

ORDINANCE # 02-2023

PROPOSED ORDINANCE OF THE BOARD OF ALDERMEN OF THE TOWN OF MAMOU PROVIDING FOR THE ENFORCEMENT OF CERTAIN TRAFFIC VIOLATIONS BY AUTOMATED MEANS AND TO PROVIDE FOR CIVIL PENALTIES FOR THOSE CERTAIN TRAFFIC VIOLATIONS ENFORCED BY AUTOMATED MEANS, AND OTHERWISE PROVIDING WITH RESPECT THERETO

WHEREAS, the Town of Mamou is a municipality created under the laws of the State of Louisiana and adherent to the provisions of the Lawrason Act.

WHEREAS, data collected on behalf of the Mamou Police Department indicates a high incidence of drivers disregarding speeding laws on the streets and in the school zones of the Town of Mamou; and

WHEREAS, the Board of Alderman of the Town of Mamou finds controlling speed on the streets of the Town of Mamou through a program utilizing photograph evidence and enforcement through the imposition of civil penalties will help promote and protect the health, safety, and welfare of the children and all citizens of Mamou; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Mamou, in legal and regular and/or special session duly convened, with a quorum present and voting that the electronic traffic enforcement procedure is adopted as follows:

SECTION 1: The Town of Mamou Council (Council) now finds it necessary and expedient to amend the Town of Mamou Code of Ordinances (Code), Title 10 – Vehicles and Traffic, by adding Chapter 10.36, Electronic Traffic Enforcement.

SECTION 2: In consideration of SECTION 1 above, the Board hereby amends Title 10 – Vehicles and Traffic, by adding to said Title Chapter 10.36, Electronic Traffic Enforcement, which said Chapter shall follow immediately after Chapter 10.32, Housing Authority Parking, and shall hereafter read as follows:

CHAPTER 10.36 ELECTRONIC TRAFFIC ENFORCEMENT

Sec. 10.36.010 – Definitions.

The following definitions shall apply:

Administrative Adjudication Hearing shall mean an administrative hearing of violations conducted by the Mamou Mayor’s Court.

Magistrate shall mean the Mayor’s Court Magistrate or a licensed attorney, who meets the qualifications contained within this chapter, designated by the Mayor.

Department shall mean the Mamou Police Department, or an authorized representative as determined by the Chief.

Mayor shall mean the elected Mayor of the Town of Mamou.

Owner shall mean the owner of a vehicle as shown on the vehicle registration records of the Louisiana Office of Public Safety, Office of Motor Vehicles, or the analogous office or agency of another state or country.

Photographic vehicle speed enforcement system or system shall mean a system consisting of an electronic process which is capable of producing one or more recorded images depicting the license plate attached to the rear of a vehicle being operated at a speed in excess of the speed limit. The speed measurement component of the system shall be properly calibrated on a regular basis as determined by the Chief or his designee and the records of such calibration shall be maintained with the Mamou Police Department.

Recorded image means an image recorded by the system depicting the rear of a vehicle which is automatically recorded on a photograph or digital image, which also depicts the recorded speed, date, location, and time of the recorded image.

System location means the highway location toward which a photographic, vehicle speed enforcement system is directed and in operation or a segment of roadway on which a vehicle speed enforcement system is in operation.

Speed limit shall mean the established regulatory speed limit on the subject roadway.

Violation shall mean the notice of civil violation for speeding for this Chapter.

Sec. 10.36.020 – Imposition of civil violation penalty for violations enforced by a photographic speed enforcement system.

- (a) The Council finds and determines a vehicle traveling over the speed limit for the vehicle's direction of travel damages the public by endangering vehicle operators, passengers, and pedestrians alike, by increasing the number of serious traffic crashes, and causing public safety agencies to respond at the expense of the taxpayers thereby decreasing the efficiency of traffic control and traffic flow efforts.
- (b) Except as provided in subsection (c) below, the owner of a vehicle is responsible for a civil violation penalty as shown in the following tables if the vehicle is traveling at a speed in miles per hour (mph) greater than the speed limit as shown when captured by the system in accordance with the vehicle's recorded speed and the corresponding speed limit of the roadway where the notice of civil violation was issued.

MPH OVER SPEED LIMIT	FINE
6 MPH TO 9 MPH	\$140.00
10 MPH to 19 MPH	\$150.00
20 MPH to 29 MPH	\$160.00
31 MPH to 100+ MPH	\$170.00

MPH OVER SPEED LIMIT IN SCHOOL ZONE	FINE
6 MPH TO 10 MPH	\$150.00
11 MPH to 15 MPH	\$160.00
16 MPH to 20 MPH	\$170.00
OVER 21 MPH	\$180.00

Following the guidelines as established by DOTD, the following thresholds shall be established:

Posted Speed Limit (Miles Per Hour)	Minimum Speed for Violation to be issued in a School Zone (Miles Per Hour)	Minimum Speed for Violation to be issued (Miles Per Hour)
15	≥21	≥21
20	≥26	≥26
25	≥31	≥30
30	≥36	≥36
35	≥41	≥43
40	≥46	≥48
45	≥51	≥55
50	≥58	≥60
55	≥63	≥65
60		≥70
65		≥75
70		≥80
75		≥85

- (c) Any photographic vehicle speed enforcement system which is hand-held, mounted in or on a trailer or in a fixed position shall be deployed at the discretion of the Chief of Police, who shall deploy such systems in his discretion within the Town of Mamou.

Sec. 10.36.030 – Late Payments

An owner who fails to pay a civil violation penalty beyond 30 calendar days from the date of mailing the civil notice of violation, inclusive of weekends and legal holidays, shall be subject to a late payment penalty of \$30.00 (e.g., original civil violation + \$30.00 = total civil violation amount, including late payment penalty). A notice of civil violation under this article is presumed to have been received on the tenth calendar day, inclusive of weekends and legal holidays, after the date the notice of civil violation is mailed.

Sec. 10.36.040 – Enforcement; procedures

- (a) The Department is responsible for the enforcement and administration of this ordinance, or the Department may enforce and administer this ordinance in part or in whole, through one or more contractors selected in accordance with applicable law. The Department shall review and inspect the recorded images and determine that an alleged civil violation has occurred. After the Department determines an alleged violation has occurred, the Department shall provide the Mayor, via email or other communication, a list identifying the alleged violations which it has determined to have occurred, prior to submitting the violations to the contractor.

- (b) The actions which can be used to enforce the payment of this civil penalty and related fees include but are not limited to, referring the debt to collection agencies, and/or initiating actions through a court of competent jurisdiction, or any other lawful means, all in accordance with applicable authority, laws and procedure.
- (c) In order to impose a civil violation penalty under this article, the contractor shall mail a notice of civil violation to the owner of the vehicle responsible for the civil violation penalty not later than the 30th calendar day, inclusive of weekends and legal holidays, after the date the Department reviews and inspects the recorded images, and an alleged civil violation is determined by the Department to have occurred.
- (d) A notice of civil violation issued under this article shall contain the following:
 - (1) A description of the violation alleged;
 - (2) The date, time and location of the violation;
 - (3) A copy of a recorded image of the vehicle involved in the violation;
 - (4) The amount of the civil violation penalty to be imposed for the violation;
 - (5) The date by which the civil violation penalty must be paid;
 - (6) A statement indicating the person named in the notice of civil violation may pay the civil violation penalty in lieu of appearing at an administrative adjudication hearing.
 - (7) Information informing the person named in the notice of civil violation;
 - a. Of the right to contest the imposition of the civil violation penalty in an administrative adjudication hearing;
 - b. Of the manner and time in which to contest the imposition of the civil violation penalty; and
 - c. Failure to pay the civil violation penalty or to contest liability within 40 calendar days from the date of receipt of the civil notice of violation, inclusive of weekends and legal holidays, is a waiver of the right to appeal.
 - (8) A statement that a recorded image is evidence in a proceeding for the imposition of a civil violation penalty; and
 - (9) A statement indicating failure to pay the civil violation penalty within the time allowed shall result in the imposition of an additional late penalty for each such violation.
- (e) A notice of civil violation under this article is presumed to have been received on the tenth calendar day, inclusive of weekends and legal holidays, after the date the notice of civil violation is mailed.
- (f) The contractor shall designate an individual or individuals with the responsibility to answer, within a reasonable period of time, relevant and reasonable inquiries made by a person charged with a violation, or his attorney, concerning the violation.

Sec. 10.36.050 – Administrative Adjudication Hearing

- (a) A person who receives a notice of civil violation may contest the imposition of the civil violation penalty by a request in writing for an administrative adjudication of the notice of civil violation penalty within 30 calendar days, inclusive of weekends and legal holidays, after date of mailing of the notice of civil violation. The hearing date shall be on the date published on the notice of violation.

- (b) A monthly docket shall be produced based upon a list provided by the contractor to the Mayor of unpaid violations occurring within the prescribed time period. The docket shall include any requested Administrative Adjudication hearings.
- (c) Administrative adjudications of violations shall be conducted by the Magistrate. In conducting administrative adjudications of violations, the Magistrate shall have the following functions, powers, and duties:
 - (1) To administer oaths, to accept admissions to, and to hear and determine contests of, violations herein.
 - (2) To require the attendance of persons to give testimony at hearing, and to require the production of data and information, to the extent permitted by law.
 - (3) To adjudicate violations for which a notice of civil violation has been issued herein.
 - (4) To compile and maintain accurate records relating to notice of civil violations, violations and/or dispositions of violations and notice of civil violations.
 - (5) To designate an individual or individuals with the responsibility to answer, within a reasonable period of time, relevant and reasonable inquiries made by a person charged with a violation, or his attorney, concerning the violation.
 - (6) The functions and duties in 4 and 5 identified herein may be performed by a representative of the Department, as directed by the Magistrate.
 - (7) To prescribe regulations for the presentation and the conduct of hearings which need not necessarily be in strict conformity with the usual rules of evidence and technical rules of procedure; however, the fundamental principles governing a fair and impartial hearing or trial and due process of law must be reasonable and substantially adhered to.
- (d) A person who is found liable after an administrative adjudication hearing, or who requests an administrative adjudication hearing and thereafter fails to appear at the time and place of the hearing shall pay the amount set forth by the Magistrate.
- (e) Except as provided in subsection (h), failure to pay a civil violation penalty or to contest liability beyond 30 calendar days from the date of mailing of the notice of civil violation, inclusive of weekends and legal holidays, constitutes a waiver of the right to contest under subsection (a).
- (f) The civil violation penalty shall not be assessed if after a hearing, the Magistrate enters a finding of no liability.
- (g) In an administration adjudication hearing, the issue must be proved at the hearing by a preponderance of the evidence. The reliability of the system used to produce the recorded image of the violation by be attested to in an administrative adjudication hearing by affidavit of a law enforcement officer or a representative of the Department, or by actual testimony by either of them. An affidavit of a sworn law enforcement officer or representative of the Department, or actual testimony by either of them, that alleges a civil violation occurred based on an inspection of the pertinent recorded image is admissible in a proceeding under this article and is prima facie evidence of those facts contained in the affidavit or to which was testified. Testimony by any person shall be taken under oath or by affirmation, except to

the extent such testimony is allowed by affidavit as provided above. The person charged with the ordinance violation may present any relevant evidence and testimony at such hearing.

- (h) It shall be an affirmative defense to the imposition of civil liability under this article, to be proven by a preponderance of the evidence, that:
- (1) The operator of the vehicle was acting in compliance with the lawful order or direction of a law enforcement or public safety officer;
 - (2) The operator of the vehicle violated the speed limit to move out of the way of an immediately approaching authorized emergency vehicle;
 - (3) The vehicle was being operated as an authorized emergency vehicle under La. R.S. 32:24, and the operator was acting in compliance with La. R.S. 32:24;
 - (4) The vehicle was being operated in accordance with La. R.S. 32:300.3 – Funeral Processions; however, the operators are not exempt if they fail to comply with division 2 vehicle speed;
 - (5) The vehicle was being operated by a commissioned law enforcement officer performing authorized/assigned tasks;
 - (6) The vehicle was being operated during, a bona fide medical emergency which is documented with adequate and sufficient evidence from a medical care facility, as determined by the Department;
 - (7) At the time of the violation, the vehicle was in the care, custody, or control of another person:
 - (a) As set forth in the owner’s written statement identifying the name and correct mailing address of the person or entity who had the care, custody and control of the vehicle at the time of the violation.
 - (b) As set forth in a document, or “Transfer of Liability,” signed and dated by the person, or a representative of the entity, who had the care, custody and control of the vehicle at the time of the violation, indicating his/her responsibility for the violation and listing his/her name and mailing address. Responsibility for the violation shall in such case be transferred to the person identified in the “Transfer of Liability.”
 - (c) The tender of a statement of “Transfer of Liability” shall be for the sole purpose of identifying the person who is assuming responsibility for the violation identified in the notice of civil violation, but all defenses that may be asserted by the person alleged to be responsible are reserved and not waived by the tender of such document.
 - (d) As set forth in a lease, rental contract or other agreement listing the name and mailing address of the person or entity who had the care, custody and control of the leased or rented vehicle at the time of the violation. Responsibility for the violation shall in such case be transferred to the lessee.
- (i) Notwithstanding anything in this article to the contrary, a person who fails to pay the amount of a civil violation penalty or fails to appear before the Magistrate to contest liability is entitled to an administrative adjudication hearing on the violation if:

- (1) The person files an affidavit with the office of the Magistrate stating the date on which the person received notice of the civil violation via mail or other means; and
 - (2) The person files a request for an administrative hearing within 30 days from the date of receipt of the notice of the civil violation, as stated in the affidavit.
- (j) The decision of the Magistrate shall be the final decision in the hearing. A person or persons aggrieved by a decision of the Magistrate may file a petition for judicial review to the district court of the Parish of Evangeline, within 30 days after the date of entry of the decision and the review shall be *de novo*.

Sec. 10.36.060 – Order of the Magistrate

- (1) At the administrative adjudication hearings under this article, the Magistrate shall issue an order stating:
 - (a) Whether the person charged with the violation is responsible for the violation; and
 - (b) The amount of any civil violation penalty, late penalty, and administrative adjudication costs assessed against the person.
- (2) The orders issued under subsection (1) shall be filed with the Department. The Department shall maintain the Magistrate orders.

Sec. 10.36.070 – Effect of liability; exclusion of civil remedy

- a. The imposition of a civil violation penalty under this article shall not be considered a criminal conviction.
- b. A civil violation penalty may not be imposed under this article upon the owner of a vehicle if the operator of the vehicle was arrested or was issued a speeding citation and notice to appear by a law enforcement or public safety officer as a violation of any of the provision of Subpart A, Part IV, Chapter 1 of Title 32 of the Louisiana Revised Statutes if such violation was captured by the system.
- c. Upon receipt of all documents supplied to the contractor, the Magistrate may enforce collection of all unpaid fines, fees, penalties, late payment penalties and administrative adjudication fees in a court of competent jurisdiction for vehicles registered through a filing with the Louisiana Department of Revenue and/or the Federal Offset program.
- d. The Department or contractor, as applicable, shall supply to the Magistrate, or outside counsel bringing suit, all materials and/or testimony necessary to support enforcement.
- e. Defendants in enforcement suits authorized by this section have, until rendition of final judgment, the option of settlement by payment of all outstanding fines, fees, penalties, late payment penalties and administrative adjudication fees, as well as court costs and filing fees incurred (whether prepaid or otherwise) in enforcement. No defendant in such suit shall be required to pay attorney's fees in connection with such settlement.

- f. Any money judgement obtained in a suit to enforce fines levied for violation of this division shall be recorded in the mortgage records of Evangeline Parish, any/or any other parish, as a judicial mortgage against the property of the defendant.

Sec. 10.36.080 – Collections Fees and Costs.

In the event a fine or penalty is assessed pursuant to any provision of this Code, a default on the payment of a fine, penalty or any installment of a fine or penalty may be collected by any means authorized for the collection of monetary judgments. The Mayor or Department may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine or penalty imposed by the Code, or any installment of a fine or penalty. The Mayor or Department shall add a 35% cost of collections to any outstanding balance that requires the Mayor or Department to retain the services of a collection agency. This 35% cost includes any default on a fine, penalty or any installment of a fine or penalty that was previously referred to an attorney or private agency and the payment of which remains outstanding.

SECTION 3: This ordinance shall become effective immediately upon return of the ordinance to the Town Clerk (after execution by the Mayor), on the tenth (10th) day after receipt of the ordinance by the Mayor without signature or veto, or upon an override of a veto, whichever occurs first.

BE IT FURTHER ORDAINED that if any provision or item of this Ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Ordinance which can be given affect without the invalid provisions, items or applications and to this end the provisions of this Ordinance are hereby declared severable.

BE IT FURTHER ORDAINED that this Ordinance shall apply only to civil speed violations enforced by the photographic vehicle speed enforcement system and is not to supersede prior ordinances establishing speed limits and penalties.

Mamou, Louisiana this 11th day of October, 2023.

The above ordinance was adopted Section by Section on a vote taken by yeas and nays entered on the minutes by the Clerk as follows:

YEAS: Derrell Thomas, Ricardo Goodley, Brook Chapman, Eugene Manuel

NAYS: None

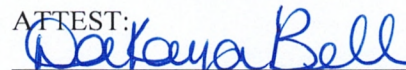
ABSENT: Robin Young

INTRODUCED: Sept. 13, 2023

ADOPTED: Oct. 11, 2023



LEISA DESHOTEL, MAYOR

ATTEST:


DAKAYA BELL, INTERIM CLERK, TOWN OF MAMOU