

REVENUE DEPARTMENT[701](cont'd)

forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in this paragraph "a."

b. Vineyards. Vineyards Beginning with valuations established on or after January 1, 2002, vineyards and any buildings located on a vineyard and used in connection with the vineyard shall be classified as agricultural real estate if the primary use of the land and buildings is an activity related to the production or sale of wine.

Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in this subrule.

c. Algae cultivation and production. Beginning with valuations established on or after January 1, 2013, real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production shall be classified as agricultural real estate if the real estate is an enclosed pond or land which contains a photobioreactor. Pursuant to 2013 Iowa Acts, House File 632, section 1, a photobioreactor is not attached to land upon which it sits and shall not be assessed and taxed as real property.

(1) Determining direct usage. To determine if real estate is used "directly" in the cultivation and production of algae, one must first ensure that the real estate is used to perform activities that cultivate and produce algae and is not used for activities that occur before or after the cultivation and production of algae. If the real estate is used to perform activities for the cultivation and production of algae, to be "directly" so used, the real estate must be used to perform activities that are integral and essential to the cultivation and production, as distinguished from activities that are incidental, merely convenient to, or remote from cultivation and production. The fact that real estate is used for activities that are essential or necessary to the cultivation and production of algae does not mean that the real estate is also "directly" used in production. Even if the real estate is used for activities that are essential or necessary to the cultivation and production of algae, if the activities are far enough removed from the cultivation or production of algae, the real estate would not qualify for the agricultural designation.

(2) Examples. The following are nonexclusive examples of real estate which would not be directly used in the cultivation and production of algae:

1. Real estate that is used to store, assemble, or repair machinery and equipment that is used for cultivation and production of algae.
2. Real estate that is used in the management, administration, advertising, or selling of algae.
3. Real estate that is used in the management, administration, or planning of the cultivation and production of algae.
4. Real estate that is used for packaging of the algae which has been produced and cultivated.

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TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to adopt new Chapter 144, "Automated Traffic Enforcement on the Primary Road System," Iowa Administrative Code.

This proposed new chapter establishes the requirements, procedures, and responsibilities in the use of automated traffic enforcement systems, for fixed and mobile automated enforcement, on the primary road system and will ensure consistency statewide in the use of these systems.

Any interested person may submit written comments or suggestions on the proposed rules before 4:30 p.m. on October 31, 2013. Written comments and suggestions should be addressed to Tracy George,

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Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; or sent by e-mail to tracy.george@dot.iowa.gov.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held on Wednesday, October 30, 2013, at 1 p.m. at the Hampton Inn and Suites, 6210 SE Convenience Boulevard, Ankeny, Iowa 50021.

At the public hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules. Persons who wish to make oral presentations at the public hearing may contact Tracy George at (515)239-1358 or by e-mail at tracy.george@dot.iowa.gov prior to the date of the hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as those relating to hearing or mobility impairments, should contact Tracy George.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, it has been determined that a positive impact on private sector jobs is possible but not able to be determined, as it is not known how many jurisdictions may apply for automated traffic enforcement systems or how many will decide to have the reports completed by consultants. The impact on private sector jobs will be minimal.

These rules are intended to implement Iowa Code chapter 318 and sections 306.4, 307.12, 321.348 and 321.366.

The following amendment is proposed.

Adopt the following **new** 761—Chapter 144:

CHAPTER 144

AUTOMATED TRAFFIC ENFORCEMENT ON THE PRIMARY ROAD SYSTEM

761—144.1(307) Purpose. The purpose of this chapter is to establish requirements, procedures, and responsibilities in the use of automated traffic enforcement systems on the primary road system. This chapter ensures consistency statewide in the use of automated traffic enforcement systems on the primary road system and pertains to fixed and mobile automated enforcement.

761—144.2(307) Contact information. Information relating to this chapter may be obtained from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—144.3(307) Definitions. As used in this chapter:

“Automated enforcement” means the use of automated traffic enforcement systems for enforcement of laws regulating vehicular traffic.

“Automated traffic enforcement system” means a system that operates in conjunction with an official traffic-control signal, as described in Iowa Code section 321.257, or a speed measuring device to produce recorded images of vehicles being operated in violation of traffic or speed laws.

“High-crash location” means a location where data indicates a greater frequency or higher rate of crashes when compared with other similar locations within the local jurisdiction, other like jurisdictions, or larger metropolitan area.

“High-risk location” means a location where the safety of citizens or law enforcement officers would be at higher risk through conventional enforcement methods.

“Interstate roads” means the same as defined in Iowa Code section 306.3.

“Local jurisdiction” means a city or county.

“Primary road system” means the same as defined in Iowa Code section 306.3.

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761—144.4(307) Overview.**144.4(1) General.**

a. Automated enforcement shall only be considered after other engineering and enforcement solutions have been explored and implemented.

b. An automated traffic enforcement system should not be used as a long-term solution for speeding or red-light running.

c. Automated enforcement should only be considered in extremely limited situations on interstate roads because they are the safest class of any roadway in the state and they typically carry a significant amount of non-familiar motorists.

d. Automated enforcement shall only be considered in areas with a documented high-crash or high-risk location in any of the following:

(1) An area or intersection with a significant history of crashes, which can be attributed to red-light running or speeding.

(2) A school zone.

144.4(2) Applicability.

a. These rules apply only to local jurisdictions using or planning to use automated enforcement on the primary road system.

b. The department does not have the authority to own or operate any automated traffic enforcement system.

c. The department shall not receive any financial payment from any automated traffic enforcement system owned or operated by a local jurisdiction.

144.4(3) Department approval. A local jurisdiction must obtain approval from the department prior to using an automated traffic enforcement system on the primary road system.

761—144.5(307) Automated traffic enforcement system request.

144.5(1) Justification report. A local jurisdiction requesting to use an automated traffic enforcement system on the primary road system shall provide the department a justification report. A licensed, professional engineer knowledgeable in traffic safety shall sign the justification report.

a. The justification report shall provide all necessary information and documentation to clearly define the area, provide evidence documenting why the area is a high-crash or high-risk location, and describe the process used to justify the automated traffic enforcement request.

b. At a minimum, the justification report shall:

(1) Document existing traffic speeds, posted speed limits, traffic volumes, and intersection or roadway geometry. Provide assurance that existing speed limits and traffic signal timings are appropriate and describe how they were established.

(2) Document applicable crash history, the primary crash types, crash causes, crash severity, and traffic violations. Only crashes attributable to speeding or the running of a red light shall be included in this report. Compare crash data with other similar locations within the local jurisdiction, other like jurisdictions, or larger metropolitan area.

(3) Identify the critical traffic safety issue(s) from the data in subparagraphs 144.5(1) "b"(1) and (2) above and provide a comprehensive list of countermeasures that may address the critical traffic safety issue(s).

(4) Document solutions or safety countermeasures that have been implemented along with those that have been considered but not implemented. These may include law enforcement, engineering, public education campaigns, and other safety countermeasures.

(5) Document discussions held and actions taken with partnering agencies that have resources which could aid in the reduction of crashes attributable to speeding or the running of a red light.

(6) Document why the local jurisdiction believes automated enforcement is the best solution to address the critical traffic safety issue(s).

c. If the request is for a mobile automated enforcement system, the justification report shall also:

(1) Include a description of the mobile unit.

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(2) Include the proposed duration of use at each location and indicate where the unit will be physically placed relative to the curb, shoulder, median, etc.

144.5(2) Request to department. The local jurisdiction shall submit a request and a justification report to the appropriate district engineer.

144.5(3) Department review. Within 90 days of receipt of the request and a complete justification report, the department will either approve or deny specific automated enforcement locations. The department may need additional response time if collection of data is needed, such as conducting a speed study. Incomplete justification reports will be returned to the local jurisdiction. The department will review the request and justification report, evaluate the process used, and determine if the proposed automated traffic enforcement system is needed and warranted. If approval to proceed is granted to the local jurisdiction, the department shall prepare an agreement which will be signed by the department and the local jurisdiction.

144.5(4) Public notice. Once the department receives a request and a complete justification report from a local jurisdiction, the department may notify the public and include information on the department's Web site.

761—144.6(306,307,318,321) Minimum requirements for automated traffic enforcement systems. The following minimum requirements must be met for each automated traffic enforcement system.

144.6(1) Safe environment for motorists.

a. Any fixed or mobile automated traffic enforcement system must not create a potentially unsafe environment for motorists.

b. The system shall:

(1) Be installed and maintained in a safe manner.

(2) Be located where it does not impede, oppose or interfere with free passage along the primary highway right-of-way.

(3) Be located where it does not create a visual obstruction to passing motorists.

(4) Not be placed or parked on any shoulder or median of any interstate highway.

(5) Not be placed or parked within 15 feet of the outside traffic lane of any interstate highway, unless shielded by a crashworthy barrier.

(6) Not be placed or parked on the outside shoulder of any other primary highway for longer than 48 hours unless shielded by a crashworthy barrier.

(7) Not be placed or parked within 2 feet of the back of the curb of a municipal extension of any primary road.

(8) Be placed in a manner to avoid creating traffic backups or delays.

(9) Not be placed nor operational within the defined limits of any construction or maintenance work zone.

c. Mobile automated traffic enforcement systems in a vehicle shall be owned and operated by a law enforcement agency, be marked with official decals, and have an "official" license plate affixed to the vehicle.

144.6(2) Signage.

a. Permanent signs may be posted on primary access roads entering local jurisdictions that use automated enforcement technology.

b. For all fixed automated traffic enforcement systems, permanent signs shall be posted in advance of the locations where enforcement systems are in use to advise drivers that cameras are in place.

c. For mobile automated traffic enforcement systems, temporary or permanent signs advising that speed is monitored by automated traffic technology shall be posted in advance of the enforcement area as agreed to by the department and the local jurisdiction.

d. All signing shall be in accordance with the "Manual on Uniform Traffic Control Devices," as adopted in 761—Chapter 130.

144.6(3) Enforcement. If used, automated enforcement technology shall be used in conjunction with conventional law enforcement methods, not as a replacement for law enforcement officer contact.

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144.6(4) Calibration. Automated traffic enforcement systems require periodic calibration to ensure accuracy and reliability. Calibration shall be conducted by a local law enforcement officer, trained in the use and calibration of the system, at least quarterly for fixed systems and prior to being used at any new location for mobile systems.

761—144.7(307) Evaluation and reporting.

144.7(1) Annual evaluation. Annually, each local jurisdiction with active automated enforcement on Iowa's primary highway system shall evaluate the effectiveness of its use.

a. At a minimum, the evaluation shall:

(1) Address the impact of automated enforcement technology on reducing speeds or the number of red-light running violations for those sites being monitored.

(2) Identify the number and type of collisions at the sites being monitored, listing comparison data for before-and-after years. If the system includes intersection enforcement, only the monitored approaches should be included in the evaluation.

(3) Evaluate and document the automated traffic enforcement system's impact on addressing the critical traffic safety issue(s) listed in the justification report if a justification report was part of the system's initial approval process.

(4) Provide the total number of citations issued for each calendar year the system has been in operation.

(5) Certify that the calibration requirements of subrule 144.6(4) have been met.

b. Reserved.

144.7(2) Reporting requirements. The annual evaluation shall be reported to the department's office of traffic and safety at the address listed in rule 761—144.2(307) by May 1 each year following a full calendar year of operation and shall be based on performance for the previous year.

761—144.8(307) Continued use of automated traffic enforcement system.

144.8(1) Reevaluation. The department will utilize information collected from the annual evaluation reports from local jurisdictions to assist in evaluating the continued need for such systems at each location. Continued use will be contingent on the effectiveness of the system, appropriate administration of it by the local jurisdiction, the continued compliance with these rules, changes in traffic patterns, infrastructure improvements, and implementation of other identified safety countermeasures.

144.8(2) Reserve the right. The department reserves the right to require removal or modification of a system in a particular location, as deemed appropriate.

761—144.9(307) Appeal process. A local jurisdiction may appeal a decision made by the department as part of this chapter by submitting a written explanation of the issue and any supporting information to the director of transportation. Once the director receives the appeal, the director shall have 30 days to respond. The director's decision is final agency action.

These rules are intended to implement Iowa Code chapter 318 and sections 306.4, 307.12, 321.348 and 321.366.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

October 1, 2012 — October 31, 2012	3.75%
November 1, 2012 — November 30, 2012	3.75%
December 1, 2012 — December 31, 2012	3.75%