

REGULATION GOVERNING AUTOMATED SPEED ENFORCEMENT PURSUANT TO THE ALBUQUERQUE AUTOMATED SPEED ENFORCEMENT ORDINANCE

WHEREAS, the City of Albuquerque (“City”) enacted the Albuquerque Automated Speed Enforcement Ordinance (“ASE Ordinance”) on October 15, 2021; and

WHEREAS, the City promulgated the Regulation Governing the Issuance of Fines and Timeliness of Community Service Pursuant to the Albuquerque Automated Speed Enforcement Ordinance (“ASE Regulation”) on March 6, 2022; and

WHEREAS, the City implemented the Automated Speed Enforcement (ASE) Program as part of the City’s commitment to safety for all roadway users and its alignment with the Vision Zero traffic safety initiative, which aims to achieve zero traffic deaths and serious injuries; and

WHEREAS, safe speeds are a core principle of the City’s Vision Zero efforts since, based on comprehensive data, humans are less likely to survive high-speed crashes. High-speed driving increases the frequency and severity of crash impacts not only for people driving or inside an automobile, but especially for vulnerable road users such as people walking or biking; and

WHEREAS, a 2017 study from the National Transportation Safety Board found that ASE programs offered significant safety improvements such as reductions in mean speeds, reductions in the likelihood of speeding more than 10 miles per hour over the posted speed limit, and reductions in the likelihood of a crash resulting in a serious injury or fatality; and

WHEREAS, enforcing speed limits using automated enforcement on streets where speeding drivers create dangerous roadway environments is a reliable and cost-effective strategy to prevent further fatalities and serious injuries.

THE CITY OF ALBUQUERQUE PROMULGATES THIS REGULATION AND AMENDS THE ASE REGULATION AS FOLLOWS:

1.0 PURPOSE

1.1 The purpose of this Regulation is to:

1.1.1 Set the speeding thresholds for the issuance of an ASE system fine notice, associated fines, and community service.

1.1.2 Ensure appeals of ASE fines are conducted in accordance with the ASE Ordinance and the IHO Ordinance.

2.0 AUTHORITY

2.1 This Regulation is promulgated pursuant to ROA 1994, Sections 7-15-1 to -5, hereafter the “Albuquerque Automated Speed Enforcement Ordinance” or “ASE.”

2.2 In the event that this Regulation is in conflict with the provisions of the ASE, the provisions of the ASE shall prevail.

3.0 SHORT TITLE

3.1 This Regulation may be referred to as the Automated Speed Enforcement Regulation or ASE Regulation.

4.0 APPLICABILITY

4.1 This Regulation applies to all ASE system fines issued pursuant to the ASE Ordinance.

5.0 DEFINITIONS

5.1 **ASE SYSTEM FINE** means the fine assessed for a violation, as set forth in ROA 1994, Section 7-15-3, as it may be amended from time to time.

5.2 **ASE SYSTEM FINE NOTICE** means a written document mailed to the address of the registered owner or nominee stating that a violation has occurred and payment is due.

5.3 **CAMERA SPEED DEVICE OR “CSD”** means the instrument that detects a violation of the ASE.

5.4 **EMERGENCY VEHICLE** means a vehicle used by emergency services including, but not limited to, Albuquerque Police Department vehicles, Albuquerque Fire Rescue vehicles, and ambulances.

5.5 **HIGHWAY** means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction.

5.6 **OWNER’S AFFIDAVIT** means a written statement signed under oath and submitted to the City or the City’s contractor under penalty of perjury by the registered owner of a vehicle who asserts therein that the registered owner was not driving the vehicle at the time of a violation.

5.7 **NOMINEE** means the person or entity identified by the registered owner as the driver or responsible party.

5.8 **SAFETY ZONE** means any area that is permanently or temporarily designated as a school zone, construction zone or safety zone pursuant to ROA 1994, Sections 8-1-2-7 and 8-1-2-22 or NMSA 1978, Section 66-1-4.16.

5.9 **SPEED LIMIT** means a highway’s declared speed limit issued pursuant to ROA 1994, Section 8-1-2-6 or NMSA 1978, Section 66-7-303.

6.0 ENFORCEMENT

6.1 For all sections of highways other than those within Safety Zones, an ASE System Fine shall only be issued when:

- 6.1.1 A violation as set forth in ROA 1994, Section 7-15-3, as it may be amended from time to time, has occurred; and
- 6.1.2 The speed of the vehicle, as recorded by the CSD, was equal to or greater than ten (10) miles per hour over the speed limit of the section of highway upon which the vehicle was driving.
- 6.2 For all sections of highways within safety zones, an ASE system fine shall only be issued when:
 - 6.2.1 A violation as set forth in ROA 1994, Section 7-15-3, as it may be amended from time to time, has occurred; and
 - 6.2.2 The speed of the vehicle, as recorded by the CSD, was equal to or greater than five (5) miles per hour over the speed limit of the section of highway upon which the vehicle was driving.

7.0 APPEALS

- 7.1 The hearing officer has no reservoir of equitable power in appeals of ASE system fines.
 - 7.1.1 The hearing officer shall not issue equitable relief or otherwise adjudicate the appeal of an ASE System Fine on the basis of equity.
- 7.2 If the hearing officer finds that an ASE violation, as defined in ROA 1994, Section 7-15-3, has occurred and finds that the appellant has not asserted an applicable and legally recognized defense, the hearing officer shall uphold the ASE System Fine.
 - 7.2.1 An appellant’s history of traffic citations and/or ASE system fines, or lack thereof, shall not constitute a defense to an ASE violation.
 - 7.2.2 The reason an appellant was speeding at the time the ASE violation was recorded shall not constitute a defense to an ASE violation.
 - 7.2.2.1 This does not include emergency vehicles responding to an emergency.

8.0 TIMELINESS

- 8.1 Within thirty (30) days of the date of issuance of an ASE system fine notice, the registered owner shall:
 - 8.1.1 Pay the ASE system fine; or
 - 8.1.2 Notify the City in writing that the registered owner elects to complete community service in lieu of payment of the ASE system fine; or
 - 8.1.3 Submit an owner’s affidavit nominating another individual as the actual driver of the vehicle; or

- 8.1.4 Submit a written request for a hearing to the City’s Independent Office of Hearings, to be conducted in accordance with ROA 1994, Section 7-15-3(F).
- 8.2 Within thirty (30) days of the issuance of an ASE system fine notice, the nominee shall:
 - 8.2.1 Pay the ASE system fine; or
 - 8.2.2 Notify the City in writing that the nominee elects to complete community service in lieu of payment of the ASE system fine; or
 - 8.2.3 Submit a written request for a hearing to the City’s Independent Office of Hearings, to be conducted in accordance with ROA 1994, Section 7-15-3(F).
- 8.3 If a registered owner or nominee elects to complete community service in lieu of payment of the ASE system fine, such community service shall be completed within ninety (90) days from the date of issuance of the first ASE system fine notice, unless otherwise agreed to by the City.
- 8.4 If a registered owner or nominee fails to comply with the timeliness requirements of this Regulation, the registered owner is considered to be in default as defined in ROA 1994, Section 7-15-4(E), as it may be amended from time to time.

9.0 SEVERABILITY

- 9.1 If any section, paragraph, sentence, clause, word or phrase of this Regulation is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Regulation.
- 9.2 This Regulation would have been promulgated and each section, paragraph, sentence, clause, word or phrase thereof would have been promulgated irrespective of provision being declared unconstitutional or otherwise invalid.

This Regulation shall become effective on _____ upon signature by the Chief Administrative Officer and filing with the City Clerk.

Chief Administrative Officer

Date