

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: 2C
Amend No. _____

Date Prepared: September 29, 2010 Council Meeting Date: October 19, 2010

TO: Honorable Mayor and Council
FROM: Steve Kemp, City Attorney
SUBJECT: Amendments to Chapter 14, Peoria City Code pertaining to Truck Traffic

RECOMMENDATION: That the Mayor and Council adopt the proposed ordinance amending Chapter 14 of the Peoria City Code (1992) pertaining to Truck Traffic.

SUMMARY: Currently, the code provides that violations of provisions pertaining to truck traffic are a criminal offense, punished as a misdemeanor. Frequently, this results in cases being delayed for adjudication as the matter must be handled as a criminal case and the defendant may elect to obtain counsel.

The proposed ordinance would permit the City to designate the first offense as a civil traffic violation, while retaining the mandatory fines. This would allow the City to address first offenders as a civil offense more expeditiously, while ensuring that repeat offenders are treated as a misdemeanor. This proposed ordinance has been reviewed by the Police Department and includes their input. As the fine is the deterrent in many of these cases, it is not modified. This added flexibility will assist in the prompt adjudication of these violations.

Therefore, it is my recommendation that the Mayor and Council adopt the proposed amendment to Chapter 14, Peoria City Code (1992) pertaining to Truck Traffic.

FISCAL NOTE: (Non-applicable)

ATTACHMENT:

1. Proposed Ordinance

CITY CLERK USE ONLY:

- Consent Agenda
- Carry Over to Date:
- Approved
- Unfinished Business (Date heard previous)
- New Business
- Public Hearing: No Action Taken

ORD# 2010-29 RES#
LCON# LIC#
Action Date:

ORDINANCE NO. 2010-29

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 14-68 PERTAINING TO PERMISSIBLE ROUTES, UNLAWFUL ACTS 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 14-68 pertaining to Permissible routes; unlawful acts and which shall read as follows:

Sec. 14-68. Permissible routes, unlawful acts.

(a) Trucks must operate only on truck routes, through truck routes 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. Notwithstanding the above, for a first violation of this section within a one year period, the City Attorney may amend any citation or complaint filed in a matter under this section to a civil traffic violation..

SECTION 2. 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 3. 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 19th day of October, 2010.

Dated: _____

Bob Barrett, Mayor

ATTEST:

Rhonda Simmons, Acting City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

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