

Ordinance No. 12-24
DATE: July 26, 2024

ORDINANCE

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN:
That Chapter 99 of the Middletown Code of Ordinances be added as follows:

CHAPTER 99 –AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES

§ 99-1. Use of automated traffic enforcement safety devices.

Pursuant to the authority granted in Public Act 23-116, Section 11, of the 2023 Session of the Connecticut General Assembly (the “Public Act”) as may be amended from time to time, the City of Middletown (the “City”) hereby authorizes the use of automated traffic enforcement safety devices at locations within school zones, pedestrian safety zones, and other places within the boundaries of the City, provided that the locations of such devices are identified in a plan submitted to and approved by the Connecticut Department of Transportation, together with any other requirements of the Public Act (the “ATESD Program”). The ATESD Program shall be implemented, administered, and overseen by the City’s Transportation, Traffic and Parking Department.

§ 99-2. Definitions.

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

Automated traffic enforcement safety device (“ATESD”) means a device designed to detect and collect evidence of alleged traffic violations by recording images that capture the number plate, date, time, and location of a motor vehicle that (i) exceeds the posted speed limit by ten (10) or more miles per hour, or (ii) fails to stop such vehicle when facing a steady red signal on a traffic control signal.

Automated traffic enforcement safety device operator (“ATESD Operator”) means a person who is trained and certified to operate an automated traffic enforcement safety device.

"Driver," "motor vehicle," "number plate," and "owner" have the same meanings as provided in C.G.S § 14-1 of the general statutes.

Pedestrian safety zone means an area designated by the Office of State Traffic Administration or the traffic authority of the City pursuant to C.G.S. § 14-307a.

Personally identifiable information means information obtained, created or maintained by the City or a vendor as part of the ATESD Program that identifies or describes an owner and includes, but is not be limited to, the owner’s name, address, social security number, telephone number, email address, number plate, photograph, bank account information, credit card number, debit card number, or the date, time, location, or direction of travel on a highway.

School zone means an area designated by the Office of State Traffic Administration or the traffic authority of the City pursuant to C.G.S. § 14-212b.

Traffic authority, traffic control sign, and traffic control signal shall all have the same meanings as provided in C.G.S. § 14-297.

Vendor means a person or entity that (i) provides services to the City under this ordinance and the ATESD Program; (ii) operates, maintains, leases, or licenses an ATESD; or (iii) is authorized to review and assemble the recorded images captured by an ATESD and forward such recorded images to the City.

§ 99-3. Contractual Services.

The City may enter into agreements for contractual services including vendors for the design, installation, operation, or maintenance, or any combination thereof, of ATESDs. If a vendor designs, installs, operates, or maintains an automated traffic enforcement safety device, the vendor's fees may not be contingent on the number of citations issued or fines paid pursuant to this ordinance.

§ Sec. 99-4. Operation of automated traffic enforcement safety device.

All ATESDs shall be operated by an automated traffic enforcement safety device operator.

§ Sec. 99-5. Violation.

- A. An owner of a motor vehicle commits a violation of this ordinance if the person operating the motor vehicle:
 - 1. Exceeds the posted speed limit by ten (10) or more miles per hour and such operation is detected by an ATESD; or
 - 2. Fails to stop such motor vehicle when facing a steady red signal on a traffic control signal and such failure is detected by an ATESD.
- B. ATESD shall be used solely for identifying violations of this ordinance.
- C. For the first thirty (30) days after a location is equipped with an operational ATESD, the owner of a motor vehicle that allegedly violates this ordinance that is detected by such device shall receive a written warning instead of a citation.

§ Sec. 99-6. Penalty for violation.

- A. Whenever an ATESD detects and produces recorded images of a motor vehicle allegedly committing a violation of this ordinance, a sworn member or employee of the City's Police Department or an employee of the City's Transportation, Traffic and Parking Department, as designated by the Local Traffic Authority ("ATESD Official"),

shall review and approve the recorded images provided by such device. If, after such review, the ATESD Official determines that there are reasonable grounds to believe that a violation occurred, the City may issue by first class mail a citation to the owner of such motor vehicle pursuant to Section 11, subsection (i) of the Public Act.

B. A citation under this ordinance shall include the following:

1. The name and address of the owner of the motor vehicle;
2. The number plate of the motor vehicle;
3. The violation charged;
4. The location of the automated traffic enforcement safety device and the date and time of the violation;
5. A copy of or information on how to view, through electronic means, the recorded images that captured the alleged violation;
6. A statement or electronically generated affirmation by the sworn member or employee who viewed the recorded images and determined that a violation occurred;
7. Verification that the automated traffic enforcement safety device was operating correctly at the time of the alleged violation and the date of the most recent calibration check performed pursuant to the Public Act;
8. The amount of the fine imposed and how to pay such fine; and
9. The right to contest the violation and request a hearing pursuant to C.G.S. § 7- 152c.

C. In the case of an alleged violation involving a motor vehicle registered in Connecticut, the citation shall be sent by first class mail not later than thirty (30) days after the identity of the owner is determined and shall be mailed to the address of the owner that is in the records of the Department of Motor Vehicles. In the case of an alleged violation involving a motor vehicle registered in another jurisdiction, the citation shall be sent by first class mail not later than thirty (30) days after the identity of the owner is determined and shall be mailed to the address of the owner that is in the records of the official in the other jurisdiction issuing such registration.

D. A citation shall be invalid unless mailed to an owner not later than sixty (60) days after the alleged violation.

§ Sec. 99-7. Fine for violation.

A. The City shall impose a fine against the owner of a motor vehicle who commits a violation of this ordinance.

- B. The fine for a first violation of this ordinance shall be not more than fifty dollars (\$50.00). The fine for each subsequent violation of this ordinance shall be not more than seventy-five dollars (\$75.00). These fines shall be imposed against the owner of the motor vehicle committing a violation of this ordinance.
- C. Payment of a fine and any associated fees may be made by electronic means.
- D. A reasonable fee, not to exceed fifteen dollars (\$15.00), may be imposed for the costs associated with the electronic processing of the payment of a fine.
- E. Any funds received by the City from fines imposed pursuant to this ordinance shall be used for the purposes of improving transportation mobility, investing in transportation infrastructure improvements, traffic safety or paying the costs associated with the ATESD Program within the City.

§ Sec. 99-8. Appeal.

- A. Any person who is aggrieved because of the imposition of a fine under this article may appeal to the Chief of Police or his/her designee in writing, within 10 days of the imposition of such fine. Any person requesting a hearing shall be given written notice of the date, time, and place of the hearing. Such hearing shall not be held less than 15 days nor more than 30 days from the date of the mailing of the notice.
- B. A person wishing to contest a notice of violation shall appear at the hearing and shall have the right to present evidence. A hearing officer appointed by the Mayor shall conduct a hearing and follow the procedures set forth in C.G.S. § 7-152c, as amended from time to time. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his or her the decision at the end of the hearing.
- C. If the individual filing the appeal fails to appear at the hearing, the hearing officer may enter an assessment by default against said individual upon a finding of proper notice and liability under the applicable statutes or ordinances.
- D. If the hearing officer finds the appealing party liable for the violation and said person does not pay the fine, the City shall take steps allowable under C.G.S. 7-152c(f), which may be amended from time to time, or shall take any other action to recover the assessment and fees, which is permissible under state or federal law.
- E. Hearings will be at the Middletown Police Department.

§ Sec. 99-9. Defenses.

The defenses available to the owner of a motor vehicle that is alleged to have committed a violation of this ordinance shall include, but are not limited to, any one or more of the following:

- A. The operator was driving an emergency vehicle in accordance with the applicable

provisions of C.G.S. § 14-283.

- B. The traffic control signal was inoperative, which is observable on the recorded images.
- C. The violation was necessary for the operator to comply with an order or direction from a law enforcement officer, which is observable on the recorded images.
- D. The violation was necessary to allow the passage of an authorized emergency vehicle, which is observable on the recorded images.
- E. The violation took place during a period of time in which the motor vehicle had been reported as being stolen to a law enforcement unit, as defined in C.G.S. § 7-294a, and had not yet been recovered prior to the time of the violation.
- F. The ATESD was not in compliance with the annual calibration check required pursuant to the applicable provisions of subsection (h) of Section 11 of Public Act 23-116.

§ Sec. 99-10. Disclosure of personally identifiable information.

- A. No personally identifiable information shall be disclosed by the City or a vendor to any person or entity, including any law enforcement unit, except where the disclosure is made in connection with the charging, collection, and enforcement of the fines imposed pursuant to this ordinance.
- B. No personally identifiable information shall be stored or retained by the City or a vendor unless such information is necessary for the charging, collection, and enforcement of the fines imposed pursuant to this ordinance.
- C. The City or a vendor shall destroy all personally identifiable information and other data that specifically identifies a motor vehicle and relates to a violation of this ordinance not later than thirty (30) days after any fine is collected or the resolution of a hearing conducted for the alleged commission of such violation, whichever is later.
- D. Any information and other data gathered from automated traffic enforcement safety devices shall be subject to disclosure under the Freedom of Information Act, as defined in C.G.S. § 1-200, except that no personally identifiable information may be disclosed.

§ Sec. 99-11. Reporting.

In addition to the reporting requirements set forth in Section 13 of Public Act 23-116, the Transportation, Traffic and Parking Department shall, on a biannual basis, provide the ATESD Working Group as designated by the City with a written report that gauges the effectiveness of the ATESD Program.

§ Sec. 99-12. The Public Act.

To the extent of applicability, any provisions of Public Act 23-116 that are necessary to

further and/or effectuate this ordinance are hereby incorporated and adopted into to, herein.

§ Sec. 99-13. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Submitted by: Council Member Jeanette Blackwell.

Approved by: Public Safety Commission at its regular meeting held on July 15, 2024.
General Counsel Commission at its special meeting held on July 25, 2024.

Status: TABLED
by Common Council, City of Middletown
at its meeting held on: AUGUST 5, 2024

Status: APPROVED
by Common Council, City of Middletown
at its meeting held on: SEPTEMBER 3, 2024

K: review/ ordinance/ PD – Ch. 99 automated safety devices – ORD 12-24 – 3 Sept 2024