**Proposed by Mayor Bass**

 **Authorized by Public Act 23-116**

**NEW MILFORD CHARTER**

**CHAPTER 20B (New)**

 **DRAFT**

ORDINANCE AUTHORIZING THE USE OF AUTOMATED

TRAFFIC ENFORCEMENT SAFETY DEVICES

**Sec. 20B-1. Use of Automated Traffic Enforcement Safety Devices.**

Pursuant to the authority granted in and by Section 11 of Connecticut Public Act 23-116, (the “Public Act”; “”P.A.”), the Town if New Milford (the “Town”) does hereby authorize the deployment and use of Automated Traffic Enforcement Safety Devices (alternately referred to as “ATESD”; “Devices”, “Apparatus”) at locations identified in a plan submitted to and approved by the Connecticut Department of Transportation (“Conn.DOT”) within school zones, pedestrian safety zones, and other places within the boundaries of New Milford, Connecticut.

**Sec. 20b-2. Definitions.**

For the purposes of this ordinance and as authorized by PA 23-116, following words, terms, and phrases used in this ordinance shall have the meanings and definitions ascribed to them in P.A. 23-116 section 10, as follows:

1. 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.
2. Automated traffic enforcement safety device operator means and is a person who is trained and

certified to operate an automated traffic enforcement safety device.

1. Pedestrian safety zone means an area designated by the Office of State Traffic

Administration or the New Milford Traffic Authority (“Traffic Authority” pursuant to CGS §14-307a.

1. Personally identifiable information means information created or maintained by the Town

or a vendor that identifies or describes an owner and includes, without limitation, the

owner’s address, telephone number, number plate, photograph, bank account information,

credit and/or debit card number, or the date, time, location, or direction of travel on a

highway.

1. Driver, number plate and owner have the same meanings as ascribed to those words as provided in and by CGS section 14-1.

School zone means an area designated by the Office of State Traffic Administration or the

Traffic Authority pursuant to CGS § 14-212b. Traffic authority, traffic control sign, and traffic control signal all have the same meanings as provided in C.G.S. § 14-297 and New Milford Charter Chapter 20. Vendor means a person or entity that provides services to the Town pursuant to this ordinance and operates, maintains, leases, or licenses an automated traffic enforcement safety device; or is authorized to review and assemble the recorded images captured by an ATESD and forward suc

h recorded images to the Town.

**Sec. 20b-3. Vendors.**

The Town is authorized to may enter into agreements with vendors for the design, installation, operation, or maintenance, or any combination thereof, of automated traffic enforcement safety devices. 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. Notwithstanding Article III of the Charter, contracts may be solicited and awarded by utilization of the State of Connecticut bidding process, or by way of Requests for Proposals or by way of formal competitive bids pursuant to Article III of the Charter. The vendor solicitation process employed shall be that selected by the New Milford Purchasing Authority in its sole discretion. In the event of a conflict between said Article III and his ordinance, the provisions of this ordinance e shall control. The ultimate selection of vendors and awarding of contracts shall be made by said Purchasing Authority in

consultation with the Chief of the New Milford Police Department.

**Sec. 20B-4. Operation of Automated Traffic Enforcement Safety Devices (ATESDs).**

All automated traffic enforcement safety devices shall be operated by an automated traffic

enforcement safety device operator.

**Sec. 20B-5. Violation.**

(a) The owner of a motor vehicle commits a violation of this ordinance if the person

operating such motor vehicle:

(1) Exceeds the posted speed limit by ten (10) or more miles per hour and such

operation is detected by an automated traffic enforcement safety device; 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 automated traffic enforcement

safety device.

(b) Automated traffic enforcement safety devices 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 automated

traffic enforcement safety device, 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. 20B-5. Penalty for violation.**

(a) Whenever an automated traffic enforcement safety device detects and produces recorded

images of a motor vehicle allegedly committing a violation of this ordinance, a sworn

member or employee of the New Milford Police Department, or such other Town employee

designated by the Mayor with the approval of the New Milford Chief of Police, shall review and approve the recorded images provided by such device. If, after such review, the member or employee determines that there are reasonable grounds to believe that a violation occurred, the member or employee may issue by first class mail a citation to the owner of such motor vehicle

(b) A citation under this ordinance shall include the following:

(i) The name and address of the owner of the motor vehicle;

(ii) The number plate of the motor vehicle;

(iii) The violation charged;

(iv) The location of the automated traffic enforcement safety device and the date and

time of the violation;

(v) A copy of or information on how to view, through electronic means, the

recorded images that captured the alleged violation;

(vi) A statement or electronically generated affirmation by the member or employee

who viewed the recorded images and determined that a violation occurred;

(vii) 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;

(viii) The amount of the fine imposed and how to pay such fine; and

(ix) The right to contest the violation and request a hearing pursuant to C.G.S. § 7-

152c.

(c) 1. 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.

2. 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 any official record or the Motor Vehicle Department in the other jurisdiction issuing such registration.

(d) A citation not mailed to an owner within sixty (60) days after the alleged violation shall

 shall be invalid after the expiration if the sixty (60) days.

**Sec. 20B-6. Enforcement and Fine.**

(a

) This ordinance may be enforced by any sworn officer of the New Milford Police Departent. The Town shall impose a fine against the owner of a motor vehicle that commits a violation of this ordinance.

(b) The fine for a first violation of this ordinance shall be fifty dollars ($50.00). The fine

for each subsequent violation of this ordinance shall be 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 fifteen dollar ($15.00) fee shall be imposed for costs associated with the electronic processing of the payment of a fine.

(e) Any funds received by the Town from fines imposed pursuant to this ordinance shall be

used for the purposes of improving transportation mobility, investing in transportation

infrastructure improvements, or paying the costs associated with the use of automated

traffic enforcement safety devices within the Town.

**Sec. 20B-7**. **Appeal.**

Any owner issued a fine for violating the provisions of this ordinance may, within ten (10) days

of the receipt of the fine, appeal in writing to a citation hearing officer in accordance with C.G.S. § 7-152c.

**Sec. 20B-8. 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 automated traffic enforcement safety device was not in compliance with the

calibration check required pursuant to the applicable provisions of PA 23-116..

**Sec. 20B-9. 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 Town or a vendor

unless such information is necessary for the charging, collection, and enforcement of the

fines imposed pursuant to this ordinance.

(c) The Town 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. 20B-10. Compliance with Public Act and Savings Provision.**

To the extent of applicability and/or in the event this ordinance omits any material statutory element or requirement, the provisions of PA 23-116 that are necessary to further and/or effectuate this ordinance or to render this ordinance compliant with PA 23-116 are hereby incorporated and adopted in toto, herein.

**Sec. 20B-11. Severability and Repealer.**

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. All ordinances, bylaws, orders, resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinances, bylaws, orders, resolutions, or parts thereof, heretofore repealed.

This ordinance shall take effect on the 21st day after publication.

DiBella 12/30/2023; 1/02; 1/03; 1/05/2024