

5/4/2012

ORDINANCE NO. **28654**

An ordinance adding Article XX (composed of Sections 28-220 through 28-234) to CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended; defining terms; 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 for a civil fine of \$300; providing a saving clause; providing a severability clause; and providing 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 (including red flashing lights and extended stop arms) while loading and unloading students; and

WHEREAS, the city council has determined that each day hundreds of motor vehicles unlawfully pass stopped school buses that are operating visual signals while loading and unloading students in the city; and

WHEREAS, the unlawful passing of such stopped school buses by motor vehicles endangers students, drivers, and the public; creates a high risk of bodily injury, death, and property damage; and increases the risk of accidents to which the city must respond at the expense of its taxpayers; and

WHEREAS, the city council finds that camera enforcement of school bus stop arm violations has been shown to effectively reduce the number of motor vehicles unlawfully passing stopped school buses displaying the required visual signals; and

WHEREAS, the city council believes that establishing a program providing for the photographic enforcement and administrative adjudication of school bus stop arm violations and the imposition of civil fines for those violations would reduce the number of motor vehicles unlawfully passing a stopped school bus, thereby reducing the risks associated with such violations, and would further 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 DALLAS:

SECTION 1. That CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended, is amended by adding Article XX, "Photographic Enforcement and Administrative Adjudication of School Bus Stop Arm Violations," (composed of Sections 28-220 through 28-234) to read as follows:

**"ARTICLE XX.**

**PHOTOGRAPHIC ENFORCEMENT AND ADMINISTRATIVE  
ADJUDICATION OF SCHOOL BUS STOP ARM VIOLATIONS.**

**Division 1. Generally.**

**SEC. 28-220. DEFINITIONS.**

In this article:

(1) AUTOMATED SCHOOL BUS STOP ARM ENFORCEMENT PROGRAM means the installation of photographic 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.

(2) CAMERA-ENFORCED SCHOOL BUS means a school bus equipped with a photographic school bus stop arm enforcement system.

(3) DATE OF ISSUANCE means the date that a civil school bus stop arm citation is mailed in accordance with this article.

(4) DEPARTMENT means the department of the city designated by the city manager to enforce and administer this article, or the department's designated representative.

(5) DIRECTOR means the director of the department or the director's authorized representative.

(6) OWNER means:

(A) 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;

(B) the person named under Section 28-224(d) or (g) as the lessee of the motor vehicle at the time of a school bus stop arm violation; or

(C) the person named under Section 28-224(h) as holding legal title to the motor vehicle at the time of a school bus stop arm violation.

(7) PHOTOGRAPHIC SCHOOL BUS STOP ARM ENFORCEMENT SYSTEM means a system that:

(A) 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

(B) 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 Section 28-224 of this article.

(8) RECORDED IMAGE means 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.

(9) SCHOOL BUS has the meaning given that term in Section 541.201 of the Texas Transportation Code, as amended.

(10) SCHOOL BUS STOP ARM VIOLATION or CIVIL SCHOOL BUS STOP ARM VIOLATION means a violation of Section 28-224 of this article.

(11) SCHOOL BUS STOP ARM CITATION or CIVIL SCHOOL BUS STOP ARM CITATION means a citation for a school bus stop arm violation issued under this article.

**SEC. 28-221. GENERAL AUTHORITY AND DUTIES OF THE DIRECTOR AND DEPARTMENT.**

The department is responsible for the enforcement and administration of this article. The director shall implement and enforce this article and may by written order establish such rules or regulations, not inconsistent with this article, as the director determines are necessary to discharge the director's duties under or to effect the policy of this article.

**SEC. 28-222. ENFORCEMENT OFFICERS - POWERS, DUTIES, AND FUNCTIONS.**

(a) The city manager or a designated representative shall appoint enforcement officers to issue civil school bus stop arm citations.

(b) An 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 school bus stop arm violation has occurred.

(2) To order a school bus stop arm citation to be issued based on evidence from the recorded images.

(3) To void recorded images due to lack of evidence or due to knowledge that a defense described in Section 28-224 applies.

(4) To issue warnings in lieu of citations during acceptance testing of the photographic school bus stop arm enforcement system or at any other time prescribed by the director.

**SEC. 28-223. HEARING OFFICERS - POWERS, DUTIES, AND FUNCTIONS.**

(a) The city council shall designate hearing officers from a list of persons recommended by the city manager, or a designated representative, to administratively adjudicate all school bus stop arm violations for which a civil school bus stop arm citation 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 in accordance with Section 28-231 of this article.

(5) To waive penalties assessed for a school bus stop arm violation in accordance with Section 28-231 of this article.

**Division 2. Enforcement of School Bus Stop arm Violations as Civil Offenses.**

**SEC. 28-224. 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 under this article.

(b) It is a defense to a charge of a school bus stop arm violation under this section that:

(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 peace 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 school bus stop arm citation is issued is the person 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 person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person 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 owner may not be held liable for civil school bus stop arm fines, penalties, and costs, and the director shall send the school bus stop arm citation 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 school bus stop arm citation is received, provide to the department 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 person 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 owner named in the school bus stop arm citation 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 owner presents evidence establishing that another person 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 person 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 person 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 person who held title to the vehicle at the time the recorded image of the school bus stop arm violation was taken (that person'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 owner named in the violation complies with Subsections (h) and (i) of this section, the registered owner may not be held liable for civil school bus stop arm fines, penalties, and costs, and the director shall send the school bus stop arm citation to the person who held legal title to the vehicle at the time the recorded image of the school bus stop arm violation was taken. A registered owner named in the school bus stop arm citation 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. 28-225. CIVIL SCHOOL BUS STOP ARM CITATIONS; FORM.**

(a) A civil school bus stop arm citation serves as the summons and complaint for purposes of this article.

(b) The school bus stop arm citation must be on a form prescribed by the director 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 citation 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 person named in the school bus stop arm citation may pay the civil fine in person or by mail at an address designated on the citation.

(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 school bus stop arm citation is issued.

(11) A notification that any request by the vehicle owner to have the enforcement officer, or other authorized person who issued the citation, present at the hearing must be made in writing as part of the written request for an administrative adjudication hearing under Paragraph (10) of this subsection and that 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 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 person'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 person will incur a late payment penalty if the person fails to pay the civil fine or request an administrative adjudication hearing within 30 calendar days after the date of issuance of the school bus stop arm citation.



(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 civil school bus stop arm citation is a record kept in the ordinary course of city business and is prima facie evidence of the facts contained in the citation.

**SEC. 28-226. SERVICE OF A CIVIL SCHOOL BUS STOP ARM CITATION.**

(a) In order to impose a civil fine under this article, the director shall send a school bus stop arm citation 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 citation must be sent, by United States mail, to:

(1) the 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 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 owner presents evidence or information under Section 28-224(d) or (g) 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 under Section 28-224(d) or (g); or

(4) if the registered owner presents evidence under Section 28-224(h) that another person had legal title to the vehicle at the time of the school bus stop arm violation, the address provided under Section 28-224(h).

(b) A school bus stop arm citation is presumed to have been received on the fifth day after the date the citation is mailed.

**SEC. 28-227. ANSWERING A CIVIL SCHOOL BUS STOP ARM CITATION.**

(a) A vehicle owner who has been issued a civil school bus stop arm citation shall, either personally or through a representative, answer to the charge of the school bus stop arm violation by the date shown on the citation, which date may not be earlier than the 30<sup>th</sup> day after the date the citation is 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 request to schedule an administrative adjudication hearing to either deny liability or admit liability with an explanation before a hearing officer.

(3) A denial of liability accompanied by an affidavit under penalty of perjury presenting evidence under Section 28-224 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 under Section 28-224 that the person named in the school bus stop arm citation was not the owner of the vehicle depicted in the recorded image at the time of the violation.

(5) A request 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 the school bus stop arm citation to the address shown on the citation, accompanied by payment of the amount shown on the citation. Payment by mail may be made only by 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 allowed under Section 28-229.

**SEC. 28-228. 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 of the school bus stop arm citation.

(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 an 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 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 owner must appear to answer the charge at a hearing.

**SEC. 28-229. HEARINGS FOR DISPOSITION OF A SCHOOL BUS STOP ARM CITATION; CITATION AND PHOTOGRAPHIC RECORDED IMAGES AS PRIMA FACIE EVIDENCE.**

(a) Every hearing for the adjudication of a school bus stop arm violation charge under this article must be held before a hearing officer not later than the 30<sup>th</sup> day after the department receives a request for an administrative adjudication hearing. The director shall notify, in writing, the person requesting a hearing of the date, time, and location of the hearing.

(b) A person may make a 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 to the director an amount equal to the applicable civil fine for the school bus stop arm violation, with any additional penalties and costs. The director shall issue a receipt 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 owner is not liable for the school bus stop arm violation.

(c) At a hearing, the civil school bus stop arm citation and the recorded images produced by the photographic school bus stop arm enforcement system are prima facie proof of the school bus stop arm violation, and the enforcement officer or other authorized person who issued the citation 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 enforcement officer, or other authorized person who issued the citation, present at the hearing must be in writing and received by the hearing officer as part of the person's request for an administrative adjudication hearing. 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 hearing.

(d) At a hearing, the hearing officer shall hear and consider evidence presented by the city 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 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 arm 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 school bus stop arm citation.

(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 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 department in a separate index and file. The order may be recorded using computer printouts, microfilm, microfiche, or similar data processing techniques.

**SEC. 28-230. FAILURE TO ANSWER A CIVIL SCHOOL BUS STOP ARM CITATION OR 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 date of issuance of the school bus stop arm citation 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 owner the appropriate civil fines, penalties, and other costs.

(b) Within seven calendar days after filing an order of liability issued under this section, a hearing officer or the entity with which the city contracts, shall notify the vehicle owner in writing of the order. The notice must be sent by United States mail to the address required for service of a citation under Section 28-226 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 person who receives a school bus stop arm citation 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 person submits to the hearing officer a written request for a hearing, accompanied by an affidavit, that attests to the date on which the person received the school bus stop arm citation; and

(2) the written request and affidavit are submitted to the hearing officer within 30 calendar days after the date the person received the school bus stop arm citation.

**SEC. 28-231. CIVIL FINES FOR SCHOOL BUS STOP ARM VIOLATIONS; PENALTIES AND OTHER COSTS.**

(a) If a civil fine is assessed under this article, 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 may be added in accordance with this section.

(b) The owner of a motor vehicle liable for a school bus stop arm violation shall pay a civil fine of \$300 for each violation.

(c) An additional \$25 late payment penalty will be assessed if the vehicle owner fails to:

(1) answer a school bus stop arm citation within 30 calendar days after its date of issuance;

(2) appear at a hearing scheduled to adjudicate the school bus stop arm violation charge; or

(3) after being found liable, pay all civil fines, penalties, fees, and costs assessed for a school bus stop arm violation within the time designated by the hearing officer, or by the municipal court on appeal.

(d) 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 stop arm violation was received as required by this article;

(B) no notice of the hearing officer's order was received as required by this article; or

(C) payment of 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.

**SEC. 28-232. 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 \$15, with the municipal court clerk or a deputy clerk before the 31<sup>st</sup> calendar day after the date the hearing officer's order is entered with the department. If the hearing officer's order is reversed, the \$15 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 civil school bus stop arm citation 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 enforcement officer, or other authorized person who issued the citation, 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 person is still found liable by the municipal court upon appeal.

(e) At an appeal hearing, the civil school bus stop arm citation and the recorded images produced by the photographic school bus stop arm enforcement system are prima facie proof of the school bus stop arm violation, and the enforcement officer or other authorized person who issued the citation 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 school bus stop arm citation.

**SEC. 28-233. EFFECT OF 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 under this article may not result in an arrest warrant being issued for the vehicle owner and may not be recorded on the owner's driving record.

(b) A civil fine may not be imposed under this article on the owner of a motor vehicle if the operator of the vehicle was arrested or was issued a criminal citation by a peace 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 is authorized to file suit or take other action to collect any civil fines, penalties, and costs assessed under this article.

**SEC. 28-234. 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, and other traffic safety projects and improvements."

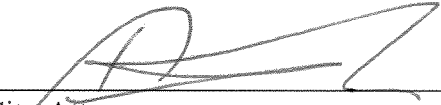
SECTION 2. That CHAPTER 28 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect on June 25, 2012, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By  \_\_\_\_\_  
City Attorney

**MAY 23 2012**

Passed \_\_\_\_\_

LC/DCC/00523A