

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.**

AN ORDINANCE

**AMENDING CHAPTER 19 OF THE CITY CODE OF SAN ANTONIO,
TEXAS, TO CREATE A NEW ARTICLE XVIII RELATING TO
AUTOMATED TRAFFIC ENFORCEMENT DEVICES ON SCHOOL BUSES,
AND CREATING A CIVIL OFFENSE AND PENALTY FOR VIOLATIONS**

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WHEREAS, the City of San Antonio is committed to providing a safe environment for children riding school buses to and from school; and

WHEREAS, motor vehicles continue to illegally pass school buses actively loading and unloading students, thereby endangering students and other road users; and

WHEREAS, several cities have implemented systems utilizing multiple cameras and independent analysis to issue civil penalties to those who violate the law; and

WHEREAS, the City Council believes a program providing for photographic enforcement and administrative adjudication of school bus stop arm violations and imposition of civil fines for those violations could reduce the number of motor vehicles unlawfully passing a stopped school bus, furthering public health, safety and welfare; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Code of San Antonio, Texas, Chapter 19, is hereby amended by adding a new Article XVIII entitled “Automated Traffic Enforcement Devices on School Buses with a Civil Penalty for Violations,” to read as follows:

ARTICLE XVIII. - AUTOMATED TRAFFIC ENFORCEMENT DEVICES ON SCHOOL BUSES WITH A CIVIL PENALTY FOR VIOLATIONS.

Sec. 19-650. DEFINITIONS.

In this Article:

- (1) SCHOOL BUS has the same meaning as in Texas Transportation Code, Section 541.201 (*Vehicles*).

Sec. 19-651. APPLICABILITY; ADJUDICATION.

- (A) This Article applies to the part of an independent school district that is in the full purpose limits of the City, if:

- (1) the school district has installed a system on a school bus that is capable of producing a recorded image depicting the license plate attached to the front or the rear of a motor vehicle that passes the school bus in violation of this Article;
- (2) the school district's board of trustees has adopted procedures that provide, at a minimum, the following protections for the owner of any vehicle who is cited for a violation of this ordinance:
 - a. Prior to proceeding with a civil action for the collection of any fine, the video of the violation must be reviewed by an independent and impartial person who is not affiliated with the entity that owns or installed the camera (“reviewing person”), and the decision whether to proceed with a civil action must not have any financial impact upon the reviewing person;
 - b. The reviewing person must make a written finding that there is probable cause to believe a motor vehicle passed a school bus when the stop arm was activated, and that the motor vehicle had sufficient time to stop after the arm was activated;
 - c. The reviewing person must establish written proof of the ownership of the motor vehicle;
 - d. Written notice of the violation must be provided to the owner of the motor vehicle, who must be provided a reasonable opportunity to contest by appeal the citation of the alleged violation in person and by mail, including the ability to provide proof that the person did not own the motor vehicle at the time of the alleged violation ;
 - e. Independent and impartial hearing examiners who are not affiliated with the entity that owns or installed the camera (“hearing examiner”), must be appointed by the school district, and the determination whether a violation occurred must not have any financial impact upon the hearing examiner;
 - f. The cited person shall have at least 30 days to appeal a citation, and the hearing examiner must have the ability to extend this time period upon a showing of good cause;
 - g. All persons who testify at the hearing shall testify under oath, and the person cited shall have the right to produce evidence and call witnesses;
 - h. At the hearing, the hearing examiner must find by a preponderance of the evidence that the person cited owned the vehicle at the time of the violation, that the violation occurred, and that there are no facts or circumstances establishing any reasonable justifications or excuses for any violation;
 - i. Upon expiration of the time for appeal, collection efforts may not be commenced without proof that the person cited received actual notice of the citation; and,

j. No arrest warrant may be issued for a violation of the ordinance, the violation may not appear on a person's driving record, and any outstanding fines may not be reported to a collection agency.

- (3) the school district's board of trustees enters a finding in its minutes that the process adopted by the school district under this section satisfies constitutional due process requirements.
- (B) A school district covered by this Article may establish any procedure reasonably necessary to carry out the purpose of this Article, including, without limitation, citation of a violator, a process for adjudication in person or by mail, the appointment of hearing examiners, the standard of proof, the administration of oaths, the production of evidence or the attendance of witnesses, deadlines for responding to notices and citations, and a process for the payment of a fine.
- (C) The procedure created by a school district under this section may not create a duty or responsibility to a city officer or employee, assign a duty to a City officer or employee, or create an expense or obligation for the City.

Sec. 19-652. CIVIL OFFENSE CREATED.

- (A) The owner of a motor vehicle that is operated in violation of Texas Transportation Code, Section 545.066 (*Passing a School Bus; Offense*) by passing a stopped school bus displaying the visual signals required by Texas Transportation Code, Section 547.701(c) (*Additional Equipment Requirements for School Buses and Other Buses Used To Transport Schoolchildren*) commits a civil offense and is liable for a civil fine.
- (B) Each violation is a separate civil offense.
- (C) If the reviewing person, based upon the recording equipment installed on a school bus, determines that a motor vehicle has been operated in violation of this Article, the motor vehicle is presumed to have been operated in violation of this article, and the school district may charge the owner of the vehicle the fine as provided by this article.
- (D) A defense to Texas Transportation Code, Section 545.066 (*Passing a School Bus; Offense*) is a defense to the civil offense created by this section.
- (E) This article does not create a criminal offense.

Sec. 19-653. FINE.

- (A) The fine for an offense under this Article is \$300.
- (B) A school district may assess to a person who is liable for a fine under this Article an additional \$25 fine if:
 - (1) the person fails to timely respond to a citation or appeal the citation under this Article, and if:
 - (2) the person fails to timely pay a fine assessed against the person under this Article.

- (C) The council finds that the purpose of this Article is to obtain compliance, and to provide for the safety of school children, and not to raise revenue for the City. The City further finds that the fines collected under this article serve the municipal public purpose of enhancing traffic safety compliance with respect to school buses. Accordingly, the City assigns a fine collected for a violation of this Article to the school district on whose behalf the school bus that recorded the violation was operated.
- (D) A fine under this Article is payable directly to the school district or the district's assignee. The fine may be used by the school district for any lawful purpose.

SECTION 2. Should any portion of this ordinance for any reason be held illegal, inoperative, invalid, unconstitutional or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted or ordained without the portion held to be illegal, inoperative, invalid, unconstitutional or ineffective.

SECTION 3. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein, to correct typographical errors and to format and number paragraphs to conform to the existing Code.

SECTION 4. The City Clerk of the City of San Antonio is hereby directed to publish notice of this Ordinance as required by Section 17 of the Charter of the City of San Antonio and the laws of the State of Texas.

SECTION 5. This ordinance shall take effect _____.

PASSED and APPROVED this ____ day of _____, 2016.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Martha G. Sepeda, Acting City Attorney