



ORDINANCE NO. 3312

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING CODE OF ORDINANCES, CHAPTER 82 TITLED “TRAFFIC AND VEHICLES” BY ADDING ARTICLE VII TITLED “AUTOMATED SCHOOL BUS STOP SIGN ENFORCEMENT” CREATING A CIVIL OFFENSE FOR A SCHOOL BUS STOP ARM VIOLATION INVOLVING A CAMERA-ENFORCED SCHOOL BUS; PROVIDING DEFENSES AND PRESUMPTIONS; PROVIDING REQUIREMENTS, PROCEDURES, AND FEES RELATING TO THE ADMINISTRATIVE ADJUDICATION OF A CIVIL SCHOOL BUS STOP ARM VIOLATION; PROVIDING FOR AN APPEAL TO MUNICIPAL COURT; PROVIDING POWERS, DUTIES, AND FUNCTIONS OF THE DIRECTOR, ENFORCEMENT OFFICERS, AND HEARING OFFICERS; PROVIDING FOR THE IMPOSITION, COLLECTION, AND DISPOSITION OF CIVIL FINES, PENALTIES, AND COSTS FOR A CIVIL SCHOOL BUS STOP ARM VIOLATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A CIVIL FINE OF THREE HUNDRED DOLLARS (\$300); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 545.066 of the Texas Transportation Code creates a criminal offense for passing a stopped school bus that is operating certain visual signals required by Section 547.701 of the Texas Transportation Code (including red flashing lights and extended stop arms) while loading and unloading students; and

WHEREAS, studies have shown that frequently, motor vehicles unlawfully pass stopped school buses that are operating visual signals while loading and unloading students; and

WHEREAS, the City Council finds that unlawfully passing a stopped school bus while operating a moving motor vehicle is a traffic hazard, a danger to the public and creates a particular danger or probability of danger in the City of Farmers Branch; and

WHEREAS, the City Council believes that creating a civil penalty for unlawfully passing a stopped school buses would further and protect the public health, safety, and welfare; and

WHEREAS, the City Council wishes to establish such a program pursuant to its home rule authority and the authority granted under Section 542.202 of the Texas Transportation Code, which allows a city to provide for civil enforcement of certain traffic regulations within its jurisdiction and in the reasonable exercise of its police power.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS:

SECTION 1. Code of Ordinances, Chapter 82 “Traffic and Vehicles,” is hereby amended by adding Article VII titled “Automated School Bus Sign Enforcement”, to read as follows:

“CHAPTER 82. TRAFFIC AND VEHICLES

...

ARTICLE VII. AUTOMATED SCHOOL BUS SIGN ENFORCEMENT

Sec. 82.408. Definitions.

For the purposes of this section, the following terms, words and derivations thereof shall have the meanings given herein:

Administrator. Shall mean the governmental entity designated by the City Council to administer and enforce this article.

Automated School Bus Stop Arm Enforcement Program. Shall mean the installation of Photographic Student Safety/School Bus Stop Arm Enforcement Systems on School Buses operated within the city for the purpose of reducing School Bus stop arm violations and injuries to students citywide.

Camera-Enforced School Bus. Shall mean a School Bus equipped with a Photographic School Bus Stop Arm Enforcement System.

Date of Issuance. Shall mean the date that a Notice of Violation is approved and mailed by a Law Enforcement Officer in accordance with this article.

Department. Shall mean the department or departments of the city designated by the city manager to enforce and administer this article.

Director. Shall mean the Director of the Department or the Director’s authorized representative.

Hearing Officer. Shall mean an individual designated by the Director to administratively adjudicate all School Bus Stop Arm Violations for which a Notice of Violation has been issued.

Law Enforcement Officer. Shall mean an individual licensed as a Law Enforcement Officer by the Texas Commission on Law Enforcement Officers, including a peace officer, as defined under Article 2.12, Texas Statutes, Code of Criminal Procedure.

Mail Date. Shall mean the date that a Notice of Violation is mailed in accordance with this article.

Photographic School Bus Stop Arm Enforcement System. Shall mean a system that:

(1) consists of cameras installed on the exterior of a school bus that work in conjunction with an automatic stop arm on the School Bus, which stop arm, along with flashing warning lights and other equipment required by Section 547.701(c) of the Texas Transportation Code, as amended, warns drivers that the School Bus is stopped for the purpose of loading or unloading students; and

(2) 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.

Recorded Image. Shall mean a photographic or digital image recorded by a photographic school bus stop arm enforcement system that depicts the front or the rear of a motor vehicle.

School Bus. Shall have the meaning given that term in Section 541.201 of the Texas Transportation Code, as amended.

School Bus Stop Arm Notice of Violation. Shall mean a notice of a School Bus Stop-Arm Violation issued under this article (“Notice of Violation”).

School Bus Stop Arm Violation. Shall mean a violation under section 82.412 of this article.

Vehicle Owner. Shall mean:

(1) the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country;

(2) the person named under section 82.412 of this article as the lessee of the motor vehicle at the time of a School Bus Stop Arm Violation; or

(3) the person named under section 82.412 of this article as holding legal title to the motor vehicle at the time of a School Bus Stop Arm Violation.

Sec. 82.409 School Bus Stop Arm Violation as Civil Offenses

(a) The owner of a motor vehicle that is operated in violation of Section 545.066 of the Texas Transportation Code, as amended, by passing a stopped school bus displaying the visual signals required by Section 547.701(c) of the Texas Transportation Code, as amended, commits a civil offense and is liable for a civil fine per violation.

(b) The City Council may contract with another local government(s) in accordance with Chapter 791 of the Texas Government Code to enforce and administer this section (“Administrator”). The City or Administrator shall implement and enforce this section and may

establish such rules or regulations, not inconsistent with this section, as are necessary to effect this section.

Sec. 82.410 Law Enforcement Officers – Powers, Duties, and Functions

(a) The Administrator shall appoint Law Enforcement Officers to issue Notice of Violations.

(b) A Law Enforcement Officer shall have the following powers, duties, and functions:

- (1) to review recorded images from the Photographic School Bus Stop Arm Enforcement System to determine whether a Student School Bus Stop Arm Violation has occurred;
- (2) to order a Notice of Violation to be issued based on evidence from the recorded images; and
- (3) to void recorded images due to lack of evidence or due to knowledge that a defense described in section 82.412 of this article applies.

Sec. 82.411 Hearing Officers – Powers, Duties, and Functions

(a) The Director shall designate Hearing Officers to administratively adjudicate all School Bus Stop Arm Violations for which a Notice of Violation has been issued.

(b) A Hearing Officer shall have the following powers, duties, and functions:

- (1) to administer oaths;
- (2) to accept admissions to, and to hear and determine contests of School Bus Stop Arm Violations under this article;
- (3) to issue orders compelling the attendance of witnesses and the production of documents, which orders may be enforced by a municipal court;
- (4) to assess civil fines, penalties, and other costs for a School Bus Stop Arm Violation under of this article; and
- (5) to waive penalties assessed for a Student Safety/School Bus Stop Arm Violation under this article.

Sec. 82.412 School Bus Stop Arm Violations as Civil Offenses; Defenses; Presumptions

(a) The owner of a motor vehicle that is operated in violation of Section 545.066 of the Texas Transportation Code, as amended, by passing a stopped Camera-Enforced School Bus

displaying the visual signals required by Section 547.701(c) of the Texas Transportation Code, as amended, commits a civil offense and is liable for a civil fine as assessed in section 82.419 of this article.

- (b) It is a defense to a charge of a School Bus Stop Arm Violation under this section:
 - (1) the School Bus was not operating the visual signals required by Section 547.701(c) of the Texas Transportation Code, as amended;
 - (2) the operator of the motor vehicle was acting in compliance with the lawful order or direction of a Law Enforcement Officer;
 - (3) the operator of the motor vehicle was in the process of passing the School Bus before the School Bus operated a visual signal described by Section 547.701(c) of the Texas Transportation Code, as amended;
 - (4) the operator of the motor vehicle passed the stopped School Bus so as to yield the right of way to an immediately approaching authorized emergency vehicle;
 - (5) the motor vehicle was being operated as an authorized emergency vehicle under Chapter 546 of the Texas Transportation Code, as amended, and the operator was acting in compliance with that chapter;
 - (6) the motor vehicle was a stolen vehicle being operated by a person other than the vehicle's owner without the consent of the Vehicle Owner and proof is submitted to the Hearing Officer that the theft of the motor vehicle had been timely reported to the appropriate law enforcement agency;
 - (7) the license plate depicted in the recorded image of the School Bus Stop Arm Violation was a stolen plate being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued and proof is submitted to the Hearing Officer that the theft of the license plate had been timely reported to the appropriate law enforcement agency; or
 - (8) the presence of ice, snow, unusual amounts of rain, or other unusually hazardous road conditions existed that would have made compliance with this section more dangerous under the circumstances than non-compliance.

(c) It is presumed that the registered owner of the vehicle depicted in the recorded image of a School Bus Stop Arm Violation for which a Notice of Violation is issued is the Vehicle Owner who committed the School Bus Stop Arm Violation. Proof of ownership may be made by a computer-generated record of the registration of the vehicle with the Texas Department of Transportation showing the name of the Vehicle Owner to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the Vehicle Owner to whom the certificate of registration was issued.

(d) A Vehicle Owner who is in the business of selling, renting, or leasing vehicles will not be liable for the civil School Bus stop arm fines, penalties, and costs imposed by the city on a vehicle for sale or a rented or leased vehicle if the Vehicle Owner presents evidence establishing that the vehicle depicted in the recorded image was at the time of the alleged violation being rented, leased, or test driven by another person. Evidence sufficient to establish that the vehicle was being rented, leased, or test driven includes:

- (1) the true name, address, and driver's license number and state of issuance of the person renting, leasing, or test driving the vehicle at the time the recorded image of the School Bus Stop Arm Violation was taken; or
- (2) a true copy of the lease or rental agreement in effect at the time the recorded image of the School Bus Stop Arm Violation was taken.

(e) Evidence presented under subsection (d) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.

(f) If the owner of a vehicle presents evidence under subsections (d) and (e) of this section establishing that the vehicle depicted in the recorded image was being rented, leased, or test driven at the time of the violation, the Vehicle Owner may not be held liable for civil School Bus stop arm fines, penalties, and costs, and the Law Enforcement Officer shall send the Notice of Violation to the test driver or lessee who is presumed to have committed the School Bus Stop Arm Violation. An owner of a vehicle who fails to comply with subsections (d) or (e) of this section will be treated as any other Vehicle Owner and will be liable for the School Bus Stop Arm Violation.

(g) If, at the time the recorded image of the School Bus Stop Arm Violation was taken, the vehicle depicted in the recorded image was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the Vehicle Owner shall, within 30 calendar days after the date the Notice of Violation is received, provide to the Administrator the name and address of the individual who was renting or leasing the motor vehicle depicted in the recorded image and a statement of the period during which that individual was renting or leasing the vehicle. This information must be provided regardless of whether the Vehicle Owner provides evidence under subsections (d) and (e) of this section that the vehicle was being rented, leased, or test driven at the time of the School Bus Stop Arm Violation.

(h) A registered Vehicle Owner named in the Notice of Violation who did not hold legal title to the motor vehicle at the time of a School Bus Stop Arm Violation will not be liable for the civil School Bus stop arm fines, penalties, and costs imposed by the city on that vehicle if the registered Vehicle Owner presents evidence establishing that another Vehicle Owner held legal title to the vehicle at the time the recorded image of the School Bus Stop Arm Violation was taken. Evidence sufficient to establish that the vehicle was owned by another Vehicle Owner at the time of the School Bus Stop Arm Violation includes:

- (1) the true name, address, and driver's license number and state of issuance of the Vehicle Owner who held legal title to the vehicle at the time the recorded image of the School Bus Stop Arm Violation was taken; or
- (2) a true copy of any purchase or sale documentation (including proof of transfer of title) showing the name of the Vehicle Owner who held title to the vehicle at the time the recorded image of the School Bus Stop Arm Violation was taken (that Vehicle Owner's address must also be provided if not contained in the documentation).
 - (i) Evidence presented under subsection (h) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.
 - (j) If the registered Vehicle Owner named in the Notice of Violation complies with subsections (h) and (i) of this section, the registered Vehicle Owner may not be held liable for civil School Bus stop arm fines, penalties, and costs, and the Law Enforcement Officer shall send the Notice of Violation to the Vehicle Owner who held legal title to the vehicle at the time the recorded image of the School Bus Stop Arm Violation was taken. A registered Vehicle Owner named in the Notice of Violation who fails to comply with subsections (h) and (i) of this section will be treated as any other Vehicle Owner and will be liable for the School Bus Stop Arm Violation.

Sec. 82.413 School Bus Stop Arm Notice of Violation; Form

- (a) A Notice of Violation serves as the summons and complaint for purposes of the Procedures.
- (b) The Notice of Violation must be on a form prescribed by the Administrator and must include the following information:
 - (1) the name and address of the owner of the vehicle involved in the violation;
 - (2) a description of the violation alleged;
 - (3) the date and time of the violation and the location of the School Bus where the violation occurred;
 - (4) the Notice of Violation issuance date;
 - (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 that includes a depiction of the registration number displayed on the license plate of the vehicle involved in the violation;
- (7) the amount of the civil fine to be imposed for the violation;
- (8) the date by which the civil fine must be paid or the request for an administrative adjudication hearing must be made;
- (9) a statement that, in lieu of requesting an administrative adjudication hearing, the Vehicle Owner named in the Notice of Violation may pay the civil fine in person or by mail at an address designated on the Notice of Violation;
- (10) a notification that the Vehicle Owner has the right to contest the imposition of the civil fine in an administrative adjudication hearing by submitting a written request for an administrative adjudication hearing within 30 calendar days after the date the Notice of Violation is issued;
- (11) a notification that any request by the Vehicle Owner to have the Law Enforcement Officer who issued the Notice of Violation present at the hearing must be made in writing as part of the written request for an administrative adjudication hearing and that failure to timely make this request constitutes a waiver of the Vehicle Owner's right to require the presence of the Law Enforcement Officer at the hearing;
- (12) a notification that failure to pay the civil fine or to timely request an administrative adjudication hearing is considered an admission of liability for the School Bus Stop Arm Violation, is a waiver of the Vehicle Owner's right to appeal the imposition of the civil fine, and will result in the assessment of appropriate civil fines, penalties, and costs;
- (13) a statement that the Vehicle Owner will incur a late payment penalty if the Vehicle Owner fails to pay the civil fine or request an administrative adjudication hearing within 30 calendar days after the Date of Issuance of the Notice of Violation; and
- (14) a notification that an arrest warrant may not be issued for failure to timely pay the civil fines, penalties, and costs and that the imposition of the civil penalty may not be recorded on the Vehicle Owner's driving record.

(c) The original or any copy of a Notice of Violation is a record kept in the ordinary course of city business and is prima facie evidence of the facts contained in the Notice of Violation.

Sec. 82.414 Service of a School Bus Stop Arm Notice of Violation

(a) In order to impose a civil fine under this article, the Law Enforcement Officer shall mail a Notice of Violation to the owner of the motor vehicle involved in the School Bus

Stop Arm Violation within 30 calendar days after the date the violation is alleged to have occurred. The Notice of Violation must be mailed, by United States mail, to:

- (1) the Vehicle Owner's address as shown on the registration records of the Texas Department of Transportation;
- (2) if the vehicle is registered in another state or country, the Vehicle 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 Transportation;
- (3) if the Vehicle Owner presents evidence or information that the vehicle was being rented, leased, or test driven at the time of the School Bus Stop Arm Violation, the address provided by the seller or lessor; or
- (4) if the registered Vehicle Owner presents evidence that another person had legal title to the vehicle at the time of the School Bus Stop Arm Violation, the address provided.

Sec. 82.415 Answering a School Bus Stop Arm Notice of Violation

(a) A Vehicle Owner who has been issued a Notice of Violation shall, either personally or through a representative, answer to the charge of the School Bus Stop Arm Violation by the date shown on the Notice of Violation, which date may not be earlier than the 30th day after the Mail Date of the Notice of Violation issued. An answer may be made in any of the following ways:

- (1) an admission of liability with a payment of the applicable civil fine, and any additional penalties and costs;
- (2) a written request to schedule an administrative adjudication hearing to either deny liability or admit liability with an explanation before a Hearing Officer, along with a \$25.00 administrative adjudication hearing filing fee ;
- (3) a denial of liability accompanied by an affidavit under penalty of perjury presenting evidence that the vehicle depicted in the recorded image was at the time of the School Bus Stop Arm Violation being rented, leased, or test driven;
- (4) a denial of liability accompanied by an affidavit under penalty of perjury presenting evidence that the person named in the Notice of Violation was not the owner of the vehicle depicted in the recorded image at the time of the violation; or
- (5) A written request, along with a \$25.00 administrative adjudication hearing filing fee for permission from a Hearing Officer to adjudicate by mail.

(b) Payment of the civil fine and any additional penalties and costs may be made in person or by mailing Notice of Violation to the address shown on the Notice of Violation, accompanied by payment of the amount shown on the Notice of Violation. Payment by mail may be made only by credit card, money order or check. Payment of the civil fine and all penalties and costs assessed under this article operates as a final disposition of the School Bus Stop Arm Violation charge, except when payment is made to reset a scheduled hearing as assessed under section 82.417 of this article.

Sec. 82.416 Adjudication by Mail

(a) If a Vehicle Owner charged with a School Bus Stop Arm Violation shows good cause for not attending a hearing, either personally or through a representative, the Hearing Officer may permit the matter to be adjudicated by mail, which adjudication must be completed within 90 calendar days after the date of issuance the Mail Date of the Notice of Violation.

(b) Letters, memoranda, affidavits, photographs, and other documentary materials will be admissible as evidence for the purposes of adjudication by mail. The Hearing Officer may exclude from consideration any material that is not relevant to the adjudication of the alleged violation.

(c) Failure of the Vehicle Owner to proceed with adjudication by mail after requesting and receiving permission to adjudicate by mail is an admission of liability for the School Bus Stop Arm Violation and will subject the Vehicle Owner to the appropriate civil fines, penalties, and costs assessed by the Hearing Officer.

(d) If a Hearing Officer determines that adjudication cannot proceed by mail, the Hearing Officer shall advise the Vehicle Owner by first class mail that the Vehicle Owner must appear to answer the charge at a hearing.

Sec. 82.417 Hearings for Disposition of a School Bus Stop Arm Notice of Violation; Notice of Violation and Photographic Record Images as Prima Facie Evidence

(a) Every hearing for the adjudication of a School Bus Stop Arm Violation under this article must be scheduled for a hearing date held before a Hearing Officer not later than the 30th day after the Administrator receives written request for an administrative adjudication hearing. The Administrator shall notify, by mail, the Vehicle Owner requesting a hearing of the date, time, and location of the hearing.

(b) A Vehicle Owner may make a written request to reset a scheduled administrative adjudication hearing. A scheduled administrative adjudication hearing may not be reset more than once unless the Vehicle Owner pays an amount equal to the applicable civil fine for the School Bus Stop Arm Violation, plus an additional \$20.00 hearing rescheduling fee. A receipt shall be issued for any amounts paid under this subsection. After presentation of the receipt, all amounts paid will be refunded to the Vehicle Owner if the Hearing Officer, or a municipal court on appeal, finds that the Vehicle Owner is not liable for the School Bus Stop Arm Violation.

(c) At a hearing, the Notice of Violation and the recorded image produced by the Photographic School Bus Stop Arm Enforcement System are prima facie proof of the School Bus Stop Arm Violation, and the Law Enforcement Officer who issued the Notice of Violation is not required to be present unless requested by the Vehicle Owner charged or by the Hearing Officer. A Vehicle Owner's request to have the Law Enforcement Officer, who issued the Notice of Violation, present at the hearing must be in writing as part of the Vehicle Owner's request for an administrative adjudication hearing.

(d) At a hearing, the Hearing Officer shall hear and consider evidence presented by the Administrator and by the Vehicle Owner. The formal rules of evidence do not apply to a hearing under this article, and the Hearing Officer shall make a decision based upon a preponderance of the evidence presented at the hearing, after giving due weight to all presumptions and prima facie evidence established by this article or other applicable law.

(e) At a hearing, the reliability of the Photographic School Bus Stop Arm Enforcement System used to produce the recorded image of the School Bus Stop Arm Violation may be attested to by affidavit of the Administrator, officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system. An affidavit of the Administrator, officer or employee of the city that alleges a School Bus Stop Arm Violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the Notice of Violation.

(f) At the conclusion of the hearing, the Hearing Officer shall immediately render an order or decision, either by:

- (1) finding the Vehicle Owner liable for the School Bus Stop Arm Violation, assessing the applicable civil fine and any penalties and other costs in accordance with this article, and notifying the Vehicle Owner of the right to appeal to municipal court; or
- (2) finding the Vehicle Owner not liable for the School Bus Stop Arm Violation.

(g) An order of a Hearing Officer must be in writing, signed, and dated by the Hearing Officer and filed with the Administrator in a separate index and file. The order may be recorded using computer printouts, microfilm, microfiche, or similar data processing techniques.

Sec. 82.418 Failure to Answer a School Bus Notice of Violation or Failure to Appear at a Hearing

(a) The failure of a Vehicle Owner charged with a School Bus Stop Arm Violation to answer to the charge within 30 calendar days after the Mail Date or to appear at any hearing, including a hearing on appeal, when required to appear is an admission of liability for the School Bus Stop Arm Violation, and the Hearing Officer, or the municipal court in the case of an appeal, shall issue an order of liability and assess against the Vehicle Owner the appropriate civil fines, penalties, and other costs.

(b) Within seven (7) calendar days after filing an order of liability issued under this section, a Hearing Officer or the entity with which the city contracts, shall mail notice to the Vehicle Owner of the order. The notice must be sent by United States mail to the address required for service of a Notice of Violation or to the address of the Vehicle Owner last known to the Hearing Officer. The notice must include a statement of:

- (1) the amount of the civil fines, penalties, and costs assessed; and
- (2) the right to appeal to municipal court.

(c) Regardless of any other provision of this article, a Vehicle Owner who receives a Notice of Violation and who fails to timely pay the civil fine or fails to timely request an administrative adjudication hearing is still entitled to an administrative adjudication hearing if:

- (1) the Vehicle Owner submits to the Hearing Officer a written request for a hearing, accompanied by an affidavit and filing fee assessed under section 82.415 of this article, that attests to the date on which the Vehicle Owner received the Notice of Violation; and
- (2) the written request, filing fee assessed under this article, and affidavit are submitted to the Hearing Officer within 30 calendar days after the date the Vehicle Owner received the Notice of Violation.

Sec. 82.419 Civil Fines for School Bus Stop Arm Violations; Penalties and Other Costs; Delinquent Accounts

(a) If a civil fine is assessed, it must be in accordance with this section. A fine may not be waived or modified by a Hearing Officer, or by a municipal court on appeal, when a Vehicle Owner is found liable for a School Bus Stop Arm Violation, except that additional penalties and other costs and fees may be added in accordance with this article.

(b) The owner of a motor vehicle liable for a School Bus Stop Arm Violation shall pay a civil fine of \$300.00 for each violation.

(c) A \$25.00 late penalty fee shall be assessed if the Vehicle Owner fails to answer a Notice of Violation within thirty (30) calendar days after its Date of Issuance.

(d) A \$50.00 failure to appear penalty shall be assessed if the Vehicle Owner fails to appear at a hearing scheduled to adjudicate the School Bus Stop Arm Violation.

(e) A \$35.00 returned check fee shall be assessed against the Vehicle Owner for any check returned for non-sufficient funds.

(f) A penalty assessed under subsection (c) of this section may be waived by a Hearing Officer, or by a municipal court on appeal, if the Vehicle Owner can establish that:

- (1) through no fault of the owner:
 - (A) no notice of the School Bus Arm Sign Violation was received as required by this article;
 - (B) no notice of the Hearing Officer's order was received as required by this article;
 - (C) payment of the civil fine assessed for the civil fine assessed for the School Bus Stop Arm Violation was not posted in a timely manner; or

(2) the penalty was assessed in error.

(g) A Vehicle Owner whose account remains delinquent over sixty (60) days may be turned over to a collection agency and may be charged a collection fee in an amount of 30% of the total amount due.

Sec. 82.420 Appeal from Hearing

(a) A Vehicle Owner determined by a Hearing Officer at an administrative adjudication hearing to be liable for a School Bus Stop Arm Violation may appeal this determination to the municipal court by filing an appeal petition, along with a filing fee of \$20, with the municipal court clerk or a deputy clerk before the 31st calendar day after the date the Hearing Officer's order is entered with the Department. If the Hearing Officer's order is reversed, the \$20 filing fee will be returned by the city to the appellant.

(b) Upon receipt of an appeal petition, the municipal court clerk or deputy clerk shall schedule an appeal hearing and notify all parties of the date, time, and location of the hearing. The enforcement officer or other authorized person who issued the Notice of Violation is not required to be present at the appeal hearing unless requested by the Vehicle Owner charged. A Vehicle Owner's request to have the Law Enforcement Officer or other authorized person who issued the Notice of Violation present at the appeal hearing must be in writing and made as part of the appeal petition. Failure to timely make this request constitutes a waiver of the Vehicle Owner's right to require the presence of the enforcement officer or other authorized person at the appeal hearing.

(c) The appeal hearing must be a trial de novo in municipal court and is a civil proceeding. The decision of the municipal court is final.

(d) Service of notice of appeal under this section stays the enforcement and collection of any civil fines, penalties, and costs ordered by the Hearing Officer. An appeal petition must be accompanied by a notarized statement in which the Vehicle Owner agrees to pay all civil fines, penalties, and costs ordered by the Hearing Officer, if the Vehicle Owner is still found liable by the municipal court upon appeal.

(e) At an appeal hearing, the Notice of Violation and the recorded images produced by the Photographic School Bus Stop Arm Enforcement System are prima facie proof of the Notice of Violation, and the enforcement officer or other authorized person who issued the Notice of Violation is not required to be present unless requested by the Vehicle Owner.

(f) At an appeal hearing, the reliability of the Photographic School Bus Stop Arm Enforcement System used to produce the recorded images of the School Bus Stop Arm Violation may be attested to by affidavit of an officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system. An affidavit of an officer or employee of the city that alleges a School Bus Stop Violation based on an inspection of the pertinent recorded images is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the Notice of Violation.

Sec. 82.421 Effect on Liability; Exclusion of Civil Remedy; Enforcement

(a) The imposition of a civil fine under this article is not a conviction or criminal offense and may not be considered a conviction or criminal offense for any purpose. Failure to timely pay a civil fine may not result in an arrest warrant being issued for the Vehicle Owner and may not be recorded on the Vehicle Owner's driving record.

(b) A civil fine may not be imposed on the owner of a motor vehicle if the operator of the vehicle was arrested or was issued a criminal citation by a Law Enforcement Officer under Section 545.066 of the Texas Transportation Code, as amended, for the School Bus Stop Arm Violation recorded by the Photographic School Bus Stop Arm Enforcement System.

(c) The city attorney and Administrator are authorized to file suit or take other action to collect any civil fines, penalties, late fees and costs assessed under this article.

Sec. 82.422 Disposition of Civil Fines, Penalties and Costs Assessed for School Bus Stop Arm Violations

Civil fines, penalties, and costs assessed under this article must be used to fund the Automated School Bus Stop Arm Enforcement Program, other programs designed to further student safety, or other traffic safety projects and improvements.”

SECTION 2. All ordinances or parts thereof expressly in conflict with this ordinance are hereby repealed.

SECTION 3. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged to be invalid or unconstitutional by a court of competent jurisdiction,

the same shall not affect the validity of this ordinance as a whole or any portion thereof other than the portion so decided to be invalid or unconstitutional.

SECTION 5. This ordinance shall take effect from and after its passage and the publication of the caption of said ordinance as the law and the City Charter in such cases provides.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 4TH DAY OF NOVEMBER, 2014.

ATTEST:

APPROVED:

Angela Kelly, City Secretary

Bob Phelps, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(09-29-14/68402)