

AN ORDINANCE 2018-12-13-1017

**AMENDING CHAPTER 19, ARTICLE XVIII OF THE CITY CODE OF SAN ANTONIO, TEXAS, RELATING TO AUTOMATED TRAFFIC ENFORCEMENT DEVICES ON SCHOOL BUSES, MODIFYING THE OBLIGATIONS OF SCHOOL DISTRICTS AND THE INFORMATION TO BE INCLUDED ON CITATIONS.**

\* \* \* \* \*

**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**, On June 30, 2016, the San Antonio City Council passed and approved ordinance 2016-06-30-0516, which allowed for school districts to assess civil penalties against owners of vehicles that illegally pass stopped school buses, using cameras placed on school buses, with procedures for civil enforcement to further public health, safety and welfare; and

**WHEREAS**, the ordinance was codified as Chapter 19, Article XVIII of the City Code of San Antonio, Texas (City Code), and the City Council has determined that it is in the best interests of the citizens of the City of San Antonio to modify this Article to require school districts to provide more information to the City through periodic reports, to require that more information be provided to those cited for violations, and to require that school districts may only use money received as fines to enhance student safety; and

**WHEREAS**, in order to accomplish such revisions, it is necessary to modify Chapter 19, Article XVIII of the City Code, Sections 16-651 and 19-653; **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, Article XVIII is hereby amended as follows, with strikethroughs indicating deletions and underlines indicating additions:

**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 alleged violation must mailed to the owner of the motor vehicle not later than the 30<sup>th</sup> day after the date the violation is alleged to have occurred at:

1. The owner’s address as shown on the registration records of the Texas Department of Motor Vehicles; or,

2. If the vehicle is registered in another state or country, the owner’s address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Motor vehicles.

e. The notice of violation must contain:

1. A description of the violation alleged;

2. The location where the violation occurred;

3. The date and time of the violation;

4. The name and address of the owner of the vehicle involved in the violation;

5. The registration number displayed on the license plate of the vehicle involved in the violation;

6. A copy of a recorded image of the violation limited solely to a depiction of the area of the registration number displayed on the license plate of the vehicle involved in the violation;

7. The amount of the civil penalty for which the owner is liable;

8. The number of days the person has in which to pay or contest the imposition of the civil penalty and a statement that the person incurs a late payment penalty if the civil penalty is not paid or imposition of the penalty is not contested within that period;

9. A statement that the owner of the vehicle in the notice of violation may elect to pay the civil penalty by mail sent to a specified address instead of

appearing at the time and place of the administrative adjudication hearing; and

10. Information that informs the owner of the vehicle named in the notice of violation: of the owner's right to contest the imposition of the civil penalty against the person in an administrative adjudication hearing; that imposition of the civil penalty may be contested by submitting a written request for an administrative adjudication hearing before the expiration of the period specified under Subdivision viii; and that failure to pay the civil penalty or to contest liability for the penalty in a timely manner is an admission of liability and a waiver of the owner's right to appeal the imposition of the civil penalty, and

11. A point of contact, including phone number and email address, for the office or person designated by the school district to provide information and answer inquiries from those persons who have been issued a citation.

f. A notice of violation is presumed to have been received on the fifth day after the date the notice is mailed.

g. The person cited must be provided a reasonable opportunity to contest by appeal the citation of the alleged violation in person, by mail, and through an attorney, including the ability to provide proof that the person did not own the motor vehicle at the time of the alleged violation;

h. Independent and impartial hearing examiners ("hearing examiner") who are not affiliated with the entity that owns or installed the camera and are qualified to practice law, must be appointed by the school district, and the determination whether a violation occurred must not have any financial impact upon the hearing examiner;

i. The cited person shall have at least 30 days to appeal a citation from the date that they received notice, and the hearing examiner must have the ability to extend this time period upon a showing of good cause;

j. 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;

k. 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;

l. 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,

m. 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.
- (d) A school district that establishes automated traffic enforcement procedures and collects fines pursuant to this ordinance shall:
  - (1) File an annual report, in June of each year on a form approved by the City Manager's office, to provide information related to enforcement under this ordinance;
  - (2) File quarterly reports in September, December, March and June, to provide geo-location information to identify geographically the location of citations; and
  - (3) Designate and maintain a current point of contact, including phone number and email address, for the office or person designated by the school district to provide information and answer inquiries regarding this process.

#### **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 shall not exceed \$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 only to enhance student safety.~~

**SECTION 2.** The remainder of City Code Chapter 19, Article XVIII shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION 3.** 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 4.** 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 5.** 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 6.** This ordinance shall take effect five (5) days following the date of the publication provided for above.

**PASSED and APPROVED this 13th day of December, 2018.**



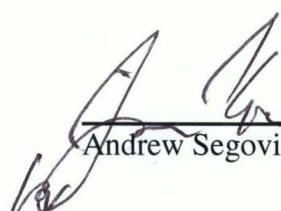
M A Y O R  
Ron Nirenberg

**ATTEST:**



\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**



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Andrew Segovia, City Attorney

<b>Agenda Item:</b>	22 ( in consent vote: 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15A, 15B, 16A, 16B, 16C, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49A, 49B, 50A, 50B, 50C, 51A, 51B, 51C, 52, Z-1, 53, Z-2 )						
<b>Date:</b>	12/13/2018						
<b>Time:</b>	11:10:11 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	Ordinance amending Chapter 19 Article XVIII, relating to automated traffic enforcement devices on school buses, to enhance the citation and appeals process. [Erik Walsh, Deputy City Manager; William McManus, Chief of Police]						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				
William Cruz Shaw	District 2		x				x
Rebecca Viagran	District 3		x			x	
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8	x					
John Courage	District 9		x				
Clayton H. Perry	District 10		x				