

CITY OF GREELEY, COLORADO

ORDINANCE NO. 6, 2024

**AN ORDINANCE AMENDING THE GREELEY MUNICIPAL CODE, TITLE 16,
CHAPTER 1, TRAFFIC CODE, BY ADDING ARTICLE XX, AUTOMATED
ENFORCEMENT SYSTEMS**

WHEREAS, it becomes necessary to update the Greeley Municipal Code from time to time to address changes in policies and effect different approaches to obtain public safety measures within the City; and

WHEREAS, the State of Colorado has adopted Senate Bill 23-200 which modified C.R.S. §42-4-110.5 and provisions relating to Automated Enforcement Systems used throughout the state; and

WHEREAS, the Greeley Police Department has advocated that the City engage in the utilization of Automated Enforcement Systems throughout the City in order to enhance public safety by the issuance of citations to persons driving in excess of the speed limit and thereby also reducing the number of accidents which occur due to traffic speeding violations; and

WHEREAS, the City Council has considered the merits of utilizing Automated Enforcement Systems within the City of Greeley in order to enhance public safety and has determined that the City should utilize Automated Enforcement Systems; and

WHEREAS, in order to establish use of Automated Enforcement Systems throughout the City, the Greeley Municipal Code must be amended.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY,
COLORADO:**

Section 1. Greeley Municipal Code, Title 16, Chapter 1, is hereby amended by the addition of Article XX as described in Appendix A , attached hereto and incorporated herein.

Section 2. This ordinance shall take effect on the fifth day after its final publication, as provided by Section 3-16 of the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS 16th DAY OF APRIL 2024.

ATTEST:



THE CITY OF GREELEY, COLORADO

By: _____

City Clerk

By: _____

Mayor

APPENDIX A
CITY OF GREELEY, COLORADO
ORDINANCE NO. 6, 2024

ORDINANCE AMENDING CHAPTER 1 OF TITLE 16
GREELEY MUNICIPAL CODE

Article XX. Automated Enforcement Systems.

Sec. 16-650. Authority.

(a) The city manager is authorized to use automated enforcement systems otherwise known as camera radar to detect violations of section 16-351, "Speed limits" within school zones, residential neighborhoods, along any street that borders a municipal park, and along any automated vehicle identification corridor which has been so identified by city council.

(b) The city manager shall by administrative rule designate those employees who are authorized to enforce speeding violations detected through the use of camera radar pursuant to this code. All peace officers employed by the police department are authorized to enforce speeding violations detected through the use of camera radar.

Sec. 16-651. Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:

Automated Vehicle Identification Corridor means a street or portion thereof which has been designated by city council as an area which data has shown has a high incidence of speeding, reckless driving, accidents, or community complaints.

Camera means a device capable of capturing visual images, and includes, without limitation, cameras which capture images by the effect of light on chemicals on a film and cameras which capture images by converting light into electromagnetic or optical data which are stored on magnetic tape, computer memory disks or other storage media.

Camera radar means a device used for speed enforcement consisting of a camera and a radar unit or other speed measurement device that can be programmed to automatically produce a photographic image which depicts a vehicle which has exceeded the speed limit, the driver of the vehicle, and which also indicates the vehicle's speed and the date and approximate time of day and approximate location of the violation.

Notice of Violation means a notice mailed to a registered owner of a vehicle involved in any traffic violation detected by camera radar advising that a violation has been detected, or a similar notice mailed to the operator of the vehicle identified by a registered owner of said vehicle.

Photo Radar Referee shall mean an employee of the city designated by the city manager to review and adjudicate disputes associated with notices of violation generated by camera radar. The terms "Photo Radar Referee" and "Referee" shall be synonymous for the purposes of this Article.

Residential neighborhood means any block on which a majority of the improvements along both sides of the street are residential dwellings and the speed limit is 35 miles per hour or less.

Sec. 16-652. Signage.

- (a) Prior to utilization of camera radar for enforcement of speeding violations within a school zone, residential neighborhood, or along any street that borders a municipal park, there must be posted an appropriate temporary or permanent sign in a conspicuous place not fewer than 300 feet before the area in which the camera radar system is to be used notifying the public that the camera radar device is in use immediately ahead.
 - (1) The requirements of subsection (a) shall not be deemed satisfied by the posting of a permanent sign or signs at the borders of the city, nor by the posting of a permanent sign in an area in which the camera radar system is to be used, but this subsection (a)(1) shall not be deemed a prohibition against the posting of such permanent signs.
- (b) Prior to utilization of camera radar for enforcement of speeding violations in any automated vehicle identification corridor as identified by city council, the city must:
 - (1) Post a permanent sign in a conspicuous place not fewer than 300 feet before the beginning of the corridor and a permanent sign not fewer than 300 feet before each camera within the corridor thereafter or a temporary sign not fewer than 300 feet before any mobile camera radar system;
 - (2) Illustrate, through data collected within the past five years, incidents of crashes, speeding, reckless driving, or community complaints on a street designated as an automated vehicle identification corridor; and
 - (3) Coordinate with the department of transportation and the Colorado State Patrol.

Sec. 16-653. Notice of Violation.

- (a) When a peace officer or employee of the city, based on evidence obtained in whole or in part by means of camera radar has probable cause to believe that a vehicle has been driven in violation of section 16-351 "Speed limits," the peace officer or employee of the city may issue, or cause to be issued through a contractor designated by the city, a notice of violation charging the person in whose name the vehicle is registered based on the license plate or any other identification of the vehicle with the speed limit violation. If, however, the vehicle is registered in more than one person's name, the notice of violation shall be issued to the registrant whom the issuing officer or employee determines, under all the facts and circumstances, is the person most likely depicted in the image produced by the camera radar.
- (b) The notice of violation shall contain the name and address of the driver; the license number of the vehicle involved in the violation; a citation of the code section alleged to have been violated; a brief description of the violation, the date of the violation; the approximate place of the violation; the amount of the prescribed penalty; and the date the notice of violation is issued. The notice of violation shall also contain the signature, or a reasonable facsimile thereof, of the peace officer or employee of the city issuing the notice.

- (c) A copy of a notice of violation issued under this section must be personally served upon the person charged with the speeding violation; or in lieu of such personal service, by leaving a copy of the notice of violation at the charged person's usual place of abode with some person over the age of 18 years residing therein; or by mailing a copy by first-class mail to the charged person's last known address within thirty days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered in the state, or within sixty days after the violation occurred if the motor vehicle involved in the alleged violation is registered outside of the state.
- (d) The notice of violation shall direct the driver to a website portal where, prior to a date and time specified on the notice, the driver can pay the penalty or submit evidence to dispute the identity of the driver; or request a hearing before the photo radar referee to dispute the notice of violation within the time specified in the notice.
- (e) The photo radar referee shall review all relevant documentation on file with the city in the case, including, but not limited to, the notice of violation, photographs, reports, and written statements, if any. All documents may be submitted electronically. In lieu of the police officer's or city employee's personal appearance at the hearing, the referee may consider the notice of violation and any other written report by the police officer or city employee who issued the citation. Any hearing held before the photo radar referee shall be recorded pursuant to Section 2-1039 of this code.
- (f) Where the referee finds that the violation has not been established, the notice of violation shall be dismissed. Where the referee finds that the violation has been established, the referee shall uphold the notice of violation and order the driver to pay the penalty assessment within seven days of the date of the decision of the referee.
- (g) Any person not satisfied with the decision of the photo radar referee may, by written request provided to the city within ten days of the decision, request that his/her citation be referred to the Greeley Municipal Court for adjudication before a municipal court judge who shall serve as the administrative appeal hearing officer at a de novo hearing.
- (h) Failure to pay the fine or contest the notice of violation within the time period specified in the notice shall result in a civil penalty assessment notice for the amount owed. Failure to pay the civil penalty assessment notice within the time period specified in such notice shall result in the registered owner's waiver of any right to contest the violation or the amount of the prescribed civil penalty and shall result in a final order of liability entered against the registered owner of the vehicle.
- (i) Final orders of liability and orders issued by the administrative appeal hearing officer may be appealed in accordance with Section 2-1041 of this code.

Sec. 16-654. Presumption in reference to automated camera radar penalty assessment notices.

- (a) Proof that a particular vehicle was exceeding the legal speed limit in violation of section 16-351, "Speed limits," as detected by camera radar together with proof that the particular vehicle is registered in the charged person's name, shall raise the evidentiary presumption and constitute *prima facie* evidence in any prosecution of a violation of that section, of the fact that the charged person was the person driving the vehicle depicted in the photograph. However, such evidence and presumption may be rebutted by presentation of any probative

and competent evidence that the charged person was not the driver shown in the photograph. If the image is not of sufficient quality to permit reasonable identification of the driver of the vehicle, the presumption shall not arise.

- (b) In any proceeding in municipal court to adjudicate a violation of section 16-351, "Speed limits" detected through the use of camera radar:
 - (1) The photograph and related data produced by camera radar concerning the violation shall be admissible in court as *prima facie* evidence of the speed of the vehicle depicted in the photograph, provided that the peace officer, or employee of the city who activated the camera radar prior to the photograph being taken testifies as to the placement of the camera radar and the accuracy of the scene depicted in the photograph, and further testifies that the person tested the radar unit of the camera radar for proper calibration within a reasonable period of time both before and after the taking of the photograph. In order to be so admissible in court, the photograph must be of sufficient quality to permit identification of the driver of the vehicle.
 - (2) Testing and operation in accordance with the manufacturer's specifications shall be, without limitation, sufficient foundation for introduction of the evidence.

Sec. 16-655. Penalty

- (a) The penalty for speeding less than 25 miles per hour over the applicable speed limit in violation of section 16-351 "Speed limits", if evidence produced by camera radar constituted an indispensable element of the proof, shall be \$40. Such fine may be doubled for traffic infractions occurring within school zones and construction zones.
- (b) The penalty for speeding 25 miles per hour or more over the applicable speed limit in violation of section 16-351 "Speed limits", if evidence produced by camera radar constituted an indispensable element of the proof, shall be \$200. Speeding violations of 40 miles per hour or more over the speed limit may also be referred to the police department for investigation as to whether other applicable charges are appropriate.
- (c) If a notice of violation, civil penalty assessment notice, or final order of liability is personally served, in addition to any fine assessed under this section, the city may also charge the actual costs of service of process that shall be no more than the amount usually charged for civil service of process.
- (d) The city shall not initiate or pursue a collection action against a registered owner of a motor vehicle for a debt resulting from an unpaid penalty assessment pursuant to this section unless the registered owner is personally served with either the notice of violation, civil penalty assessment notice, or the final order of liability.

Sec. 16-656. Revenue

In order to improve safety in neighborhoods, all revenue collected that is in excess of the Automated Enforcement Systems expenses shall be utilized for the City of Greeley's Neighborhood Traffic Safety Program to install permanent traffic calming measures that serve to improve safety on neighborhood, local and collector streets.

Sec. 16-657. Confidentiality and Exemption from Disclosure

All photographs and video collected by use of camera radar shall be treated as confidential and exempt from disclosure and inspection pursuant to the Colorado Open Records Act. The city manager shall not release or permit the inspection or copying of images that are evidence required to prove a violation taken by camera radar for other than law enforcement purposes, unless directed to do so by subpoena from a court of competent jurisdiction, or as part of litigation or threatened litigation involving the city. Such images shall however, be available to the owner of any vehicle and to the driver of any vehicle depicted in any such image. Images taken by camera radar shall be purged on a regular schedule adopted by the city manager.

Secs. 16-658-668. Reserved.