

## CHAPTER 42

### AUTOMATED TRAFFIC ENFORCEMENT

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#### 42.1 General.

The Iowa County of Polk, in accordance with its police powers, may deploy an automated traffic enforcement system for making video images of Vehicles that fail to obey speed regulations at locations in the County. The system may be managed by the private contractor that owns and operates the requisite equipment with supervisory control vested in the Office of the Polk County Sheriff. Video images shall be provided to the Sheriff's Office by the contractor for review. The Sheriff's Office will determine which Vehicle Owners are in violation of the County's Automated Traffic Enforcement Ordinance and are to receive a notice of violation for the offense.

#### 42.2 Definitions.

- a. **Automated Traffic Citation** shall mean a notice of violation generated in connection with the automated traffic enforcement system.
- b. **Automated Traffic Enforcement Contractor** shall mean the company or entity, if any, with which the Polk County contracts to provide equipment and/or services in connection with the Automated Traffic Enforcement System.

c. **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 Sheriff's Office employee to automatically produce photographs, video or digital images of each vehicle violating speed restriction.

d. **Vehicle** shall mean a device in, upon, or by which any person or property is or can be transported or drawn upon a street, highway, or sidewalk, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

e. **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.

#### 42.3 **Vehicle Owner's Civil Liability for Certain Traffic Offenses.**

a. The Vehicle Owner shall be liable for a civil penalty as imposed below if such Vehicle travels at a speed above the posted or established limit.

b. The violation may be exempted from liability as outlined below in section 6, and other defenses may be considered in connection with the appeal process.

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.

#### 42.4 **Notice of Violation; Civil Penalty.**

a. Notice of the violation will be mailed to the Vehicle Owner for each violation recorded by an 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, and registration number; the violation charged; the time; the date; and the location of the alleged violation; the applicable civil penalty which shall be assessed for the violation and any 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.

b. Any violation of subsection 3.a. above shall be subject to a civil penalty as listed in the table below, subject in any event to statutory limits for county infractions. All civil penalties shall be payable to Polk County, Iowa.

Speed Over the Limit	Civil Penalty
1 through 15 MPH	\$65.00
16 through 20 MPH	\$75.00
21 MPH and above	\$80.00 plus \$2.00 per MPH in excess of 21 MPH over

**42.5 Contesting an Automated Traffic Citation.**

A Vehicle Owner who has been issued an Automated Traffic Citation may contest the citation as follows:

a. By submitting in a form specified by the County a request for an administrative hearing to be held at the Polk County Sheriff's Office before an administrative appeals board (the "Board") consisting of one or more 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 civil penalty must be paid, and on or before that date, the Vehicle Owner shall either pay the civil penalty or submit a request pursuant to the next paragraph, 5.b.

b. By submitting in a form specified by Polk County a request that in lieu of the Automated Traffic Citation, a county infraction citation be issued and filed with the Small Claims Division of the Iowa District Court in Polk 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 committed the county infraction, state mandated court costs will be added to the amount of the civil penalty imposed by section 4 above.

#### **42.6 Exceptions to Owner Liability.**

There shall be no liability pursuant to this section if:

- a. The operator of the Vehicle in question was issued a uniform traffic citation for the violation in question pursuant to Iowa Code Chapter 321; or
- 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; or
- c. The Vehicle in question was an authorized emergency vehicle.

#### **42.7 Failure to Timely Pay or Appeal.**

If the recipient of an Automated Traffic Citation does not either pay the civil penalty by the due date stated in the citation or appeal the citation as provided herein, a general county

infraction citation may be filed by the Polk County Sheriff's Office and a civil penalty may be sought in accordance with Chapter 2 of the Polk County Code of Ordinances rather than section 4 above. If the Court finds the Vehicle Owner guilty of the county infraction, state mandated court costs will be added to the amount of the civil penalty imposed by this section.

**42.8 Effective date.**

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

(Ord. 293, 12/2012)

**EFFECTIVE UPON PUBLICATION:**

DES MOINES REGISTER	DECEMBER 24, 2012
ALTOONA HERALD	DECEMBER 26, 2012
BUSINESS RECORD	DECEMBER 28, 2012