

ORDINANCE NO. 94582-1218

**AN ORDINANCE AMENDING TITLE 7 VEHICLES AND TRAFFIC, CHAPTER 5
AUTOMATED TRAFFIC ENFORCEMENT**

WHEREAS, the City currently utilizes fixed and mobile Automated Traffic Enforcement (“ATE”) equipment, and

WHEREAS, On August 31, 2018 the Iowa Supreme Court issued three opinions relating to Automated Traffic Devices, and

WHEREAS, the City wishes to adapt its ATE ordinance(s) to comply with the Iowa Supreme Court’s recent opinions, and

WHEREAS, in response to these decisions, the City Council has reviewed its existing ordinance(s) and practice(s) regarding the use of ATE equipment and finds that utilizing National Law Enforcement Telecommunications System databases (“Nlets”) to identify a vehicle’s registered owner is the most cost-effective method for the City to enforce its ordinance, and

WHEREAS, the City Council has explored adding equipment which captures the front license plate of a vehicle to its ATE enforcement scheme. The City Council finds that, while this may result in a nominal increase to the number of vehicles which could be identified via Nlets and, therefore, cited for a violation of the City’s ordinance, front facing cameras would also be operationally more expensive to utilize in addition to rear facing cameras and, in addition, would significantly intrude upon the privacy of a vehicle’s occupants. The City Council finds that utilization of front facing cameras is not warranted in light of the nominal increase in vehicles identified when compared against the significant invasion of privacy that would result to vehicle occupants. The City Council further finds that the overall purpose and objective of the City’s ATE ordinance is not materially thwarted or impaired by the lack of front facing cameras, and that utilization of solely rear facing cameras is in the best interest of the public health, safety, and welfare.

WHEREAS, the Police Department has at least annually calibrated the ATE equipment internally since the enactment of the initial ATE ordinance. Consistent with past practice of the Department, the City Council wishes to codify the practice of the Police Department as it relates to calibration.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of Muscatine, Iowa as follows:

SECTION 1. AMENDMENT. TITLE 7 VEHICLES AND TRANSPORTATION, CHAPTER 5 AUTOMATED TRAFFIC ENFORCEMENT of the City Code of Muscatine Section 7-5-5 is amended by adding or ~~deleting~~ the following:

7-5-5 Penalty and Appeal.

- A. Subject to the provisions of 7-5-5(C), any violation of Subsection 7-5-3(A) shall be considered a notice of violation for which a civil fine of (\$140.00) shall be imposed, payable to the City of Muscatine.
- B. Subject to the provisions of 7-5-5(C), any violation of Subsection 7-5-3(B) shall be considered a notice of violation for which a civil fine as listed in the tables below shall be imposed, payable to the City of Muscatine.

1. Standard ATE Mobile ATE Penalties.

Speed Over Limit	Civil Fine
1 through 10 mph	\$ 0
11 through 20 mph	\$ 140
21 through 25 mph	\$ 170
26 through 30 mph	\$ 360
Over 30 mph	\$ 490

2. Mobile ATE Penalties in School or Construction Zones.

Speed Over Limit	Civil Fine
1 through 5 mph	\$ 0
6 through 10 mph	\$ 130
11 through 20 mph	\$ 140
21 through 25 mph	\$ 170
26 through 30 mph	\$ 360
Over 30 mph	\$ 490

~~C. A recipient of an automated traffic citation may contact the issuing officer and ask for an in person review of the citation, the facts surrounding the issuance of the citation and to present any extenuating circumstances that pertain to that violation. Based on this review the issuing officer may sustain or void the citation.~~

~~D. A recipient of an automated traffic citation may dispute the citation by requesting the issuance of a municipal infraction citation by the Police Department within the first thirty (30) days after the violation notice was mailed. Such request will result in a required court appearance by the recipient and in the scheduling of a trial before a judge or magistrate at the Muscatine County Courthouse. The issuance of a municipal infraction citation will cause the imposition of state mandated court costs to be added to the amount of the violation in the event of a guilty finding by the court.~~

~~E. If a recipient of an automated traffic enforcement citation does not pay the fine by the stated due date or request a trial before a judge or magistrate within the thirty (30) days following the mailing of the notice, a second violation notice~~

~~shall be mailed with a thirty five dollar (\$35.00) late fee added to the civil fine. If at the end of the thirty (30) day period the recipient of the automated traffic enforcement citation does not pay the fine or request a trial before a judge or magistrate the recipient shall be deemed guilty of violation and held liable for the fine plus the late fee.~~

~~F. If the recipient of an automated traffic enforcement citation does not pay the fine and late fee by the stated due date on the second violation notice the civil penalties imposed under the provisions of this Ordinance shall be collectible, together with any interest and penalties thereon, by either a private agency on behalf of the City or by civil suit.~~

C. If the recipient of an automated traffic citation admits and pays the citation within thirty (30) days of issuance of the citation, such person shall be subject to the penalty set forth below, rather than the schedule of penalties set forth in subsection B, above.

1. If admitted and paid within thirty (30) days of issuance of the citation, any violation of Subsection 7-5-3(A) shall be punishable by a civil penalty of (\$75.00).
2. If admitted and paid within thirty (30) days of issuance of the citation, any violation of Subsection 7-5-3(B) shall be punishable by a civil fine as listed in the tables below:

i. Standard ATE Mobile ATE Penalties.

Speed Over Limit	Civil Fine
1 through 10 mph	\$ 0
11 through 20 mph	\$ 75
21 through 25 mph	\$ 100
26 through 30 mph	\$ 250
Over 30 mph	\$ 350

1. Mobile ATE Penalties in School or Construction Zones.

Speed Over Limit	Civil Fine
1 through 5 mph	\$ 0
6 through 10 mph	\$ 70
11 through 20 mph	\$ 75
21 through 25 mph	\$ 100
26 through 30 mph	\$ 250
Over 30 mph	\$ 350

Upon payment of the above penalty to the City Clerk or his or her designee within thirty days of issuance of the citation, the recipient of the citation shall not be further prosecuted or assessed any costs or other expenses for such violation, and the City shall retain all penalties collected pursuant to this section.

- D. Where an automated traffic citation charged upon a simple notice of violation pursuant to this section is not admitted and paid by the person charged within thirty days of issuance of the notice of violation, the City may file a civil municipal infraction citation, which shall be served and filed with the courts in the manner prescribed by the applicable provision(s) of this Code. In the event that a municipal infraction citation is filed, the municipal infraction citation shall be subject to the civil penalty set forth in subsection B above, in addition to other court costs, service costs, and other relief as may be permitted by law.
- E. A recipient of an automated traffic citation may contact the issuing officer and ask for an in-person review of the citation, the facts surrounding the issuance of the citation and to present any extenuating circumstances that pertain to that violation. Based on this review the issuing officer may sustain or void the citation.

SECTION 2. AMENDMENT. TITLE 7 VEHICLES AND TRANSPORTATION, CHAPTER 5 AUTOMATED TRAFFIC ENFORCEMENT of the City Code of Muscatine is amended by adding the following as Subsection 6:

7-5-6 Calibration.

The Police Chief or his or her designee shall calibrate the ATE equipment placed at intersections designated by the City to monitor compliance with speed regulations at least once annually. For purposes of this section, calibration shall mean the procedure by which ATE equipment is tested and verified to ensure its speed-measuring capabilities are functioning properly and accurately. Calibration shall be performed through the use of one or more external verification measures including but not limited to: laser speed determination device, radar, microcomputer device, satellite GPS device, or any other method approved by the Police Chief, which in his or her discretion, produces the same indicia of reliability.

SECTION 3. REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

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 this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

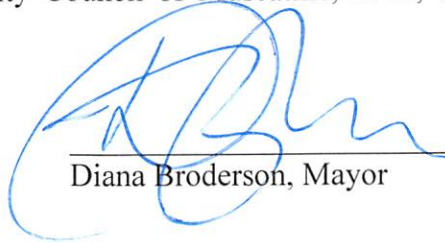
SECTION 5. WHEN EFFECTIVE. This ordinance shall be effective from and after its final passage, approval and publication as provided by law.

Passed First Reading by the City Council of Muscatine, Iowa, 15th day of November, 2018.

Passed Second Reading by the City Council of Muscatine, Iowa, the 6thth day of December, 2018.

PASSED AND ENACTED by the City Council of Muscatine, Iowa, the 20th day of December, 2018.





Diana Broderson, Mayor

ATTEST:



Gregg Mandsager, City Administrator

1st Reading –

Motion by Council Member Harvey, seconded by Council Member Brockert, first reading of Ordinance No. 94582-1218 (2018/2019).

AYES: 7
NAYS: 0
ABSENT: 0

2nd Reading –

Motion by Council Member Brockert, seconded Council Member Spread, to approve the second reading of Ordinance No. 94582-1218 (2018/2019)

AYES: 7
NAYS: 0
ABSENT: 0

3rd Reading –

Motion by Council Member Spread, seconded by Council Member Brackett, to approve the third reading of Ordinance No. 94582-1218 (2018/2019)

AYES: 7
NAYS: 0
ABSENT: 0

The Mayor declared Ordinance No. 94582-1218(2018/2019) was passed on December 20, 2018.

I certify that the foregoing was published as Ordinance No. 94582-1218 (2018/2019) on the ___ day of _____ 2018.



Gregg Mandsager, City Administrator

***** Proof of Publication *****

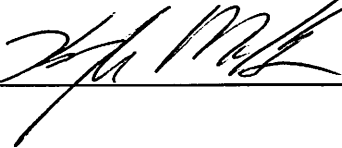
The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

CITY OF MUSCATINE- Legals account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 28955

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.



Section: Notices & Legals
Category: 2520 Miscellaneous Notice
PUBLISHED ON: 01/10/2019

TOTAL AD COST: 108.53
FILED ON: 1/10/2019

Subscribed and sworn to before me by said affiant this 17 day of January 2019.



Notary Public in and for Scott County, Iowa



***** Proof of Publication *****

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VEHICLES AND TRAFFIC, CHAPTER 5
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Speed Over Limit Civil Fine: 1 through 10 mph \$0, 11 through 20 mph \$140, 21 through 25 mph \$170, 26 through 30 mph \$360, Over 30 mph \$490

2. Mobile ATE Penalties in School or Construction Zones.
Speed Over Limit Civil Fine: 1 through 5 mph \$0, 6 through 10 mph \$130, 11 through 20 mph \$140, 21 through 25 mph \$170, 26 through 30 mph \$360, Over 30 mph \$490

C. If the recipient of an automated traffic citation admits and pays the citation within thirty (30) days of issuance of the citation, such person shall be subject to the penalty set forth below, rather than the schedule of penalties set forth in subsection B, above.

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3. Mobile ATE Penalties in School or Construction Zones.
Speed Over Limit Civil Fine: 1 through 5 mph \$0, 6 through 10 mph \$70, 11 through 20 mph \$75, 21 through 25 mph \$100, 26 through 30 mph \$250, Over 30 mph \$350

*** Proof of Publication ***

3100, 20 through 30 mph 3200, Over 30 mph 3350

Upon payment of the above penalty to the City Clerk or his or her designee within thirty days of issuance of the citation, the recipient of the citation shall not be further prosecuted or assessed any costs or other expenses for such violation, and the City shall retain all penalties collected pursuant to this section.

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