

# CITY OF MILES, IOWA

## Ordinance 2023-2

### AN ORDINANCE AMENDING TITLE II POLICY AND ADMINISTRATION CHAPTER 8 POLICE DEPARTMENT OF THE CITY OF MILES MUNICIPAL CODE OF ORDINANCES AUTOMATED TRAFFIC ENFORCEMENT AND THE MEANS FOR CHALLENGING AN AUTOMATED TRAFFIC CITATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILES, IOWA:

That the following Section 2-8-2 Automated Traffic Enforcement shall be added to Title II Policy and Administration Chapter 8 Police Department of the City of Miles Municipal Code of Ordinances:

#### 2-8-2 AUTOMATED TRAFFIC ENFORCEMENT.

1. Having been presented with information and opinions concerning Automated Traffic Enforcement (“ATE”), the Miles City Council finds as follows: The use of ATE advances public interests of traffic safety and safety of emergency responders, as well as the interests of Miles taxpayers in cost effective enforcement of traffic laws. The use of ATE devices which capture an image of only the rear license plate strikes a desirable balance between the above stated public interests and privacy interests of the motoring public. The National Law Enforcement Telecommunications System (“Nlets”) is a cost-effective means for determining ownership of vehicles detected as traveling in violation of traffic laws within the city limits of Miles. The technology underlying ATE is self-calibrating and reliable and its accuracy is readily verifiable.

#### 2. AUTOMATED TRAFFIC ENFORCEMENT SYSTEM.

(a) **General.** In accordance with its police powers, the City may deploy, erect or cause to have erected an automated traffic enforcement system for capturing images of motor vehicles that violate traffic laws by failing to obey red light traffic signals at intersections designated by the City Council or its designee or failing to obey speed regulations within the corporate city limits. The system may be managed by a private contractor that owns and operates the requisite equipment. The police department shall retain supervisory control over the system. The contractor shall provide photographic and/or video images of any potential violations to the police department to review and, in the event the police department determines a vehicle was operated in violation of the City's traffic control ordinances, the police department shall direct that a notice of Automated Traffic Citation be issued to the vehicle owner in accordance with this Section 2-8-2.

#### (b) **Definitions.**

1. **Automated Traffic Citation** shall mean a notice of violation generated in connection with the automated traffic enforcement system.

2. **Automated Traffic Enforcement Contractor** shall mean the company or entity, if any, with which the City of Miles contracts to provide equipment and/or services in connection with the Automated Traffic Enforcement System.

3. **Automated Traffic Enforcement System** shall mean an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic controller or police department employee to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control device or speed

restriction. The Automated Traffic Enforcement System may include a mounted photographic, video or electronic camera and vehicle sensor. The Automated Traffic Enforcement System may include a mobile photographic, video or electronic camera and vehicle sensor.

4. **Vehicle Owner** shall mean the person or entity identified by the Iowa Department of Transportation, or identified by any other state vehicle registration office, as the registered owner of a vehicle detected violating a traffic law by failing to obey red light traffic signals at intersections designated by the city council or official designee or failing to obey speed regulations within the corporate city limits. Notwithstanding the foregoing, in the event the Iowa Department of Transportation or any other state vehicle registration office identifies a person or entity as the lessee of the vehicle, that lessee shall be the vehicle owner for purposes of this Section 2-8-2. In the event a state registration office does not specify whether a person or entity listed on the registration for the vehicle is the owner or the lessee of the vehicle, any person or entity listed on that vehicle registration may be deemed the vehicle owner and held jointly and severally responsible for a violation of this section.

5. **Police Department** shall mean any law enforcement department providing contract law enforcement services to the City of Miles under Section 2-8-1.

6. **Miles Police Officer** shall mean any law enforcement officer employed by the Police Department.

**(c) Vehicle Owner Subject to Civil Fine for Automated Traffic Citations.**

1. If a vehicle is detected traveling at a speed above the posted limit, the Vehicle Owner shall be subject to a civil fine as scheduled below in Section 2-8-2(2)(d).

2. Exemptions from this Section 2-8-2 are set forth in subsection 2-8-2(2)(g) and shall not be considered violations for purposes of the Automated Traffic Enforcement System.

3. In no event will an Automated Traffic Citation be sent or reported to the Iowa Department of Transportation or similar department of any other state for the purpose of being added to the Vehicle Owner's driving record.

**(d) Notice of Automated Traffic Citation; Fines.**

1. Upon the determination by a Miles Police Officer that the Automated Traffic Enforcement System has detected a violation described in Section 2-8-2(c)(1), a notice of an Automated Traffic Citation will be mailed to the Vehicle Owner for each such violation recorded by the Automated Traffic Enforcement System. The Automated Traffic Enforcement Contractor shall mail the notice within 30 days after receiving information about the Vehicle Owner. The notice shall include the name and address of the Vehicle Owner; the vehicle make, if available and readily discernible; the vehicle registration number; the violation alleged; the time, date and location of the alleged violation; the applicable fine; information as to the manner in which the Automated Traffic Citation may be challenged; and that the basis of the notice is a photographic or video record generated by an Automated Traffic Enforcement System.

2. Any violation of Section 2-8-2(c)(1) shall be subject to a civil fine as scheduled in the table below, and the fine for any violation committed in a designated construction zone (as provided by the Code of Iowa), shall be doubled, as scheduled below, subject in any event to the limit on fines sought in municipal infractions.

1 through 5 miles per hour (“MPH”) No Fine  
6 through 10 MPH \$25  
11 through 20 MPH \$75  
21 through 25 MPH \$100  
26 through 30 MPH \$200  
OVER 35 MPH \$300

Speed over the limit if in Construction Zone – Doubled

(e) **Challenging an Automated Traffic Citation.** Within 30 days from the date appearing at the top of a notice of Automated Traffic Citation sent to the Vehicle Owner, the Vehicle Owner may either pay the fee associated with the citation or challenge the citation by submitting a written challenge to the citation or requesting that a municipal infraction be filed pursuant to Iowa Code §364.22 and Section 1-3-2 of the City of Miles Municipal Code of Ordinances. Any such written challenge or request must be on a form specified by and available from the City as indicated on the notice and be sent to the City according to the instructions on that form. Upon receipt of a written challenge a Miles Police Officer shall determine whether the citation should be rescinded. Within 30 days after the City receives such a challenge the City shall notify the Vehicle Owner whether the challenge to the Automated Traffic Citation is successful, in which case, the citation shall be rescinded. Otherwise, the citation shall stand. Thereafter, the City may seek voluntary payment and/or file the citation as a municipal infraction against the Vehicle Owner all as set forth in Section 2-8-2(f).

(f) **Failure to Timely Pay or Challenge Automated Traffic Citation.** If the recipient of an Automated Traffic Citation does not either pay the fine by the due date stated on the original citation or successfully challenge the citation as provided herein, the City may file a municipal infraction against the Vehicle Owner in accordance with Section 1-3-2 of the City of Miles Municipal Code of Ordinances and Iowa Code Section 364.22 seeking judgment for the applicable civil fine provided in Section 2-8-2(d)(2) plus state mandated filing fee and court costs. If judgment is entered for the City in the municipal infraction proceeding, the City may, subject to applicable law, pursue enforcement of the judgment together with interest as permitted by law. Collection of that judgment may include referral to the State of Iowa Income Offset program administered by the Department of Administrative Services, State Accounting Enterprise. Notwithstanding the City’s right to file a municipal infraction, the City may first seek voluntary payment of the fine by sending a written request for payment to the Vehicle Owner and/or referring the matter to a private service agent to conduct collection in accordance with all applicable law.

(g) **Exemptions from Section 2-8-2** The following shall not be considered violations for purposes of the Automated Traffic Enforcement System.

1. The operator of the vehicle in question was issued a uniform traffic citation for the violation in question pursuant to Section 3-3-9 of the City of Miles Municipal Code of Ordinances or Chapter 321 of the Code of Iowa.

2. The violation occurred at any time after the vehicle in question or its state registration plates were reported to a law enforcement agency as having been stolen, provided, however, the vehicle or its plates had not been recovered by the Vehicle Owner at the time of the alleged violation.

3. The vehicle in question was an authorized emergency vehicle.

4. The Miles Police Officer inspecting the recorded image determines that the vehicle in question entered the intersection in order to yield the right-of-way to an emergency vehicle.

5. The Miles Police Officer inspecting the recorded image determines that the vehicle in question was lawfully participating in a funeral procession. The foregoing list of exemptions from Section 2-8-2 shall not be construed as limiting the defenses available to challenge an Automated Traffic Citation or defend a municipal infraction.”

**Full force and effect.** This ordinance shall be in full force and effect from the date of passage and publication as required by law.

**Repealer.** This ordinance shall be construed to repeal any prior ordinance inconsistent herewith.

**Severability of provisions.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision as such holding shall not affect the validity of the remaining portion hereof.

Passed by the City Council of the City of Miles, Iowa, this 3rd day of May, 2023.

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Daniel Ernst  
Mayor

Attest: \_\_\_\_\_  
Brenda Tebbe  
City Clerk

Date of 1<sup>st</sup> reading: April 12, 2023  
Date of 2<sup>nd</sup> reading: May 3, 2023  
Date of 3<sup>rd</sup> reading: May 3, 2023  
Date of Publication: May 10, 2023