting the defenses available to challenge an Automated Traffic Citation or defend a municipal infraction.

71.05 Review of Detected Violation by City Designee.

Upon notification of a detected violation, the detected violation shall be reviewed by a sworn City police officer to determine whether a violation occurred.

71.06 Notice of Automated Traffic Citation; Fines.

Upon a review conducted pursuant to section 71.05 confirming that a violation, as described in section 71.03, occurred, 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 City or designated Automated Traffic 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 fine; information for payment of the assessed fine; information as to the manner and form 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.

71.07 Vehicle Owners Obligations Concerning an Automated Traffic Citation.

Within thirty (30) days from the date appearing at the top of a notice of Automated Traffic Citation sent to the Vehicle Owner, the Vehicle Owner shall either pay the fee associated with the citation or challenge the citation, in accordance with section 71.08.

71.08 Contesting An Automated Traffic Citation.

A Vehicle Owner may contest an Automated Traffic 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, an Independence 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 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, in accordance with section 71.09.

71.09 Failure to Timely Pay or Challenge Automated Traffic Citation.

If the Vehicle Owner 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 Independence Code of Ordinances §4.01 and §364.22 of the Code of Iowa, seeking judgment for the applicable civil fine provided in subsections 71.03 plus applicable 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.

Section 3. Rescission. Except for the language of Chapter 71 as set forth above and adopted by this Ordinance, all remaining portions of the Municipal Code of Ordinances, as previously adopted, shall remain in full force and effect.

Section 4. Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.


Section 5. Repealer. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 6. When Effective. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.



Bonita Davis, Mayor

ATTEST:



Jeena Lynch, City Clerk

ADOPTED: April 13, 2020