

ORDINANCE NO. _____

An Ordinance Amending Oelwein Municipal Code Chapter 22 Vehicles and Traffic, Adding Article VII Automatic Traffic Enforcement Sections 22-180 through Section 22-189.

BE IT ORDAINED by the City Council of the City of Oelwein, Iowa, as follows:

Section 1. That the General Ordinances of the City of Oelwein adopted July 1, 2012 be amended by adding Article VII to Chapter 22, Automatic Traffic Enforcement Sections 22-180 through Section 22-189 as follows:

SECTION 22-180. AUTOMATIC TRAFFIC ENFORCEMENT

The City of Oelwein, in accordance with its police powers, may deploy, erect or cause to have erected an automatic traffic enforcement system for making video images of vehicles that fail to obey red light traffic signals at intersections designated by the Chief of Police, or their designee, or fail to obey speed regulations at other locations in the city. The systems may be managed by the 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.

SECTION 22-181. 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 Oelwein 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 detected violating a traffic law by failing to obey red light traffic signals at intersections designated by the city administrator or official designee or 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 22-181. 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.

SECTION 22-182. VEHICLE OWNER'S CIVIL LIABILITY FOR CERTAIN TRAFFIC OFFENSES

1. The vehicle Owner shall be liable for a fine as imposed if a vehicle is detected crossing 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, the Vehicle Owner shall be subject to a civil fine as scheduled below in section 22-187.
2. If a vehicle is detected traveling at a speed above the posted limit, the Vehicle Owner shall be subject to a civil fine as scheduled below in subsection 22-187.
3. The violation may be exempted from liability as outlined below in subsection 22-185 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.

SECTION 22-183. NOTICE OF VIOLATION; FINE

1. Upon an Oelwein Police Officer's determination that the Automated Traffic Enforcement System has detected a violation described in subsections 22-182(1) or (2), a 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 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 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 notice is a photographic record obtained by an Automated Traffic Enforcement System.
2. Any violation of subsection 22-182 (1) or 22-182 (2) above shall be subject to a civil fine as stated in Section 22-187. All civil fines shall be payable to the City of Oelwein.

SECTION 22-184. 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 Oelwein Police Department before an administrative appeals board (the "Board") consisting of one or more impartial 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 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.
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 Clerk of Courts of the Iowa District Court in Fayette 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 mandated court costs will be added to the amount of the fine imposed by this section.

SECTION 22-185. EXCEPTIONS TO OWNER LIABILITY

There shall be no liability pursuant to this section if:

1. The operator of the vehicle in question was issued a municipal infraction for the violation in question pursuant to Oelwein Code 22-241 or was issued a uniform traffic citation for the violation in question pursuant to Chapter 321 of the Code of Iowa; 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.

SECTION 22-186. 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 may be filed by the Oelwein Police Department and a fine may be sought in accordance with Oelwein Code 22-241 rather than section 22-187 below. If the Court finds the Vehicle Owner guilty of the violation, mandated court costs will be added to the amount of the fine imposed by this section. 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 Oelwein Municipal Code 22-241 and 364.22 of the Code of Iowa, seeking

judgment for the applicable civil fine provided in section 22-187 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. 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 22-187. FINES

Subsection	Speed over the limit	Civil Fine	If in a Construction or School Zone
1	1 through 5 miles per hour ("MPH")	\$25	\$50
2	6 through 9 MPH	\$50	\$100
3	10 through 14 MPH	\$100	\$200
4	15 through 19 MPH	\$150	\$300
5	20 through 24 MPH	\$200	\$400
6	25 through 29 MPH	\$250	\$500
7	Over 30 MPH	\$400	\$800
8	Failure to stop for a red light	\$100	\$200

SECTION 22-188 – 22-189 Reserved.

Section 2. That all Ordinances or parts thereof in conflict herewith be and the same are hereby repealed. This Ordinance shall become effective upon its passage.

Brett DeVore, Mayor

Attest:

Dylan Mulfinger, City Administrator

Recorded _____, 2021.

Dylan Mulfinger, City Administrator

First Reading on _____:
It was moved by _____ and seconded by _____ that the Ordinance as read be adopted, and upon roll call there were:
AYES NAYS ABSENT ABSTAIN

Second Reading on _____ It was moved by _____ and seconded by _____ that the Ordinance as read be adopted (or to suspend the rules), and upon roll call there were:
AYES NAYS ABSENT ABSTAIN

Third Reading on _____ It was moved by _____ and seconded by _____ that the Ordinance as read be adopted (or to suspend the rules) and upon roll call there were:
AYES NAYS ABSENT ABSTAIN