

ORDINANCE NO. 08-21

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 14 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 14-66 PERTAINING TO TRUCK TRAFFIC; SCOPE AND JURISDICTION; DEFINITION AND BY AMENDING SECTION 14-68 PERTAINING TO TRUCK TRAFFIC; PERMISSIBLE ROUTES; UNLAWFUL ACTS AND BY AMENDING SECTION 14-69 PERTAINING TO TRUCK TRAFFIC; EXCEPTIONS TO ROUTE RESTRICTIONS AND BY AMENDING SECTION 14-70 PERTAINING TO TRUCK TRAFFIC; LIABILITY FOR DAMAGES AND VIOLATIONS; REGISTERED OWNER RESPONSIBILITY AND BY AMENDING SECTION 14-73 PERTAINING TO TRUCKS; VIOLATIONS; PENALTIES AND BY AMENDING SECTION 14-74 PERTAINING TO WEIGHING OF VEHICLES AND LOADS; VIOLATION' CLASSIFICATION; CIVIL PENALTY AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 14 of the Peoria City Code (1992) is amended by amending Section 14-66 pertaining to Truck Traffic; scope and jurisdiction; definition and which shall read as follows:

Sec. 14-66. Truck traffic; scope and jurisdiction; definition.¹

This chapter shall apply solely to:

(a) Users of streets within the city boundaries and under the jurisdiction of the City of Peoria, and

¹State law reference(s) -- Vehicle size, weight and load, A.R.S. § 28-1001 et seq.; authority to restrict loads, etc., A.R.S. § 28-1012.

~~(b) Unless the term is otherwise specifically defined, the use of the term "truck" in this article shall mean those vehicles with motive power, other than buses and recreational vehicles, having three or more axles and measuring thirty six (36) feet or longer in overall length including truck and load, which are designed and used primarily for carrying property other than the effects of the driver.~~

(b) Truck shall mean any of the following:

1. A semi trailer when used in combination with a truck tractor.

2. A motor vehicle or vehicle combination designed, used or maintained primarily for the transportation of property with a gross vehicle weight rating or gross combination weight rating of 18,001 pounds or more.

3. Transports a hazardous material in an amount requiring marking or placarding as prescribed in Arizona Administrative Code R-17-5-209

4. Trucks shall not include buses and recreational vehicles used primarily for the transportation of passengers.

SECTION 2. Chapter 14 of the Peoria City Code (1992) is amended by amending Section 14-67 pertaining to Truck traffic; routes; local streets; definition and which shall read as follows:

Sec. 14-67. Truck traffic, routes, ~~streets~~, local streets; definition.

(a) Whenever any words or phrases used in this chapter are not defined, but are defined in Title 28, Arizona Revised Statutes, as amended, such definitions shall apply. The following terms are defined:

(1) *Local Streets* - All those streets designated as local streets on the street classification map, on file in the ~~office of the city clerk~~ Engineering Department. Local streets provide for access to those properties that are adjacent to the collector street network and serve travel needs over relatively short distances and connections to higher classification streets. Such streets are not designated on the circulation element of the City's general plan.

(2) *Collector Streets* - all those streets designated as collector streets on the street classification map, on file in the ~~office of the city clerk~~ Engineering Department. Collector streets provide for both land access, service and traffic circulation within residential neighborhoods and commercial and industrial areas and collect traffic from residential neighborhoods and channel it into the arterial street system. Such streets

may be designated on the circulation element of the City's general plan.

~~(3) *Minor Arterial Streets* - All those streets designated as minor arterial streets on the street classification map, on file in the office of the city clerk unless otherwise designated in this code. Minor arterial streets accommodate through traffic; while balancing the need to develop adjacent land uses in accordance with arterial access guidelines contained in the city's comprehensive general plan.~~

(3) *Major Arterial Streets* - All those streets designated as major arterial streets on the street classification map, on file in the office of the city clerk Engineering Department. Major Arterial streets provide for traffic movement from one area of the city to another, and are primarily designed to accommodate through traffic; provision of access to abutting property is a secondary consideration. Major Arterial Streets are designated on the transportation circulation element of the City's general plan. ~~The following additional roads shall be designated as major arterial streets for the purpose of this chapter.~~

(4) *Principal Arterial Roadway* - Those streets, including but not limited to Lake Pleasant Parkway, designated on the City's circulation element as a Principal Arterial Roadway, or which may be shown on the City's street classification map as a parkway and proposed to have a right of way not less than that for an arterial street and that shall have controlled points of access. These streets are designated on the transportation circulation element of the City's general plan. Such streets shall be ~~treated as Major Arterial Streets~~ designated as Truck Routes for the purpose of regulating truck traffic under this code.

(5) *National Highway Network* - Those portions of the following State Routes or State Highways located in the City of Peoria:

- a. U.S. Highway 60 - Phoenix - Wickenburg Highway, also known as Grand Avenue.
- b. Arizona 74 - Phoenix - Morristown Highway.
- c. State Route 101L-Agua Fria Freeway
- d. State Route 303L- Estrella Freeway

(b) The following roadways with in the city limits of the City of Peoria, Arizona shall be designated as Truck Routes for the purpose of this chapter.

(1) Northern Avenue from the West boundary of the City at approximately 115th Avenue, east to 71st Avenue on the east boundary of the City.

(2) Olive Avenue from the West boundary of the City of Peoria at

approximately 115th Avenue, east to 67th Avenue on the east boundary of the City.

(3) That portion of Peoria Avenue commencing at the ~~western boundary interchange with State Route 101 L, east to 83rd Avenue.~~
~~of the City of Peoria east to the eastern boundary of the City of Peoria shall be designated as a major arterial for the purpose of this chapter.~~

(4) That portion of Cactus Road commencing at 91st Avenue east to 67th Avenue on the east ~~ern~~ boundary of the City. ~~of Peoria shall be designated as a major arterial street for the purpose of this chapter~~

(5) That portion of Thunderbird Road commencing at the west boundary of the City east to 67th Avenue.

(6) Bell Road from the West boundary of the City of Peoria at approximately 93rd Avenue east to 83rd Avenue on the east boundary of the City.

(7) Union Hills Road from the intersection of 83rd Avenue to the East Boundary of the City

(8) That portion of Beardsley Road commencing at Lake Pleasant Road west to the Peoria City Limit boundary. ~~is designated as a major arterial street for purposes of this chapter.~~

(9) That portion of Rose Garden Lane from 112th Avenue West to the Peoria City Limit boundary ~~is designated as a major arterial street for purposes of this chapter.~~

(10) That portion of Happy Valley Parkway which is currently designated as Interim S.R. 303L from the intersection with S.R. 303L 107th Avenue East to Lake Pleasant Parkway. ~~is designated as a Major Arterial Street for purposes of this Chapter.~~ That portion of Happy Valley Road from Lake Pleasant Parkway to 91st Avenue.

(11) That portion of Jomax Road West of Lake Pleasant Parkway to the Peoria City Limit boundary. ~~is designated as a Major Arterial Street for purposes of this Chapter.~~

(12) That portion of 112th Avenue from Rose Garden Lane to Beardsley Road.

(13) That portion of 107th Avenue North from Pinnacle Peak Road to ~~Happy Valley Parkway~~ Jomax. Road, which is also known as Tierra Del Rio, Boulevard. ~~which is currently designated as Interim S.R. 303L. is designated as a Major Arterial Street for purposes of this Chapter.~~

(14) That portion of Lake Pleasant Road commencing at Beardsley Road North to the intersection with Lake Pleasant Parkway. ~~is designated as a Major Arterial Street for purposes of this chapter.~~

(15) That portion of 91st Avenue commencing at the southern boundary of the City of Peoria north to ~~Cactus Road shall be designated as a major arterial street for purpose of this chapter.~~ 91st Avenue North from its intersection with Cactus Road to its interchange with State Route 101L (Agua-Fria Freeway) shall be designated as a major arterial street for purposes of this Chapter.

(16) That portion of 83rd Avenue commencing at the southern boundary of the City of Peoria, north to Cotton Crossing and following Cotton Crossing North to Peoria Avenue. That portion of 83rd Avenue North from Peoria Avenue to Bell Road. That portion of 83rd Avenue North from Union Hills Drive to its intersection with Lake Pleasant Parkway.

(17) That portion of New River Road commencing at State Route 74 and proceeding North to the Peoria City Limits Boundary.

(c) Truck routes and through truck routes are established for ~~major~~ designated arterial streets and all Principal Arterial roadways. Truck Routes include all highways in National Highway Network within in the City of Peoria.

SECTION 3. Chapter 14 of the Peoria City Code (1992) is amended by amending Section 14-68 pertaining to Truck Traffic; permissible routes; unlawful acts and which shall read as follows:

Sec. 14-68. Truck traffic; permissible routes, unlawful acts.

(a) Trucks must operate only on truck routes, through truck routes and ~~major arterial streets~~, except as provided by this code.

(b) It shall be unlawful to:

(1) Operate any truck on any street in the City of Peoria in violation of the provisions of this code.

(2) To instruct any person, employee or agent to operate a truck on any street in the City of Peoria in violation of the provisions of this code.

(c) It shall be presumed that any truck indicating ownership by a commercial enterprise is being operated with the consent of the registered owner as set forth on the motor vehicle registration.

(d) Any person violating the provisions of this article section shall be guilty of a class one misdemeanor; The Court shall impose a minimum sanction, not including surcharges of not less than three hundred and fifty (\$350.00) dollars. The sanction shall not be waived or reduced.

SECTION 4. Chapter 14 of the Peoria City Code (1992) is amended by amending Section 14-69 pertaining to Truck Traffic; exceptions to route restrictions and which shall read as follows:

Sec. 14-69. Truck traffic, exceptions to route restrictions.

Trucks may operate off of ~~major arterial streets~~ truck routes only for the delivery and pickup of merchandise, materials, or equipment going to or from a specific location on a non truck route arterial, local, or collector streets. Trucks must use the shortest route on minor arterial, collector or local streets to and from the major arterial streets, unless a specific route has been designated by the City Engineer.

SECTION 5. Chapter 14 of the Peoria City Code (1992) is amended by amending Section 14-70 pertaining to Truck traffic; liability for damages and violations; registered owner responsibility and which shall read as follows:

Sec. 14-70. Truck traffic; liability for damages and violations; registered owner responsibility.

(a) Any person driving, operating or parking any truck upon any street under the jurisdiction of the City of Peoria shall be liable for actual amount of damage, together with the civil penalty provided under Section 14-74 of this code, to any street, light or sign of the City of Peoria as a result of any unlawful operation, driving, moving or parking of the truck, or as a result of operating, driving, moving or parking any truck weighing or measuring in excess of the maximum weight or as the result of operating any truck containing safety violations for which a citation could be issued.

(b) When the driver is not the owner of the truck, but is operating, driving, moving or parking the truck with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any damage and civil penalties. Notwithstanding the foregoing, the court shall have the jurisdiction to apportion the damage and civil penalties between the operator of the truck and the owner.

(c) The registered owner of a Truck pursuant to Title 28, Arizona Revised Statutes shall have a duty to ensure that any truck registered to them is not driven on a public roadway within the City of Peoria in excess of the maximum weight restrictions under this Chapter or Title 28, Arizona Revised Statutes or in violation of the truck route restrictions of this Chapter or containing

any safety violations prohibited by this Chapter or Title 28, Arizona Revised Statute or any state or federal statute or regulation. It shall be presumed that any truck operated upon the public roadways in excess of the maximum weight permitted by this Chapter or Title 28, Arizona Revised Statutes or in violation of the truck route restrictions of this Chapter or containing any safety violations prohibited by this Chapter or Title 28, Arizona Revised Statute or any state or federal statute or regulation is done with the consent and on behalf of the registered owner.

(1) The burden of proof shall be upon the registered owner to introduce evidence to rebut the presumption provided for under this Section.

(d) Damages, under this section, shall be ordered as restitution to the City of Peoria by the magistrate court upon any conviction for violation of this code. The city magistrate shall not waive or reduce the amount of restitution provided for by this section.

(e) The city attorney may bring a civil action on behalf of the city against either the driver and/or the registered owner of the truck to recover such damages and civil penalties in full. Any party such subject to a judgment for such damages and civil penalties may file an action for contribution from other parties that they determine to be at fault.

SECTION 6. Chapter 14 of the Peoria City Code (1992) is amended by amending Section 14-73 pertaining to Trucks; violations; penalties and which shall read as follows:

Sec. 14-73. Trucks; violations; penalties.

(a) In addition to any other penalties provided for the violation of any of this division, any person convicted of violating the provisions of this division shall be punished by a fine as set forth in the following table:

SEE TABLE 14-73. as amended.

(b) Repealed.

(b) For any violation of Title 28, Arizona Revised Statutes, Sections 28-5231 through 28-5244 and any regulation issued pursuant to these sections, upon a finding of responsibility or a conviction the Court shall impose a minimum sanction of not less than three hundred and fifty dollars per citation. Such sanctions shall not be waived or suspended.

SECTION 7. Chapter 14 of the Peoria City Code (1992) is amended by amending Section 14-74 pertaining to Weighing of vehicles and loads; violation' classification; civil penalty and which shall read as follows:

Sec. 14-74. Weighing of vehicles and loads; violation; classification; civil penalty.

(a) A police or peace officer having reason to believe that the weight of a vehicle and load does not conform to this chapter or Title 28, Arizona Revised Statutes may require the driver to:

- (1) Stop and submit to a weighing of the vehicle and load by means of either portable or stationary scales.
- (2) Drive the vehicle to the nearest public scales, if the scales are within two five miles.

(b) If on weighing a vehicle and load pursuant to subsection (a) of this section an officer determines that the weight does not conform to this ~~article~~ chapter, the officer may require the driver to stop the vehicle in a suitable place and remain standing until the portion of the load is removed as necessary to reduce the gross weight of the vehicle to the limit permitted under this chapter or Title 28, Arizona Revised Statutes. The owner or operator shall care for the material unloaded at the risk of the owner or operator.

(c) A driver of a vehicle is guilty of a class 2 misdemeanor who either:

- (1) Knowingly fails or refuses to stop and submit the vehicle and load to a weighing.
- (2) Knowingly fails or refuses when directed by an officer on a weighing of the vehicle to stop the vehicle and otherwise comply with subsections (a) and (b) of this section.

The Court shall impose a minimum fine of not less than three hundred and fifty (\$350.00) dollars, not inclusive of any surcharge and any civil penalty for excess weight. A second of subsequent offense within a five year period from the date of the first violation shall be a class one misdemeanor; the Court shall impose a minimum fine of not less than five hundred (\$500.00) dollars, not inclusive of any surcharge and any civil penalty for excess weight.

(d) A peace officer may require the weighing of a ~~commercial~~ vehicle by means of portable scales at any time. Failure to submit to weighing as required by this subsection is punishable by a civil penalty. The Court shall not waive, reduce or fail to impose the Civil Penalty. ~~The Civil Penalty shall be the minimum of which is the minimum civil penalty for over six thousand pounds overweight as prescribed in section 28-1401, subsection B.~~

(e) The City may use photo traffic weight monitoring systems to enforce weigh limits required by this Code or Title 28, Arizona Revised Statutes.

If the excess weight is:

The minimum civil penalty is:

0 to 1,000 pounds	\$50.00
1,001 to 1,250 pounds	100.00
1,251 to 1,500	200.00
1,501 to 2,000	300.00
2,001 to 2,500	400.00
2,501 to 3,000	500.00
3,001 to 3,500	840.00
3,501 to 4,000	980.00
4,001 to 4,500	1120.00
4,501 to 4,750	1260.00
4,751 to 5,000	1400.00

5,001 and over 1400.00 plus an additional \$100 for each 1000 pounds of excess weight.

(d) If a person is arrested for violating this chapter or sections 28-1099 or 28-1100, Arizona Revised Statutes, the arresting officer may take the person immediately before the municipal court or any magistrate who is within the county who has jurisdiction of the offense.

(e) The officer or court collecting or receiving a civil penalty, fee, fine or forfeiture for a violation of this Chapter or section 28-1099 or 28-1100 Arizona Revised Statutes shall deposit, pursuant to sections 35-146 and 35-147, the amount in the Arizona highway user revenue fund if for a violation occurring on a highway under the jurisdiction of the state of Arizona or in the City's general fund if for a violation of this Chapter on a roadway under the jurisdiction of the City. If a civil penalty, fee or fine is collected, ten dollars of the civil penalty, fee or fine is deductible as reimbursement of costs from the amount collected.

(f) A weight certificate or any other document that evidences the receipt of goods for shipment, that is issued by a person engaged in the business of transporting or forwarding goods and that states the gross weight of the vehicle with load that is in excess of the prescribed maximum weight limitation permitted by section 28-1099 or 28-1100 is prima facie evidence that the weight of a vehicle and load is unlawful.

(g) If the commodity being carried is sold by weight, a weight certificate or any other document that evidences the receipt of goods for shipment, that is issued by a person engaged in the business of transporting or forwarding goods and that states the gross weight of the vehicle with load that is not in excess of the prescribed maximum weight limitation permitted by section 28-1100 is prima facie evidence that the gross weight of a vehicle and load is lawful. The presumption that the weight of the vehicle and load is lawful may be rebutted by

the weight of the vehicle and load as shown by means of the department's stationary scale or a public weighmaster scale.

SECTION 8. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 1st day of July, 2008.

Dated: July 5, 2008

Cathy Carlet
for Bob Barrett, Mayor

ATTEST:

Mary Jo Kief
Mary Jo Kief, City Clerk



APPROVED AS TO FORM:

Stephen M. Kemp
Stephen M. Kemp, City Attorney

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