

ORDINANCE NO. 3142-17

AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, AMENDING CHAPTER 78 OF THE CODE OF ORDINANCES OF THE CITY OF BALCH SPRINGS, BY ADDING A NEW ARTICLE VIII, TO BE ENTITLED "SCHOOL BUS STOP ARMS"; PROVIDING DEFINITIONS; ESTABLISHING A CIVIL PENALTY OF UP TO \$300.00 FOR UNLAWFUL PASSING OF STOPPED SCHOOL BUS AND UP TO \$900.00 FOR SUBSEQUENT VIOLATIONS WITHIN 36 MONTHS; ESTABLISHING A LATE PAYMENT PENALTY; ESTABLISHING PROCEDURES FOR ADMINISTERING A SCHOOL BUS STOP ARM VIOLATION PROGRAM; REQUIRING CERTAIN NOTICES; PROVIDING AN APPELLATE PROCESS; PROVIDING FINDINGS OF FACT; PROVIDING FOR SEVERANCE, REPEAL OF CONFLICTS, AN EFFECTIVE DATE, AND FINDING OF OPEN MEETING

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 motor vehicles frequently 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 Balch Springs; and

WHEREAS, the City Council believes that creating a civil penalty for unlawfully passing a stopped school bus 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 BALCH SPRINGS:

SECTION 1. FINDINGS OF FACT

The foregoing recitals are found to be true and accurate legislative findings and are incorporated herein for all purposes.

SECTION 2. AMENDMENT

Chapter 78 of the Code of Ordinances for Balch Springs, is hereby amended by the addition of a new Article VIII, which shall be entitled and read as follows:

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

Section 78-301. Definitions.

“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.

“Camera-enforced school bus” means a school bus equipped with a photographic school bus stop arm enforcement system.

“Date of issuance” means the date that a civil school bus stop arm notice of violation is mailed in accordance with this Chapter.

“Department” means the department of the city designated by the Police Chief to enforce and administer this Chapter, or the department's designated representative.

“Director” means the director of the department or the director’s authorized representative.

“Owner” means:

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 78.18.050 (d) or (g) as the lessee of the motor vehicle at the time of a school bus stop arm violation; or
3. the person named under Section 78.18.050 (h) as holding legal title to the motor vehicle at the time of a school bus stop arm violation.

“Photographic school bus stop arm enforcement system” means 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. (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 78.18.050 of this Chapter.

“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.

“School bus” has the meaning given that term in Section 541.201 of the Texas Transportation Code, as amended.

“School bus stop arm violation” or “civil school bus stop arm violation” means a violation of Section 78.18.050 of this Chapter.

Section 78-302. General authority and duties of the director and department.

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

Section 78-303. Enforcement officers - powers, duties, and functions.

- A. The Police Chief or a designated representative shall appoint enforcement officers to issue civil school bus stop arm notices of violation.
- 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 notice of violation 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 78-314 applies.
 - 4. To issue warnings in lieu of notices of violation during acceptance testing of the photographic school bus stop arm enforcement system or at any other time prescribed by the director.

Section 78-304. Hearing officers - powers, duties, and functions.

- A. The Police Chief, or a designated representative, shall appoint hearing officers to administratively adjudicate all school bus stop arm violations for which a civil school bus stop arm 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 Chapter.
 - 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 78-311 of this Chapter.
 - 5. To waive penalties assessed for a school bus stop arm violation in accordance with Section 78-311 of this Chapter.

Section 78-305. 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 Chapter.
- 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 notice of violation 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 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 school bus stop arm violation 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 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 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 notice of violation 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 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.

Section 78-306. Civil school bus stop arm notices of violation; form.

- A. A civil school bus stop arm notice of violation serves as the summons and complaint for purposes of this Chapter.
- B. The school bus stop arm notice of violation 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 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 person named in the school bus stop arm notice of violation may pay the civil fine in person or by mail at an address designated on the 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 school bus stop arm notice of violation is issued.
 - 11. A notification that any request by the vehicle owner to have the enforcement officer, or other authorized person 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 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 notice of violation.
 - 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 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.

Section 78-307. Service of a civil school bus stop arm notice of violation.

- A. In order to impose a civil fine under this Chapter, the director shall send a school bus stop arm 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 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 78-304(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 78-304(d) or (g); or
 - 4. if the registered owner presents evidence under Section 78-304(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 78-304(h).
- B. A school bus stop arm notice of violation is presumed to have been received on the fifth day after the date the notice of violation is mailed.

Section 78-308. Answering a civil school bus stop arm notice of violation.

- A. A vehicle owner who has been issued a civil school bus stop arm 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 date the notice of violation 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 78-304 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 78-304 that the person named in the school bus stop arm notice of violation 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 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 money order or check. Payment of the civil fine

and all penalties and costs assessed under this Chapter 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 78-309.

Section 78-309. 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 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 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.

Section 78-310. Hearings for disposition of a school bus stop arm notice of violation; notice of violation and photographic recorded images as prima facie evidence.

- A. Every hearing for the adjudication of a school bus stop arm violation charge under this Chapter must be held before a hearing officer not later than the 30th 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 notice of violation 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 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 enforcement officer or other authorized person who issued the notice of violation, 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 Chapter, 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 Chapter 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 Chapter, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the school bus stop arm 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 Chapter, 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.

Section 78-311. Failure to answer a civil school bus stop arm notice of violation 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 notice of violation 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 notice of violation under Section 78-306 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 Chapter, a person who receives a school bus stop arm 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 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 notice of violation; 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 notice of violation.

Section 78-312. Civil fines for school bus stop arm violations; penalties and other costs.

- A. If a civil fine is assessed under this Chapter, 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 as follows:
 1. a \$300 civil fine for the first violation;
 2. a \$600 civil fine for the second violation within any twenty-four (24) calendar month period; and
 3. a \$900 civil fine for the third or subsequent violation within any twenty-four (24) calendar month period.
- C. An additional \$25 late payment penalty will be assessed if the vehicle owner fails to:
 1. answer a school bus stop arm notice of violation 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 Chapter;
 - b. no notice of the hearing officer's order was received as required by this Chapter; 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.

Section 78-313. 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 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 \$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 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 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 municipal court prosecutor shall not be present at the appeal hearing. 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 notice of violation 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 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 Chapter, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the school bus stop arm notice of violation.

Section 78-314. Effect of liability; exclusion of civil remedy; enforcement.

- A. The imposition of a civil fine under this Chapter 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 Chapter 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 Chapter 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 Chapter.

Section 78-316. Disposition of civil fines, penalties, and costs assessed for school bus stop arm violations.

Civil fines, penalties, and costs assessed under this Chapter 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 3. REPEALER

All provisions of the ordinances of the City of Balch Springs in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Balch Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

SECTION 6. OPEN MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

DULY PASSED AND ADOPTED by the City Council of the City of Balch Springs, Texas, on the 9th day of January, 2017.

APPROVED:

Carrie J. Marshall, Mayor

ATTEST:

Cindy Gross, City Secretary

