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1 WHEREAS, examining fatalities in crashes involving different modes of
2 transportation, there have been slight increases in fatalities in crashes
3 involving bicycles, motorcycles, and motor vehicles (cars, trucks, SUVs, vans,
4 semis, and buses) in recent years; and

5 WHEREAS, pedestrian fatalities, on the other hand, have increased four
6 times over this period, representing as much as half of all traffic deaths in our
7 community in any given year; and

8 WHEREAS, the City has committed to a Vision Zero Action Plan that
9 establishes a roadmap for Albuquerque to improve traffic safety today and
10 eliminate traffic deaths and serious injuries by 2040; and

11 WHEREAS, pursuant to Section 8-1-2-4 ROA (1994), the Mayor, or his
12 designated representative, may place and maintain such additional traffic
13 control devices as are deemed necessary to regulate traffic under this Traffic
14 Code or state law, or to guide or warn traffic; and

15 WHEREAS, speed enforcement cameras are different from red light
16 cameras because speed enforcement cameras monitor the speed of travel to
17 enforce the speed limit and do not monitor red light violations; and

18 WHEREAS, speeding is a serious issue in Albuquerque, but the police also
19 have other crime fighting priorities that require difficult enforcement
20 decisions; and

21 WHEREAS, traffic enforcement is the leading cause of interactions between
22 police and the public, according to a 2018 report by the Department of Justice;
23 and

24 WHEREAS, speed enforcement cameras would result in more consistent
25 and unbiased enforcement of traffic laws; and

26 WHEREAS, speed enforcement cameras would limit unnecessary
27 interactions between civilians and police; and

28 WHEREAS, speed enforcement cameras conserve police resources and
29 increase safety to officers and the public; and

30 WHEREAS, the City Council finds that some drivers in Albuquerque
31 repeatedly violate posted speed limits and that state law against speeding is
32 inadequate to preserve public safety in Albuquerque without enforcement; and

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1 WHEREAS, the City Council finds that law enforcement and other local
2 agencies employ a variety of methods to reduce speeding, including traffic
3 engineering, education, and enforcement; and

4 WHEREAS, the City Council finds that traffic speed enforcement is critical
5 to the efforts of Albuquerque to reduce factors that contribute to traffic
6 collisions that result in fatalities or injuries; and

7 WHEREAS, the City Council finds that additional tools, including
8 automated speed enforcement, are available to assist cities in addressing
9 excessive speeding and speed-related crashes; and

10 WHEREAS, the City Council finds that automated speed enforcement (ASE)
11 offers a high rate of detection, and, in conjunction with education, traffic
12 engineering, and law enforcement measures, it can significantly improve
13 traffic safety and prevent traffic related fatalities and injuries; and

14 WHEREAS, the City Council declares that enforcing speed limits using ASE
15 systems on streets where speeding drivers negatively impact traffic safety is a
16 reliable and cost-effective means to prevent further fatalities and injuries and
17 would be in the public interest; and

18 WHEREAS, the City Council declares that speeding is a nuisance that must
19 be abated by the assessment of fines; and

20 WHEREAS, the City Council declares that this article is a nuisance
21 abatement article enacted pursuant to the City’s authority under state law and
22 the remedies are purely civil and not criminal in nature.

23 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY
24 ALBUQUERQUE:

25 SECTION 1. A new Article 15, the “Albuquerque Automated Speed
26 Enforcement Ordinance,” is hereby added and adopted within Chapter 7
27 “Transportation, Vehicles, and Traffic,” as follows:

28 § 7-15-1 SHORT TITLE.

29 This article may be referred to as the Albuquerque Automated Speed
30 Enforcement Ordinance or “ASE.”

31 § 7-15-2 DEFINITIONS.

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1 For the purposes of the Albuquerque Automated Speed Enforcement
2 Ordinance, the following definitions shall apply unless the context clearly
3 indicates or requires a different meaning:

4 ASE SYSTEM FINE. The fine assessed for a violation, as set forth in
5 Section 7-15-3, or successor provision under this article (or successor article
6 of the city’s codified ordinances).

7 ASE SYSTEM FINE NOTICE. A written document mailed to the address of
8 the registered owner or nominee stating that a violation has occurred and
9 payment is due.

10 CAMERA SPEED DEVICE or “CSD.” The instrument that detects a violation
11 of this article. The definition includes but is not limited to cameras and
12 electronic speed detection equipment reasonably relied upon by Police
13 Officers.

14 NOMINATE or NOMINATION. A written statement by the registered owner
15 identifying the actual driver of a car as the responsible party for a violation.

16 NUISANCE. The act of operating a vehicle in violation of this article.

17 VIOLATION. A violation of this article.

18 § 7-15-3 VIOLATION. Any civil infraction under this article resulting from
19 any action or conduct that would otherwise be defined as a traffic violation
20 under § 8-1-2-6 of this Code of Ordinances, NMSA 1978 § 66-7-104 of the New
21 Mexico State Motor Vehicle Code or any other city or state laws pertaining to
22 speeding is a violation. This article does not apply to emergency vehicles
23 responding to an emergency.

24 § 7-15-4 ENFORCEMENT.

25 (A) Violation recorded by CSD. The contractor shall provide all evidence of
26 a CSD-recorded violation to a police officer. A police officer shall review
27 all CSD evidence provided by the contractor. If the police officer
28 determines that a violation has occurred, the police officer shall cause
29 an ASE fine notice to be delivered to the registered owner. The
30 registered owner is strictly and vicariously liable for the violation unless
31 one of the exceptions herein applies. If there is more than one
32 registered owner, all registered owners shall be jointly and severally
33 liable for the violation.

1 (B) ASE fine notice.

2 (1) The ASE fine notice shall state and contain the name of the
3 registered owner or nominee, the effective date of the ASE fine
4 notice, the type of violation, the date, time, and location of the
5 violation, a picture of the violation, the license plate number of the
6 vehicle, the name and identification of the issuing police officer, the
7 amount of the fine, the response due date and the return address.
8 The ASE fine notice shall inform the registered owner or the
9 nominee of the right to request a hearing.

10 (2) Delivery. The ASE fine notice shall be delivered to the address of the
11 registered owner according to the address registered with the
12 Department of Motor Vehicles, from information obtained from the
13 Metropolitan Court, from Department Records, or from any other
14 documentation or records reasonably relied upon by police officers
15 or it shall be delivered to the address of the nominee according to
16 the owner's affidavit.

17 (C) Response to an ASE fine notice. The registered owner shall pay the
18 fine, file an owner's affidavit making a nomination, or request a hearing
19 by the response due date as indicated by the ASE fine notice.

20 (1) Nomination.

21 (a) A registered owner not driving the car at the time of the
22 violation may either accept the responsibility and pay the
23 ASE fine, or identify the driver so an ASE fine notice can be
24 sent to the driver. If the registered owner claims that
25 another person was driving the vehicle at the time of the
26 violation, the registered owner shall so indicate on the
27 owner's affidavit and identify the person who was driving
28 the vehicle. Any registered owner who submits an owner's
29 affidavit does so under penalty of perjury.

30 (D) Default. If the city does not receive payment of the ASE fine, a
31 nomination, or a request for a hearing by the response due date as
32 indicated by the ASE fine notice, the registered owner is in default. If
33 the default is not cured, the city may pursue all remedies for collection

- 1 of a debt and is entitled to an award of reasonable attorney’s fees
2 incurred.
- 3 (E) Hearing. In the event of a demand for a hearing, the Hearing Officer
4 shall hold a hearing pursuant to the procedures outlined in the IHO
5 Ordinance, ROA 1994, §§ 2-7-8-1 to 2-7-8-9. The hearing shall be
6 conducted following the rules of evidence and civil procedure for the
7 district courts. The Department has the burden to prove the violation by
8 a preponderance of the evidence. The respondent has the burden to
9 prove any defenses by a preponderance of the evidence. If the
10 Department prevails, the respondent shall pay the fine within 30
11 consecutive days from the date of the decision.
- 12 (F) Defenses.
- 13 (1) The vehicle was stolen.
- 14 (2) The ownership of the vehicle had lawfully been transferred and
15 conveyed from the registered owner to another person before the
16 time of the alleged violation.
- 17 (3) The evidence does not show that a violation was committed
18 involving the subject vehicle.
- 19 (4) The registered owner was not driving the vehicle at the time of the
20 violation.
- 21 (5) The registered owner did not receive notice because the ASE fine
22 notice was not mailed to the address of record with the
23 Department of Motor Vehicles.
- 24 (G) Fine.
- 25 (1) The fine for the violation shall be \$100.
- 26 § 7-15-5 ADMINISTRATION.
- 27 (A) The Albuquerque Police Department shall be responsible for
28 administration of this article. Reasonable rules and regulations may be
29 promulgated by the Mayor or his designee to carry out the intent and
30 purpose of this article.
- 31 (C) The revenue generated through ASE shall be retained and distributed in
32 accordance with the provisions of Section 3-18-17(A)(2) NMSA 1978 (2009).

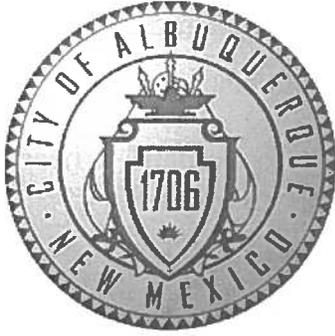
1 **SECTION 2. SEVERABILITY CLAUSE.** If any section, paragraph, word or
2 phrase of this ordinance is for any reason held to be invalid, or unenforceable
3 by any court of competent jurisdiction, such decision shall not affect the
4 validity of the remaining provisions of this ordinance. The Council hereby
5 declares that it would have passed this ordinance and each section,
6 paragraph, sentence, clause, word or phrase thereof irrespective of any
7 provision being declared unconstitutional or otherwise invalid.

8 **SECTION 3. COMPILATION.** Section 1 of this ordinance shall be
9 incorporated in and made part of the City Charter and Revised Ordinances of
10 Albuquerque, New Mexico, 1994.

11 **SECTION 4. EFFECTIVE DATE.** This ordinance shall take effect five (5) days
12 after publication by title and general summary.

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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

May 26, 2021

TO: Cynthia D. Borrego, City Council President

FROM: Timothy M. Keller, Mayor 

SUBJECT: Proposed Automated Speed Enforcement Ordinance

The Mayor's Office recommends enacting the proposed Automated Speed Enforcement Ordinance, which aims to monitor the speed of travel and enforce the speed limit through speed enforcement cameras.

The proposed Automated Speed Enforcement Ordinance would:

1. Not abrogate or impair enforcement authority of existing traffic laws by a police officer for a violation committed in the officer's presence.
2. Create a nuisance for operating a vehicle in violation of this ordinance and be applicable to all drivers within the City of Albuquerque limits driving on roads where speed is monitored through automated speed enforcement cameras.
3. Create an automated speed enforcement program that monitors speed on city roads through speed enforcement cameras. A speeding violation under this ordinance would result in a civil traffic citation for \$100 dollars per speeding violation detected by the speed enforcement cameras. A sworn police officer would review footage captured by the speed enforcement cameras and if the police officer determines that a violation occurred, an Automated Speed Enforcement Fine Notice would be issued and delivered to the address of the registered owner according to the addressed registered with the department of motor vehicles. The registered car owner would have the ability to nominate and identify the driver at the time of the violation, if the registered owner was not the responsible party for the violation.

Title/Subject of Legislation: Proposed Automated Speed Enforcement Ordinance

- 4. Allow the registered owner or nominee the opportunity to demand a hearing before a City of Albuquerque Hearing Officer and present defenses.

DS
M

Approved:



6/17/21

Sarita Nair, JD, MCRP Date
Chief Administrative Officer

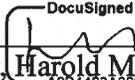
Approved as to Legal Form:

DocuSigned by:

~~Samantha M. (1601/1021) Deputy City Attorney~~ ~~6/15/21 AM MDT~~
~~Esteban A. Aguilar, Jr.~~ Date
City Attorney

Recommended:

DocuSigned by:



5/30/2021 | 5:29 AM PDT

Director, Harold Medina. Date
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Chief of Police Department

Cover Analysis

1. What is it?

The Proposed Automated Speed Enforcement Ordinance, § 7-15-1 et. seq., monitors the speed of travel and enforces the speed limit, improving traffic safety through automated speed enforcement cameras.

2. What will this piece of legislation do?

Create an automated speed enforcement program within city limits under which speeding drivers are issued a civil, traffic citation; conserve police resources and increase safety to officers and the public; and provide a reliable and cost-effective means to prevent further fatalities and injuries that would be in the public interest.

3. Why is this project needed?

Two studies in 2018 and 2019 found that Albuquerque is among the 20 most dangerous cities in the United States for all road users. This proposed ordinance is an important piece of the City's overall effort to improve traffic and public safety.

4. How much will it cost and what is the funding source?

The working assumption is that incoming revenue will cover all operating expenses associated with this project. Additional cost information will be available after responses to the RFP are received.

5. Is there a revenue source associated with this contract? If so, what level of income is projected?

The working assumption is that incoming revenue will cover all operating expenses associated with this project. Additional cost information will be available after responses to the RFP are received.

6. What will happen if the project is not approved?

Albuquerque will continue to be a one of the most dangerous cities in the United States for all road users because automated speed enforcement will not be utilized as a tool to improve traffic safety and reduce traffic fatalities.

7. Is this service already provided by another entity?

This is not a service related legislation.

FISCAL IMPACT ANALYSIS

TITLE: Automated Speed Enforcement Ordinance

R: O:
 FUND: 110
 DEPT: Police

- No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	2022	Fiscal Years 2023	2024	Total
Base Salary/Wages				-
Fringe Benefits at	-	-	-	-
Subtotal Personnel	-	-	-	-
Operating Expenses				
Property	-	-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
<input type="checkbox"/> Estimated revenues not affected				
<input type="checkbox"/> Estimated revenue impact				
Revenue from program				-
Amount of Grant		-	-	
City Cash Match				
City Inkind Match				
City IDOH				
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.

* Range if not easily quantifiable.

Number of Positions created 0

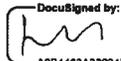
COMMENTS: The working assumption is that incoming revenue will cover all operating expenses associated with this project. No measurable fiscal impact to the City is anticipated.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

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 Maria Garcia-Cuniguan
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 FISCAL MANAGER

APPROVED:

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 CITY ECONOMIST