

Administrator who will charge, store, and place the scooters in designated areas for people to rent.

The attached agreement establishes interim rules and regulations of the Stand-up Electric Scooter within the city while their agreement is in effect, and ensures the Pilot is consistent with the safety and well-being of bicyclists, pedestrians, and other users of the public right of way, which has been discussed with our Chief of Police.

It is my understanding that Bird Rides carries the insurance and any liability, which has also been discussed with our City Attorney. This is a growing initiative we can offer to our interested citizens and be a part of. In addition, the city will collect a nominal fee of \$.20 per ride based on usage.

With the increase of gas prices, and an increase in events throughout our city, this will be a convenient way to travel within our city limits without any cost the city.

Thank you for your consideration.

Respectfully,
Austin Tylec
Mayor

MOVED by Alderman Lavey SECONDED by Alderman Loncar
That the Common Council hereby grants approval of the agreement with Bird Ride, Inc. for the Stand-Up Electric Scooters, subject to review by the City Attorney.
Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro (5)
Nays: None (0)
CARRIED.

I.2 Mayor

August 30, 2022

North Tonawanda Common Council
216 Payne Avenue
North Tonawanda, NY 14120

Re: Bus Cameras Local Law

Dear Honorable Body,

Following the public hearing on Chapter 747 entitled "owner liability for failure of vehicle operator to stop for a school bus displaying a red visual signal and stop-arm", it is recommended that the city council pass and codify this ordinance for North Tonawanda.

After discussions with the North Tonawanda School District, this law would be a step forward to help increase safety for students taking the daily school bus. Following approval, the city will be working with the school district to finalize terms of agreement with a bus cam provider that benefits both parties.

As a reminder, the installation of new bus cams will be at no expense of the City or School District.

Thank you for your consideration.

Respectfully,
Austin Tylec
Mayor

MOVED by Alderman DiBernardo SECONDED by Alderman Pecoraro
That the Common Council at a regular session meeting, held at City Hall, 216 Payne Avenue, North Tonawanda, New York at 6:30 PM on September 6, 2022, a resolution to add Chapter 747 entitled "Owner Liability for Failure of Vehicle Operator to Stop for a School Bus Displaying a Red Visual Signal and Stop-Arm" was proposed and reads as follows:

RELATIVE TO ADDING CHAPTER 747 OF THE CODIFIED ORDINANCES ENTITLED "OWNER LIABILITY FOR FAILURE OF VEHICLE OPERATOR TO STOP FOR A SCHOOL BUS DISPLAYING A RED VISUAL SIGNAL AND STOP-ARM"

BE IT RESOLVED, by the City Council of the City of North Tonawanda, New York that Chapter 747 of the Codified Ordinances entitled "Owner Liability For Failure Of Vehicle Operator To Stop For A School Bus Displaying A Red Visual Signal And Stop-Arm" is hereby added to read as follows:

747.01 PURPOSE.

The purpose of this chapter is to impose monetary liability on the owner of a motor vehicle under circumstances where the operator of that motor vehicle fails to stop for a school bus displaying a red visual signal and stop-arm. It is a well-known fact that vehicle operators often fail to stop for a school bus displaying a red visual signal and stop-arm, thus creating a hazardous and dangerous condition for passengers, especially children, who depart from a stopped school bus. The intent of this chapter involves the installation of cameras on the school bus stop-arm to increase safety for passengers departing the school bus by imposing financial liability on the owner of the vehicle which will serve as a deterrent.

747.02 DEFINITIONS.

As used in this chapter, the following words shall have the following respective meanings:

- (a) "Person" means one or more individuals, a partnership, company, association, corporation, trust, trustee or receiver or limited liability company.
- (b) "Owner" means the registered owner of a motor vehicle.
- (c) "City" means the City of North Tonawanda, New York.
- (d) "School District" means the City School District of the City of North Tonawanda, New York.

747.03 DEMONSTRATON PROGRAM IMPOSING MONETARY LIABILITY

Pursuant to Section 1174-a of the New York State Vehicle and Traffic Law, the City hereby establishes a demonstration program imposing monetary liability on the owner of a motor vehicle for the failure of an operator thereof to comply with Section 1174 of the New York State Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions 20 and 21-(1)-(c) of Section 375 of the New York State Vehicle and Traffic Law and operated in the City. This demonstration program empowers the City to install and operate, or to cause to be installed and operated, school bus photo violation monitoring systems which may be stationary or mobile. Such school bus photo violation monitoring systems may be installed on school buses owned and operated by the School District, or on school buses privately owned and operated for compensation under contract with the School District provided that no such stationary school bus photo violation monitoring system shall be installed and operated, or caused to be installed and operated by the City, except on roadways under the jurisdiction of the City and further provided no such mobile school bus photo violation monitoring system shall be installed or operated on school buses unless the City and the School District enter into an agreement for such installation and operation.

747.04 HANDLING AND CUSTODY OF PHOTOGRAPHS

As part of the demonstration program, the City will create procedures for the proper handling and custody of photographs, micro photographs, video tapes and other recorded images and data produced by such mobile school bus photo violation monitoring systems in place on school buses and for the forwarding of such photographs, micro photographs, video tapes and other recorded images and data to the City. Any such agreement entered into between the City and the School

District must be approved by majority vote of the North Tonawanda City Council and also by Resolution of the Board of the School District.

747.05 PRIVACY ISSUES

As part of the demonstration program, the City shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a school bus photo violation monitoring device. Such measures shall include:

(a) Utilization of necessary technologies to ensure, to the extent practicable, that photographs produced by such school bus photo violation monitoring devices shall not include images that identify the driver, the passengers, the contents of the motor vehicle, pedestrians and cyclists; provided, however, that no Notice of Liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a motor vehicle, provided that such City has made a reasonable effort to comply with the provisions contained herein.

(b) A prohibition on the use or dissemination of motor vehicles' license plate information and other information and images captured by such school bus photo violation monitoring systems, except: (1) as required to establish liability under this chapter or collect payment of penalties; (2) as required by court order; or (3) as otherwise required by law and oversight procedures to ensure compliance with the afore-described privacy protection measures.

(c) The City shall the install signage in conformance with standards established in the Manual and Specifications for a Uniformed System of Traffic Control Devices ("MUTCD") maintained by the Commission of Transportation, at each roadway entrance of the City boundaries giving notice that school bus photo violation monitoring systems are used to enforce restrictions on motor vehicles violating Section 1174 of the New York State Vehicle and Traffic Law. For purposes of this chapter, the term "roadway" shall not include State Expressway Routes or State Interstate Routes but shall include controlled access highway exit ramps that enter the City boundaries of the City.

747.06 VEHICLE OWNER LIABILITY

The owner of a motor vehicle shall be liable for a monetary penalty imposed pursuant to this chapter if such vehicle was used or operated with the permission of the owner, expressed or implied, in violation of Section 1174 of the New York State Vehicle and Traffic Law if such violation is evidenced by information obtained from a school bus photo violation monitoring system; provided, however, that no owner of a motor vehicle shall be liable for a monetary penalty imposed pursuant to this chapter where the operator of such motor vehicle has been convicted of the underlying violation of Section 1174 of the Vehicle and Traffic Law.

747.07 OWNER LIABILITY FOR MONETARY PENALTIES

(a) An owner of a motor vehicle liable for a violation of subsection (a) of Section 1174 of the New York State Vehicle and Traffic Law shall be liable for monetary penalties as provided herein. The liability of the owner pursuant to this chapter shall be \$250.00 for a first violation; \$275.00 for a second violation; provided the first and second were committed within a period of eighteen (18) months, and; \$300.00 for a third, or subsequent violation, provided that all of which were committed within a period of eighteen (18) months. An additional penalty in the amount of \$25.00 for each violation shall be due and payable resulting from the failure of the owner to respond to a Notice of Liability within the prescribed time period.

(b) An imposition of liability pursuant to this chapter shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

747.08 NOTICE OF LIABILITY

(a) A Notice of Liability shall be sent by first-class mail to each person alleged to be liable as an owner for a violation of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law pursuant to this chapter. Personal delivery on the owner shall not be required; a manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

(b) The Notice of Liability shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law pursuant to this chapter, the registration number of the vehicle involved in such violation, the location of where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

(c) The Notice of Liability shall include information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the Notice of Liability. Such Notice of Liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(d) The Notice of Liability shall be prepared and mailed by the City or by such other entity authorized by the City to prepare and mail such Notice of Liability and recover any such monetary penalty.

(e) Adjudication of the liability imposed upon owners by this chapter shall be made by the City Court of the City of North Tonawanda, NY.

747.09 PRESUMPTION OF OWNER LIABILITY; DEFENSES TO A NOTICE OF LIABILITY

(a) For purposes of this chapter, there shall be a presumption that the operator of such motor vehicle was operating such vehicle with the consent of the owner at the time such operator failed to comply with Section 1174 of The New York State Vehicle and Traffic Law.

(b) If an owner receives a Notice of Liability pursuant to this chapter for any time period during which the motor vehicle was reported to the police as having been stolen, it shall be a valid defense to the allegation of liability for a violation of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law pursuant to this chapter that the motor vehicle had been reported to the police as stolen prior to the time the violation had occurred and had not been recovered by such time. For purposes of asserting a defense provided by this section, it shall be sufficient that a certified copy of the police report on the stolen motor vehicle be sent by First Class Mail to the City Court of the City of North Tonawanda, NY.

(c) An owner who is a lessor of a vehicle to which Notice of Liability was issued shall not be liable for the violation of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law provided he or she sends to the City Court of the City of North Tonawanda, NY a copy of the rental, lease or other such contract document covering such motor vehicle on the date of the violation with the name and address of the lessee clearly legible, within thirty-seven (37) days after receiving notice from the court of the date and time of such violation, together with such other and further information contained in the original Notice of Liability. Failure to send such information within such thirty-seven (37) daytime period shall render the owner liable for the monetary penalty prescribed by this chapter. Where the lessor complies with the provisions of this paragraph, the lessee of such motor vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this chapter, shall be subject to liability for the violation of subdivision (a) of Section 1174 of the Vehicle and Traffic Law pursuant to this section and shall be sent a Notice of Liability pursuant to this chapter.

(d) No owner of a motor vehicle shall be subject to a monetary penalty imposed pursuant to this Chapter if such owner can demonstrate by clear and convincing evidence that such school bus stop arms were malfunctioning at the time of the alleged violation.

(e) No owner of a motor vehicle shall be subject to a monetary penalty imposed pursuant to this chapter if the operator of such motor vehicle was operating such motor vehicle without the consent of the owner at the time such operator failed to comply with Section 1174 of the New York State Vehicle and Traffic Law and the owner of the motor vehicle is able to demonstrate to the court by clear and convincing evidence that the motor vehicle was operated at the time of the violation without the consent of the owner.

747.10 REPORTING REQUIREMENTS

The demonstration program established by the City requires that it submit an annual report on the results of the use of a school bus photo violation monitoring system to the Governor, the President of the Senate and the Speaker of the Assembly on or before June 1, 2019, and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to, the following:

- (a) The number of buses and a description of the routes where stationary and mobile school bus photo violation monitoring systems were used.
- (b) The aggregate number, type and severity of accidents reported at locations where a school bus photo violation monitoring system is used for the year preceding the installation of such a system, to the extent the information is maintained by the New York State Department of Motor Vehicles
- (c) The number of violations recorded at each location where a school bus photo violation monitoring system is used and in the aggregate on a daily, weekly and monthly basis.
- (d) The number of convictions for violations of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law recorded at each location where a school bus photo violation monitoring system is used on an annual basis, to the extent the information is maintained by the Department of Motor Vehicles of this state.
- (e) The total number of Notices of Liability issued for violations recorded by such systems.
- (f) The number of monetary penalties and total amount of monetary penalties paid after the first Notice of Liability issued for violations recorded by such systems.
- (g) The number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems which shall be provided at least annually to such City by the courts conducting such adjudications.
- (h) The total amount of revenue realized by the City.
- (i) The expenses incurred by the City in connection with the program.
- (j) The quality of the adjudication process and its results including the total number of hearings scheduled, re-scheduled, and held; the total number of persons scheduled for such hearings; the total number of cases where monetary penalties were paid on or before the hearing date; and the total number of default judgments entered. Such information shall be provided at least annually to the City by the court conducting such adjudications.
- (k) A description of public education activities conducted to warn motorists of the dangers of overtaking and passing stopped school buses.

747.11 EXPIRATION

This demonstration program shall expire on December 1, 2024, unless extended further by act of the New York State Legislature

Subject to further review by the City Attorney.

Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro (5)

Nays: None (0)

CARRIED.

III. Clerk-Treasurer

August 25, 2022

**Hon. Mayor and Common Council
City Hall, 216 Payne Avenue
North Tonawanda, NY 14120**

Re: East Hill Foundation Grants – 2023

Dear Honorable Body:

We have been advised that the grants for the 2023 year have been approved by the East Hill Foundation for area non-profit organizations, as required under their PILOT agreement with the City of North Tonawanda. As you know, the grants must total \$51,000, per the Agreement dated July 1, 2012, and these grants represent year 11 of the multi-year Agreement.

The 2023 grants and recipients are attached for your information.

Should you have any questions, please do not hesitate to contact me.

Sincerely,
Donna L. Braun
City Clerk-Treasurer

MOVED by Alderman Pecoraro SECONDED by Alderman DiBernardo
That the Common Council hereby receives and files the aforementioned communication from East Hill Foundation, subject to review by the City Attorney.
Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro (5)
Nays: None (0)
CARRIED.

IV.1 Engineer

August 29, 2022

**Honorable Austin J. Tylec, Mayor
And Common Council Members
City Hall / 216 Payne Avenue
North Tonawanda, NY 14120**

Re: Tonawanda Island Infrastructure Analysis

Dear Honorable Body:

The City was awarded grant funding through the NYSDOS for \$92,700 for the Tonawanda Island Infrastructure Analysis. This, in addition to the City's local share of \$10,300, brings the total funding to \$103,000.

To complete the Tonawanda Island Infrastructure Analysis, the City intends to procure the services of a professional engineering firm. This firm's responsibilities will include field testing and analysis of existing City owned utilities including water and sanitary sewers and developing an engineering report with finding and recommendations for improvements.

A request for proposals was issued in May 2022 and the City received two proposals from professional firms. A review committee was convened with representation from City Engineering, Community Development, Lumber City Development Corporation, the

Mayor's Office, and City Council to review the proposals and provide a recommendation to the Council.

Upon review, the committee is recommending the City select Arcadis to perform the infrastructure analysis of Tonawanda Island. Arcadis is a local firm with experience in water and wastewater engineering. The review committee felt the team assembled by Arcadis demonstrated the experience, expertise, and capacity to complete this project for the City.

I am hereby requesting this honorable body consider selecting Arcadis to complete the Tonawanda Island Infrastructure Analysis and authorize the Mayor to sign a contract with Arcadis, pending review and approval by the City Attorney, for the proposed design fee of \$104,500. The fee is slightly more than the funding for the project, so we intend to use some of the bonded Capital Improvement Plan funds to cover the overage, since this project will fit into the overall infrastructure analysis for the Capital Improvement Plan for the City.

Please let me know if you have any further questions or concerns. Thank you for your consideration.

Very truly yours,
Chelsea L. Spahr, P.E.
City Engineer

MOVED by Alderman Loncar

SECONDED by Alderman Lavey

That the Common Council hereby grant approval for Arcadis to complete the Tonawanda Island Infrastructure Analysis for the proposed design fee of \$104,500, and authorizes the Mayor to sign said contract, subject to review by the City Attorney.

Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro

(5)

Nays: None

(0)

CARRIED.

IV.2 Engineer

August 29, 2022

Honorable Austin J. Tylec, Mayor
And Common Council Members
City Hall / 216 Payne Avenue
North Tonawanda, NY 14120

Re: Erie Canal Bike Path Extension – Mayor's Park to Botanical Garden
Supplemental Agreement No.1

Dear Honorable Body:

The City was awarded additional grant funding through the NYSDOT TAP-CMAQ program in the amount of \$1,050,000. This is in addition to the already secured funding from NYSDOS, DASNY, and Canal Corps with a City match for a total of \$1,029,500 worth of funding to extend the bike path from Mayor's Park to the Botanical Garden.

To complete the new bike path extension design, the City procured the services of C&S Companies. C&S Companies' responsibilities include design of the identified improvements, and implementation assistance through the construction and installation stages. With the NYSDOT funding, additional scope work to meet the NYSDOT requirements, that was not included in the original proposal, will need to be performed.

I therefore recommend that the Common Council authorize the Mayor to sign the enclosed Supplemental Agreement No.1 for the additional design scope with C&S Companies, 141 Elm Street, Buffalo, NY 14203; in an amount of \$150,000; subject to review by the City Attorney.

Please let me know if you have any further questions or concerns. Thank you for your consideration.

Very truly yours,
Chelsea L. Spahr, P.E.
City Engineer

MOVED by Alderman DiBernardo SECONDED by Alderman Schmigel
That the Common Council hereby authorizes the Mayor to sign the enclosed Supplemental Agreement No.1 for the Erie Canal Bike Path Extension for the additional design scope with C&S Companies, 141 Elm Street, Buffalo, NY 14203; in the amount of \$150,000; subject to review by the City Attorney.

Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro (5)

Nays: None (0)

CARRIED.

VII. Accountant

September 1, 2022

Honorable Austin J. Tylec, Mayor
and Common Council
City Hall, 216 Payne Avenue
North Tonawanda, NY 14120

Dear Honorable Body:

In accordance with Article V, Division 1, Section 5.002 and 5.003 of the City Charter, an Abstract Sheet, comprised of a Warrant of Claims, has been submitted by this office for your review and approval.

Accordingly, please authorize for payment the current Warrant of Claims for Common Council audit, dated September 6th, 2022, and further authorize the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant.

Warm regards,
Jeffrey R. Zellner
City Accountant

MOVED by Alderman DiBernardo SECONDED by Alderman Pecoraro
That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated September 6, 2022, and further authorizes the Mayor and City Clerk-Treasurer to respectively sign and countersign said Warrant:

01	General Fund	\$448,840.08
02	Water Fund	\$52,284.61
04	Sewer Fund	\$97,646.23
06	Capital Project Fund	\$482,385.98
07	Trust & Agency Fund	<u>\$23,214.97</u>
00	Final Total	<u>\$1,104,371.87</u>

Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro (5)

Nays: None (0)

CARRIED.

XVII. Traffic Safety**August 15, 2022**

Donna Braun
City Clerk-Treasurer
216 Payne Avenue
North Tonawanda, NY 14120

Traffic Safety Minutes:

The August 2022 meeting of the North Tonawanda Traffic Safety Committee was postponed until September 19th due to lack of requests. The members on the committee. R. Frank, J. Sikora, M. Meisenburg, M. Lemke, M. Anastasi, A. DiBernardo, D. Grinnell, R. Brennon still had a discussion regarding the couple requests that came in. the following new concerns/requests were discussed, and recommendations made.

- 1) City Engineer, Chelsea Spahr, recommended the removal of a "Handicap" sign at Bryant Street and Falconer Street die to the handicapped person not living in the area any longer. Member Meisenburg will remove the sign.
- 2) City Clerk, Donna Braun, received a request regarding a trailer on the terrace in front of 404 St. Joseph Drive. Member Frank informed Mitch Dreier from Code Enforcement, who stated that his office would take care of it.
- 3) Member Meisenburg requested that the flashing yellow light at Main Street and Island Street be removed in July. The committee recommended placing an advisory sign for 30 days that informs drivers that this light will be removed. The request was granted. Member Meisenburg will install an advisory sign for the next 30 days.
- 4) Paul Larbis requested stop signs on Sweeney Street and Service Drive so that boaters could cross the street. Larbis would also like a yellow "Caution" sign attached to the "Stop" signpost so they can be inter changed throughout the year depending on the season. Mr. Larbis also requested placing stop signs on Tremont Street by Degraff Hospital. The committee will look into these requests and discuss it at the September meeting.
- 5) Member Brennon received a request for a "Do not block intersection" sign on Niagara Falls Blvd. at Kingston Avenue. Member Meisenburg will contact the state regarding this sign as Niagara Falls Blvd. is a state road.
- 6) Member Brennon received a request for a 4 way stop at Tremont Street and Vandervoort Street. The committee will monitor this intersection and discuss it at the September meeting.

meeting discussion from August 15th, 2022

Travel Safely,
Robert J. Frank

MOVED by Alderman Pecoraro **SECONDED** by Alderman Loncar
That the Common Council hereby receives and files the Traffic Safety minutes from their
August meeting.

Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro

(5)

Nays: None

(0)

CARRIED.

XXV. Monthly Reports**.1 Police Department 2. Clerk-Treasurer**

MOVED by Alderman Schmigel **SECONDED** by Alderman DiBernardo
That the Common Council hereby receives and files the aforementioned Monthly Reports.
Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro (5)
Nays: None (0)
CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Columbia Hook and Ladder Co.

August 29, 2022

**Honorable Mayor Austin Tylec
Honorable Common Council
c/o City Clerk's Office
City Hall, 216 Payne Avenue
North Tonawanda, NY 14120**

Re: Volunteer Firefighter Exemption

Dear Council and Mayor:

The members of Columbia Hook & Ladder Co. No.1 respectfully request the 25-year Exemption on the Fire Roll be granted and that the 25-year Certificate be prepared for.

Valerie P. Kessinger

She joined Columbia Hook & Ladder No.1 of the North Tonawanda Volunteer Fire Department on August 6, 1997 and continues an active role in the fire service.

**Sincerely yours,
David L. Evans
Recording Secretary**

MOVED by Alderman Lavey **SECONDED** by Alderman Loncar
That the Common Council hereby grants an Exemption Petition to Valerie P. Kessinger for 25 Years of Service.
Ayes: Alderman Schmigel, DiBernardo, Lavey, Loncar, Pecoraro (5)
Nays: None (0)
CARRIED.

AUDIENCE PARTICIPATION

Jack Kanack, 91 South Meadow Dr. – Wanted to update the Council on the noise from across the canal.

Donald Witcopp, 42 2nd Avenue – Thanked all the organizers for the weekend festival.

ADJOURNMENT

MOVED by Alderman Schmigel **SECONDED** by Alderman DiBernardo
That this regular session of the Common Council be and hereby is adjourned.
CARRIED.

Time of Adjournment: 7:03 P.M.

Respectfully submitted,



Donna L. Braun
City Clerk-Treasurer