

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 07/09/14
ITEM FROM FINANCE COMMITTEE MEETING OF 06/30/14

ISSUE:

14. Request for Approval of an Ordinance Relating to the *City of Santa Fe Uniform Traffic Ordinance*; Amending the Provisions Regarding Engaging in a Call While Driving and Texting While Driving; and Amending the Traffic Violation Penalty Schedule to Double the Penalty Assessment for Using a Mobile Communication Device While Driving and to Triple the Penalty Assessment for Using a Mobile Communication Device While Driving in a School Zone. (Mayor Gonzales, Councilors Dimas and Ives) (Noah Berke)

Committee Review:

Public Safety Committee (approved)	06/17/14
City Council (request for hearing)	07/09/14
City Council (public hearing)	08/13/14

Fiscal Impact - Yes

FINANCE COMMITTEE ACTION: APPROVED AS CONSENT ITEM

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	Excused		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	Excused		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ	X		

3-17/14/FCMissue

City of Santa Fe, New Mexico

memo

DATE: June 11, 2014
TO: Public Safety Committee
VIA: Brian Snyder, City Manager *BKS*
FROM: Noah Berke, Planning and Policy Administrator

ITEM AND ISSUE:

Bill No. 2014-__. AN ORDINANCE RELATING TO THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE; AMENDING THE PROVISIONS REGARDING ENGAGING IN A CALL WHILE DRIVING AND TEXTING WHILE DRIVING; AND AMENDING THE TRAFFIC VIOLATION PENALTY SCHEDULE TO DOUBLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING AND TO TRIPLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING IN A SCHOOL ZONE.

BACKGROUND/SUMMARY:

The current Ordinance prohibits the activity of "operating a vehicle upon a public street or highway while using a mobile telephone to engage in a call or create, send or read text messages." It also defines handheld mobile telephone as "a mobile telephone with which user engages in a call. The current penalty assessment for violation of the current ordinance is a one-time \$100.00 fine.

To be consistent with the State laws pertaining to prohibited acts while operating a motor vehicle, the proposed amendments to the current ordinance will reflect the language used in State statutes, except for the proposed penalty provisions.

The proposed penalty assessments will be increased from the current \$100.00 fine, to a proposed \$200.00 fine for using a mobile communication device while driving a motor vehicle anywhere in the city of Santa Fe, except that in a designated "School Zone", the penalty assessment would be a \$300.00 fine.

REQUESTED ACTION:

Please review, consider, and recommend approval of the proposed changes to the ordinance to the Governing Body.

ACTION SHEET
ITEM FROM PUBLIC SAFETY COMMITTEE MEETING OF 06/17/14

ISSUE: Proposed ordinance repealing and readopting article IX of the Uniform Traffic Ordinance to establish that parking violations related to parking meters; city parking lots and city parking garages are nuisances and subject to administrative adjudication; and making such other changes as are necessary to meet the purposes of this ordinance

PUBLIC SAFETY COMMITTEE ACTION: Recommended approval

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON DIMAS	X		
VICE-CHAIRPERSON HARRIS	X		
MEMBER MIKE MIER	ABSENT		
MEMBER NANCY OWEN-LEWIS	X		
MEMBER PETER MIZRAHI	X		
MEMBER MIKE BOWEN		X	
MEMBER ERIC JOHNSON	ABSENT		
MEMBER DAVID TRUJILLO	X		

DISK fc1/fcissue

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-20

3 INTRODUCED BY:

4
5 Mayor Javier Gonzales

6 Councilor Peter Ives

7 Councilor Bill Dimas

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9
10 AN ORDINANCE

11 RELATING TO THE *CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE*; AMENDING
12 THE PROVISIONS REGARDING ENGAGING IN A CALL WHILE DRIVING AND
13 TEXTING WHILE DRIVING; AND AMENDING THE TRAFFIC VIOLATION PENALTY
14 SCHEDULE TO DOUBLE THE PENALTY ASSESSMENT FOR USING A MOBILE
15 COMMUNICATION DEVICE WHILE DRIVING AND TO TRIPLE THE PENALTY
16 ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING
17 IN A SCHOOL ZONE.

18
19 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

20 Section 1. Section 12-6-12.18 of the Uniform Traffic Ordinance (being Ord. #2006-
21 34, as amended) is amended to read:

22 12-6-12.18 PROHIBITED ACTIVITIES WHILE DRIVING.

23 A. No person shall:

24 (1) drive a vehicle while engaged in any activity which interferes with the safe
25 operation of the vehicle;

- 1 (2) drive while having in his lap any adult person, adult or minor, or any animal;
- 2 (3) drive while seated in the lap of another person while the vehicle is in motion;
- 3 (4) drive a vehicle while having either arm around another person;
- 4 (5) operate a motor vehicle's equipment, including but not limited to the vehicle
- 5 horn or lights, in such a manner as to distract other motorists on the public way or in such a
- 6 manner as to disturb the peace[; or

7 ~~(6) — except as provided in subsection D. below, operate a vehicle upon a public~~
8 ~~street or highway while using a mobile telephone to engage in a call or create, send or read~~
9 ~~text messages].~~

10 B. Except as provided in subsection E. below, no person shall use a handheld mobile
11 communication device while driving a motor vehicle to:

- 12 (1) engage in a call to receive and transmit voice communication; and
- 13 (2) read or view a text message or manually type on a handheld mobile
- 14 communication device for any purpose.

15 [B]C. For the purposes of Section 12-6-12.18, the following definitions apply:

16 (1) "Driving" means being in actual physical control of a motor vehicle on a
17 highway or street and includes being temporarily stopped because of traffic, a traffic light or
18 stop sign or otherwise, but "driving" excludes operating a motor vehicle when the vehicle has
19 pulled over to the side of or off of an active roadway and has stopped at a location in which it
20 can safely remain stationary;

21 (2) "Engage in a call" [;] means talking into, dialing or listening on a hand-held
22 mobile [telephone] communication device.

23 ~~([2]3) [HAND-HELD MOBILE TELEPHONE. A mobile telephone with which a~~
24 ~~user engages in a call]~~ "Handheld mobile communication device" means a wireless
25 communication device that is designed to engage in a call and receive and transmit voice, text

1 or image communication, using at least one hand (or prosthetic device or aid in the case of a
2 physically disabled person).

3 (3)4) "Hands-free mobile [~~telephone~~] communication device"[. A mobile
4 ~~telephone~~] means a wireless communication device that has an internal feature or function, or
5 that is equipped with an attachment or addition, whether or not permanently part of such
6 mobile [~~telephone~~] communication device, by which a user engages in a call without the use
7 of either hand (or prosthetic device or aid in the case of a physically disabled person),
8 whether or not the use of either hand (or prosthetic device) is necessary to activate, deactivate
9 or initiate a function of such [~~telephone~~] communication device.

10 ~~(4) — MOBILE TELEPHONE. The device used by subscribers and other users of~~
11 ~~wireless telephone service to access such service and shall include personal digital assistants.]~~

12 (5) "Non-travel lane [~~The~~] means the berm or shoulder of a street or highway.

13 (6) "Text message means a digital communication transmitted or intended to be
14 transmitted between communication devices and includes electronic mail, an instant message,
15 a text or image communication and a command or request to an internet site; but "text
16 message" excludes communications through the use of a computer-aided dispatch service by
17 law enforcement or rescue personnel. [~~PERSONAL DIGITAL ASSISTANT. A device~~
18 ~~operated using a wireless telecommunications service that provides for data communication~~
19 ~~other than by voice.~~

20 ~~(7) — WIRELESS TELEPHONE SERVICE. Two way real time voice~~
21 ~~telecommunications service that is interconnected to a public switched telephone network and~~
22 ~~commonly referred to as cellular service or personal communication service.]~~

23 [E]D. An operator of a motor vehicle who holds a mobile [~~telephone~~] communication
24 device to, or in the immediate proximity of, his or her ear is presumed to be engaging in a call within
25 the meaning of this Section. The presumption established by this Section is rebuttable by evidence

1 tending to show that the operator was not engaged in a call. Immediate proximity shall mean that
2 distance as permits the operator of a mobile ~~[telephone]~~ communication device to hear
3 telecommunications transmitted over such mobile ~~[telephone]~~ communication device, but shall not
4 require physical contact with such operator's ear.

5 ~~[D]E.~~ ~~[Subsection A.(6)]~~ Paragraph B, above shall not apply to:

6 (1) The use of a mobile ~~[telephone]~~ communication device for the sole purpose
7 of communicating with any of the following regarding an emergency situation: an emergency
8 response operator; a hospital, physician's office or health clinic; an ambulance company or
9 corps; a fire department, district or company; or a police department;

10 (2) The use of a hands-free mobile ~~[telephone]~~ communication device when
11 being used in a hands free manner; or

12 (3) The use of a hands-free mobile ~~[telephone]~~ communication device when
13 being used in a non-travel lane.

14 (4) The use of an amateur radio by a driver who holds a valid amateur radio
15 operator license issued by the federal communications commission.

16 **Section 2. Traffic Violation Penalty Assessment, Schedule A of the City of Santa Fe**
17 **Uniform Traffic Ordinance (being Ord. #2006-34, as amended) is amended to include the**
18 **following amendments:**

Prohibited Activities While Driving (including hand held mobile [telephone] <u>communication device</u> use)	12-6-12.18	[\$100.00] <u>\$200.00</u>
<u>Mobile communication device use</u> <u>while driving in a school zone</u>	<u>12-6-12.18</u>	<u>\$300.00</u>

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APPROVED AS TO FORM:



KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/2014 Bills/Talking_Texting in School Zone_060914

**City of Santa Fe
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: Resolution: _____

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): RELATING TO THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE; AMENDING THE PROVISIONS REGARDING ENGAGING IN A CALL WHILE DRIVING AND TEXTING WHILE DRIVING; AND AMENDING THE TRAFFIC VIOLATION PENALTY SCHEDULE TO DOUBLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING AND TO TRIPLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING IN A SCHOOL ZONE.

Sponsor(s): Mayor Gonzales, Councilors Ives and Dimas

Reviewing Department(s): Police Department and Mayor's Office

Persons Completing FIR: Noah Berke Date: June 16, 2014 Phone: (505) 955-6647

Reviewed by City Attorney: *Valley A. Brennan* Date: 6/19/14
(Signature)

Reviewed by Finance Director: *[Signature]* Date: 6/23/14
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution: _

The purpose of the bill is to amend the language to be more in line with the language the State of New Mexico uses and to increase fines from \$100 per violation to a proposed \$200 and a fine of \$300 for violation of this bill in a school zone. The intention is that while increasing a fine from its previous amount, this will discourage if not eliminate use of mobile communication devices while driving.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY <u>14/15</u>	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Signs	\$ <u>10,035.47</u>	<u>N</u>	<u>R</u>	\$ _____	_____	_____	_____	<u>32363/572500</u>
Total:	\$ <u>10,035.47</u>	_____	_____	\$ _____	_____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY <u>14/15</u>	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

<u>Penalties (\$200)</u>	\$ <u>59,600</u>	<u>R</u>	\$ _____	_____	_____	<u>21224/432100</u>
<u>Penalties (\$300)</u>	\$ <u>44,400</u>	_____	\$ _____	_____	_____	<u>2224/432120</u>
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ <u>104,000</u>	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

Based on the number of citations that were issued in 2013, staff projects that if the same number of citations were issued, revenue generated from the citations would total \$104,000 assuming that 298 regular violation occurred and that 148 citations were issued in school zones.

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

The proposed bill amends the current bill to increase penalties and follow the State's language and definitions.

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

The current resolution would remain in place.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None that staff is aware of

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The proposed bill would have positive effects on the community by making it a safer environment to operate a motor vehicle as most drivers would be more greatly discouraged to use a mobile device while operating their vehicle due to the increased penalties. The proposed bill would also have a positive effect on the children and youth in and around school zones as they will have a safer area to go to school in and play in. If the changes in this bill can discourage people enough from using their devices then maybe it will be enough to save lives and prevent injuries.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08