

**AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF THE CITY OF
PEORIA TO ADD SECTION 28-186 REGARDING AUTOMATED TRAFFIC LAW
VIOLATIONS**

WHEREAS, the City of Peoria (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, Section 11-208.9 of the Illinois Vehicle Code (625 ILCS 5/11-208.9) authorizes a municipality to enact an ordinance providing for an automated traffic law enforcement system that utilizes a device with one or more motor vehicle sensors working in conjunction with the visual signals on a school bus, to produce recorded images of motor vehicles that fail to stop before meeting or overtaking, from either direction, any school bus stopped at any location for the purpose of receiving or discharging pupils (“System”); and

WHEREAS, Section 11-208.9 of the Illinois Vehicle Code (625 ILCS 5/11-208.9) also authorizes a municipality to adjudicate tickets that are issued as a result of the System capturing evidence of vehicles that fail to stop before meeting or overtaking a school bus that is stopped for the purpose of receiving or discharging students in violation of Section 11-1414 of the Illinois Vehicle Code, 625 ILCS 5/11-1414; and

WHEREAS, the City and Peoria Public Schools District 150 have entered or will enter into an Intergovernmental Agreement regulating the installation and operation of the System; and

WHEREAS, the City Council desires to update its City Code to allow the use of the System to identify and adjudicate violations by motor vehicles approaching, overtaking, or passing school buses in violation of Section 11-1414 of the Illinois Vehicle Code, 625 ILCS 5/11-1414, as authorized pursuant to Section 11-208.9 of the Illinois Vehicle Code; and

WHEREAS, the City Council has determined that it will serve and be in the best interest of the City and its residents to amend the City Code pursuant to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Peoria, as follows:

SECTION 1. **Recitals.** The recitals above shall be and are incorporated into this Section 1 as if fully restated herein

SECTION 2. Chapter 28 (Traffic and Motor Vehicles) is hereby amended by adding Section 28-186 (Automated Traffic Law Violations) and the following underlined words.

Sec. 28-186. Automated Traffic Law Violations.

(a) Adoption. The City hereby adopts an automated traffic law enforcement system pursuant to Sections 11-208.3 and 11-208.9 of the Illinois Vehicle Code, 625 ILCS 5/11-

208.3, 15/1-208.9, for the purposes of using photographic, video, or digital imaging equipment to record visual images of vehicles approaching, overtaking, and passing a school bus in violation of Section 11-1414 of the Vehicle Code, and Section 28-186(c) of this Code, and using those images as the basis for issuing citations for such violations.

(b) Definitions. Whenever used in this Section, the following terms shall have the following meanings unless a different meaning is required by the context:

Automated Traffic Law Enforcement System or System means, concerning violations of Section 11-1414 of the Illinois Vehicle Code, a device(s) located within the City with one or more vehicle sensors working in conjunction with the visual signals on a school bus, as specified in Sections 12-803 or 12-805 of the Illinois Vehicle Code, to produce recorded images of motor vehicles that fail to stop before meeting or overtaking, from either direction, any school bus stopped at any location for the purpose of receiving or discharging pupils in violation of Section 11-1414 of the Illinois Vehicle Code, 625 ILCS 5/11-1414. The automated traffic law enforcement system is designed to obtain a clear recorded image of a violating motor vehicle and its license plate. The automated traffic law enforcement system shall not be used to record vehicle speeds or to enforce speed limit regulations.

Automated Traffic Law Violation or Violation means a violation of Section 11-1414 of the Illinois Vehicle Code (625 ILCS 5/11-1414) as recorded by an automated traffic law enforcement system.

Hearing Officer shall have the definition set forth in Section 32-4 of this Code.

Recorded Images means images recorded by an automated traffic law enforcement system, which consist of either two or more photographs, two or more microphotographs, two or more electronic images or a video recording showing the motor vehicle, together with at least one clearly recorded image identifying the vehicle's license plate. The recorded image shall also display the time, date and location of the violation.

Traffic Compliance Administrator means the employee designated by the City to review evidence of violations and approve the issuance of citations for such violations.

(c) Liability for Automated Traffic Law Violation. The registered owner of a vehicle shall be liable for an automated traffic law violation and the civil penalty imposed pursuant to this Section if such vehicle:

(1) Disregards the visual signals on a school bus in violation of Section 5/11-1414 of the Illinois Vehicle Code, 625 ILCS 5/11-1414.

(d) Administrative Hearing System. All automated traffic law violations described under this Section shall be adjudicated pursuant to the City's administrative hearing system, as set forth in Section 32-5 of this Code, and the regulations of this Section.

(e) Signage. A school bus equipped with an automated traffic law enforcement system must be posted with a sign indicating that the school bus is being monitored by an automatic traffic law enforcement system.

(f) Processing and Notice of Automated Traffic Law Violations. When the automated traffic law enforcement system records a motor vehicle overtaking or passing a school bus stopped for the purpose of receiving or discharging pupils in violation of Section 11-1414 of the Illinois Vehicle Code, the Traffic Compliance Administrator shall, for each violation recorded, review and approve a written notice of the violation to the registered owner or lessee of the vehicle as the alleged violator. Prior to service of a notice of violation, the associated recorded image shall be reviewed by a technician employed or contracted by the City, who shall inspect the image and determine whether the motor vehicle was being operated in violation of Section 11-1414 of the Illinois Vehicle Code, and whether one of the defenses enumerated herein is applicable upon inspection of the recorded image. Upon determination that the recorded image captures a violation and that no defense applies, the notice of violation shall be served upon the registered vehicle owner or lessee in the manner herein provided.

(1) Each notice of an automated traffic law violation shall include the following:

(a) The name and address of the registered owner or lessee of the vehicle, as indicated by the records of the Secretary of State, or, if such information is outdated or unattainable, then the last known address recorded in a United States Post Office approved database;

(b) The registration number of the motor vehicle involved in the violation;

(c) The violation charged;

(d) The location where the violation occurred;

(e) The date and time of the violation;

(f) A copy of the recorded images;

(g) The amount of the civil penalty imposed and the date by which the civil penalty shall be paid if liability for the violation is not going to be contested;

(h) A statement that the recorded images are evidence of a violation;

(i) A warning that failure to either pay the civil penalty or to contest liability is an admission of liability and may result in a suspension of the driving privileges of the registered owner or lessee of the vehicle in addition to other specified penalties for failing to appear at the hearing or pay the fine in advance of the hearing;

(j) A statement that the registered owner or lessee of the vehicle may elect to proceed either by paying the fine stated in the notice of violation or by challenging the charge in an administrative hearing;

(k) The make of the vehicle, if readily discernable from the recorded images; and

(l) The date, time and location of the administrative hearing at which the charge may be contested on its merits.

(2) The notice of violation shall be delivered by first class mail, postage prepaid, within 30 days after the Illinois Secretary of State notifies the City of the identity of the registered owner or lessee of the vehicle, but in no event later than 90 days after the violation.

(3) The Traffic Compliance Administrator or other duly appointed official shall retain a copy of all violation notices, recorded images and other correspondence mailed to the alleged violator.

(4) Each notice of violation shall be evidence of the facts contained in the notice and shall establish prima facie evidence of a violation, subject to rebuttal on the basis of the defenses established Section 28-186(g) of this Code. Each notice is admissible in any proceeding alleging an automated traffic law violation.

(g) Defenses. The Hearing Officer may consider in defense of an automated traffic law violation:

(1) That the motor vehicle or registration plates were stolen before the violation occurred and were not under the control of or in the possession of the owner at the time of the violation. This defense must be demonstrated through the submission of proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

(2) That the driver of the motor vehicle who receives an automated traffic law violation concerning Section 11-1414 of the Vehicle Code received a Uniform Traffic Citation from a police officer for a violation of Section 11-1414 of the Vehicle Code within one-eighth of a mile and 15 minutes of the violation recorded by the system;

(3) That, for violations of Section 11-1414 of the Vehicle Code, the visual signals required by Sections 12-803 and 12-805 of the Illinois Vehicle Code were damaged, not activated, not present, or inoperable;

(4) That the citation recipient is the lessor of the motor vehicle subject to the violation pursuant to a written lease agreement and has provided the City with the name and address of the lessee within 120 days after the violation and within 60 days after the City requests such information; or

(5) That the automated traffic law enforcement system was not operating properly at the time of the violation.

(h) Procedures. The City shall adopt procedures for the processing of violations and the collection of civil penalties and costs under this Section to the extent that those procedures do not contradict or are otherwise inconsistent with this Section.

(i) Failure to Contest. The failure to seek an administrative hearing to contest the violation or to pay the civil penalty for the violation within 30 days of the issuance of the notice of violation shall constitute a waiver of the right to contest the violation and will be considered an admission of liability. Any said failure shall result in the imposition of an additional penalty as provided in Section 28-186(k) for failure to pay or contest the original penalty on or before the due date.

(j) Confidentiality. Recorded images made by the automatic traffic enforcement system shall be confidential and shall be made available only to the alleged violator, to governmental and law enforcement agencies for purposes of adjudicating automated traffic law violations, or for statistical or other governmental purposes. Any recorded image evidencing an automated traffic law violation, however, may be utilized and admissible as evidence in any administrative hearing or other proceeding resulting from or relating to the violation.

(k) Penalty. Unless the driver of the motor vehicle in question received a uniform traffic citation from a police officer at the time of the alleged automated traffic law violation, a vehicle owner or lessee who violated this Section shall be subject to a civil penalty of \$300.00 for a first time violation and \$1,000.00 for a second or subsequent violation. An additional penalty of \$100.00 shall be imposed if the violator fails to pay the original penalty or to request an administrative hearing to contest the violation within 30 days of the date of issuance of the notice of violation. Any penalty imposed for a violation of this Section is a civil penalty and is not a violation of a traffic regulation governing the movement of motor vehicles and shall not be recorded on the driving record of the vehicle owner, provided that the City may record the violation for the purpose of determining if a person is subject to a higher fine for a second or subsequent offense.

SECTION 3. **Publication.** The City Clerk is hereby directed and authorized to publish this ordinance in pamphlet form as provided by law.

SECTION 4. **Effective Date.** This Ordinance will be in full force and effect ten (10) days after its publication in pamphlet form.

SECTION 5. **Authority.** This ordinance is adopted under the home-rule authority granted to the City of Peoria by Article 7, Section 6, of the Illinois Constitution, 1970.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this ___day of _____ 2021.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel