



# City of Santa Fe, New Mexico

# memo

Date: November 7, 2014

To: Governing Body

Via: Jon Bulthuis, Transportation Department Director 

From: Sevastian E. Gurule, Interim Parking Division Director 

Re: Proposal to Repeal and Readopt Article IX of The Uniform Traffic Ordinance

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## **Objectives of Proposal:**

This proposed bill repeals and readopts Article IX of the Uniform Traffic Ordinance to establish that parking violations related to parking meters, city parking lots and city parking garages are civil parking violations and subject to administrative adjudication which would also include the use of a collection agency.

The primary goals of enacting the proposed bill are two-fold:

1. To enable the Parking Division to more effectively and efficiently reconcile and account for all parking violations. In March 2013, the Parking Division underwent a thorough forensic audit of its internal and administrative processes regarding the issuance, disposition, financial accountability and overall tracking of parking citations. The audit findings were presented to the Governing Body by Moss Adams at the May 8, 2013. This proposed Bill and corresponding attached Fiscal Impact Report is a direct result of the recommendations from Moss Adams and the directives provided by the Governing Body in Resolution 2013-064.
2. To improve the collection rate on citations resulting in increased revenue and, very likely, improved compliance with parking regulations.

## **Current Policies and Procedures**

Currently, all parking violations are considered petty misdemeanors which require collection and adjudication through Municipal Court. The Parking Division follows the following collection process for parking violations:

1. After 15 days of non-payment, the Parking Division sends a penalty assessment notice to the vehicle's registered owner (the violator) notifying them that the fee has doubled. (The issuance of this notice is dependent upon the Parking Division having the current registered owner's name and address for the vehicle that received the citation.)
2. After 30 days of non-payment (and 15 days after the penalty assessment is issued), the Parking Division sends a summons to appear in Municipal Court on a specific date and time to answer for the outstanding fine.
3. The Municipal Court sends a criminal summons to those violators who did not appear as summonsed by the Parking Division.
4. If the violator does not appear as criminally summonsed, the Municipal Court follows up with a Failure to Appear Notice and, potentially, a bench warrant.
5. Note that under existing policies and procedures, the parking Division has accrued approximately seven million six hundred ninety two thousand five hundred thirty dollars (\$7,692,530) in uncollectable debt between 2000 and July 7, 2013.

### **Proposed Policies and Procedures**

In the proposed code amendment the registered owner has fifteen (15) days from the date of issuance of the parking fine notification to make payment or request a hearing on all violations related to parking meters, city parking lots and city parking garages. The code amendment also establishes the following procedures for nuisance parking fines that are unpaid:

1. If, after fifteen (15) days from the date of the parking fine notification, the city has not received payment for the fine or received a request for a hearing, the registered owner is in default. A default results in an additional penalty of twenty-five dollars (\$25.00). The PVB will mail the notice of default to the defaulting party.
2. If after fifteen (15) days from the date the notice of default is mailed and payment has not been received, the city will pursue all remedies for collection of the unpaid debt to include services from a contracted collection agency. Collection fees will be assessed to the defaulting party.
3. The defaulting party may still make payment after the fifteen (15) days from the date of mailing of the notice of default by making payment in full plus penalties, provided that the payment is made before the unpaid parking fine and penalty is sent to a contracted collection agency.
4. Once the parking fine and penalty has been sent to a collection agency payment can only be made to the collection agency.

### **Forecasted Revenue Increase:**

Having staff dedicated to parking violations, as well as contracting with a collections agency, will allow the Parking Division to more swiftly and efficiently collect on outstanding parking violation revenue. The revenue increase will depend on many factors. However, I am conservatively projecting a revenue increase of \$105,388 through the collection of unpaid citations in the current FY and more than \$210,777 for FY15/16 to be collected through an administrative adjudication process and collection services.

### **Staffing Requirements:**

A Parking Violations Bureau (PVB) section will be established dedicated to the collection, adjudication and reconciliation of all parking violations – criminalized violations heard in Municipal Court and civil parking violations (parking meter, city parking lots and city parking garages) heard by a Hearing Officer.

- Establish a new non-union supervisory position to be responsible for executing procedures in the section and managing personnel. This position will establish an annual salary/benefit amount of \$90,500.
- Reclassify an existing position to schedule and attend hearings and court proceedings and reconcile the parking violation accounts. This reclassification will have a fiscal impact of approximately \$8,500.
- Establish two temporary full-time support staff:
  1. Account technician position to accept payments, provide customer service, reconcile parking violation accounts and maintain electronic and hardcopy records, at approximately \$25,000
  2. Clerk Typist position, to complete data entry and assist in the maintenance of electronic and hardcopy records, at approximately \$23,500

In the current FY, I am requesting to establish the supervisor and the account technician positions and to reclassify a current position. Hiring of the full-time clerk position would be delayed until FY15/16 keeping personnel expenses under \$60,000 in FY14/15, and under \$150,000 in future years. Note that \$39,000 is also budgeted, per year, to contract for a hearings officer.

**Implementation Plan:**

The proposed effective date of this ordinance is July 1, 2015, which should allow sufficient time for parking management to:

- Establish the Parking Violations Bureau as a separate entity from Parking’s Accounting section;
- Transfer / Hire Parking Violations Bureau personnel;
- Revise and develop new standard operating procedures and provide training to staff;
- Order additional supplies as needed;
- Develop a strategic public relations campaign
- Contract with a collections agency
- Hire a Hearing Officer to begin in FY2015/16

**Requested Action:**

Staff is recommending approval of this code amendment, the establishment of the Parking Violations Bureau and the proposed staffing plan.

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-35

INTRODUCED BY:

Councilor Bill Dimas

AN 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 CIVIL PARKING VIOLATIONS AND SUBJECT TO ADMINISTRATIVE ADJUDICATION AND COLLECTION FROM AN EXTERNAL COLLECTION AGENCY; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO MEET THE PURPOSES OF THIS ORDINANCE.

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

Section 1. [REPEAL] Article 12-9, of the City of Santa Fe Uniform Traffic Ordinance, (being Ord. #2006-34, as amended) is repealed.

Section 2. A new Article 12-9 of the City of Santa Fe Uniform Traffic Ordinance is ordained to read:

ARTICLE IX [NEW MATERIAL] PARKING

12-9-1 ADMINISTRATION. The parking division director has the authority to administer

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1 the provisions of Article 12-9.\*

2 **12-9-2 DEFINITIONS.** As used in this Article:

3 *Civil parking violation* means the act of parking a vehicle in violation of Section 12-9-3 of  
4 the Uniform Traffic Ordinance.

5 *Default* means the failure to pay a fine or to timely pay a fine pursuant to a decision of a  
6 hearing officer under Section 12-9-4 of the Uniform Traffic Ordinance.

7 *Hearing officer* means a person appointed by the city manager to resolve disputes under  
8 Section 12-9-4 in an administrative hearing.\*

9 *Law enforcement officer* means a person who has successfully completed the New Mexico  
10 department of public safety training and recruiting division accredited satellite program and passes  
11 the law enforcement officer certification examination. (10-29.5.11 NMAC)

12 *Parking enforcement officer* means a city of Santa Fe employee who is commissioned to  
13 issues parking fine notifications and citations.\*

14 *Parking fine notification*, as used in Section 12-9-4, includes the following:

15 (1) *City parking lot or garage insufficient payment notice* means a written notice  
16 affixed to the windshield of the vehicle or handed to the patron upon exiting a city parking lot  
17 or garage by a city of Santa Fe parking attendant or other person authorized by the city of  
18 Santa Fe, for failure to provide sufficient payment for the mandatory parking fees at a city  
19 parking lot or garage.

20 (2) *City parking meter violation notice* means a written notice affixed to the  
21 windshield of the vehicle by a city of Santa Fe parking enforcement officer, parking  
22 attendant, police officer or other person authorized by the city of Santa Fe, for failure to pay  
23 the mandatory parking fees at a city parking meter.

24 *Parking division director* means the director of the city of Santa Fe parking division and  
25 parking violations bureau or his or her designee.

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1 *Parking meter* means:

2 (1) Multi-space parking meter, including a pay and display machine that is a type  
3 of ticket machine used for regulating parking in city parking lots or garages for one or more  
4 spaces; and

5 (2) Single-space parking meter that regulates on street parking for one space.

6 *Parking violations bureau* means the entity of the city of Santa Fe that is charged with the  
7 administration of parking violations.\*

8 **12-9-3 PARKING REGULATIONS**

9 **12-9-3.1 AUTHORITY TO ESTABLISH PARKING METER ZONES (formerly 12-9-1).**

10 A. The parking division director may establish parking meter zones in which the parking  
11 of vehicles upon streets or parts of streets shall be regulated by parking meters between the hours of  
12 8:00 a.m. and 6:00 p.m. of any day except Sunday and public holidays.

13 B. The parking division director may limit the period of time for which parking is  
14 lawfully permitted in any parking meter zone in which meters are located regardless of the number of  
15 coins deposited in a meter.

16 C. The parking meter zone may be diminished or extended and enlarged, or other  
17 parking meter zones may be created.\*

18 **12-9-3.2 INSTALLATION OF PARKING METERS (formerly 12-9-2).**

19 A. The parking division director shall install parking meters in established parking meter  
20 zones.

21 B. Parking meters shall be placed on the curb immediately adjacent to each designated  
22 parking space.

23 C. Parking meters shall be capable of being operated, either automatically or  
24 mechanically. Payment shall be made upon the deposit of a twenty-five cent coin, ten-cent coin or  
25 five-cent coin. The parking division director may implement other methods of payment, such as cash,

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1 smart cards, keys, credit cards and debit cards.

2 D. Each parking meter shall be designed, constructed, installed and set so that an  
3 appropriate signal will indicate expiration of the lawful parking meter period which was registered by  
4 the deposit of payment as provided herein.

5 E. During the lawful parking meter period registered by the deposit of payment and  
6 prior to the expiration of the lawful parking meter period, the meter shall indicate the interval of time  
7 which remains of such period.

8 F. Each parking meter shall bear a legend indicating the days and hours when the  
9 requirement to deposit payment shall apply, the value of the coins or payment to be deposited and the  
10 limited period of time for which parking is lawfully permitted in the parking meter zone in which  
11 such meter is located.\*

12 **12-9-3.3 PARKING METER SPACES (formerly 12-9-3).**

13 A. The parking division director shall designate the parking space adjacent to each  
14 parking meter for which the meter is to be used by appropriate markings, including signage, upon the  
15 curb or the pavement of the street or both.

16 B. Designated parking meter spaces shall be of appropriate length and width so as to be  
17 accessible from the traffic lanes of the street.

18 C. No person shall park a vehicle in any designated parking meter space during the  
19 restricted or regulated time applicable to the parking meter zone in which the meter is located so that  
20 any part of the vehicle occupies more than one space or protrudes beyond the markings designating  
21 the space. However, a vehicle which is of a size too large to be parked within a single designated  
22 parking meter zone shall be permitted to occupy two adjoining parking meter spaces when coins of  
23 the appropriate denominations have been deposited in the parking meter for each space so  
24 occupied.(\*)

25 **12-9-3.4 PARKING TIME LIMITS (formerly 12-9-4).** Parking or standing a vehicle in a

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1 designated space in parking meter zones shall be lawful upon the deposit of legal coins as indicated  
2 on each parking meter. (\*)

3 **12-9-3.5 DEPOSIT OF COINS OR OTHER METHOD OF PAYMENT (formerly 12-9-**  
4 **5).**

5 A. No person shall park a vehicle in any parking space regulated by a parking meter  
6 between the hours 8:00 a.m. and 6:00 p.m. on any day except Sundays and public holidays unless a  
7 coin or coins of the appropriate denomination or other method of payment as provided in this  
8 ordinance have been deposited therein and the meter has been placed in operation.

9 B. No person shall permit a vehicle within his control to be parked in any space  
10 regulated by a parking meter between the hours of 8 a.m. and 6 p.m. on any day except Sundays and  
11 public holidays while the parking meter for the space indicates by signal that the lawful parking time  
12 in the space has expired. This provision does not apply to the act of parking or the necessary time  
13 which is required to deposit immediately thereafter a coin or coins in the meter.

14 C. No person shall park a vehicle in any parking meter space for a consecutive period of  
15 time longer than the limited period of time for which parking is lawfully permitted in the parking  
16 meter zone in which the meter is located, irrespective of the number or amounts of coins or other  
17 payment method as provided in this ordinance deposited in the meter.

18 D. Failure to deposit proper coin or coins or other payment method as provided in this  
19 ordinance constitutes a violation of this ordinance.

20 E. Upon expiration of the legal parking time, it is the duty of the owner or driver of the  
21 vehicle to remove the vehicle from the parking space.

22 F. It is unlawful for any person to cause, allow, permit or suffer a vehicle registered in  
23 his name to be parked or to stand overtime or remain in the parking space beyond the specified  
24 parking time limit.

25 G. The provisions of this section shall not apply in a period of emergency determined by

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1 an officer of the fire department or the police department or in compliance with the directions of a  
2 police officer or traffic-control device.

3 H. The provisions of this section shall not relieve any person from the duty to observe  
4 other and more restrictive provisions of this ordinance prohibiting or limiting the stopping, standing  
5 or parking of vehicles in specified places or at specified times.(\*)

6 **12-9-3.6 USE OF SLUGS PROHIBITED** *(formerly 12-9-6)*. No person shall deposit or  
7 attempt to deposit in any parking meter any slug, button or any other device or substance as  
8 substitutes for coins of United States currency or other method of payment as provided in this  
9 ordinance.(\*)

10 **12-9-3.7 TAMPERING WITH METER** *(formerly 12-9-7)*. No person shall deface, injure,  
11 tamper with, open or willfully break, destroy or impair the usefulness of any parking meter. A  
12 violation of this section shall be considered a civil parking violation and shall be abated by the  
13 payment to the city of the fine set forth in 12-9-4.5 and, at the election of the city, the city's actual  
14 damages.(\*)

15 **12-9-3.8 PRESUMPTION OF UNLAWFUL PARKING** *(formerly 12-9-8)*.

16 A. When the "violation" indicator is showing on a parking meter to indicate the  
17 expiration of the lawful parking meter period for which coins or other method of payment as provided  
18 in this ordinance have been deposited, it shall be presumptive evidence that any vehicle found in a  
19 regulated parking space is parked in violation.

20 B. It is unlawful and an offense for any person to deposit or cause to be deposited in a  
21 parking meter covering a metered parking stall which he has already occupied for the meter specified  
22 time limit any coins or other method of payment as provided in this ordinance for the purpose of  
23 extending parking time beyond the total lawful parking period designated for the parking meter zone  
24 in which the meter is located.(\*)

25 **12-9-3.9 PARKING IN DESIGNATED ACCESSIBLE PARKING SPACES** *(formerly 12-*

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1 9-9).

2 A. It is unlawful for any person to park a motor vehicle not carrying registration plates  
3 or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and Section 3-51-  
4 46 NMSA 1978 in a designated accessible parking space for persons with significant mobility  
5 limitation or in such a manner as to block access to any part of a curb cut designed for access by  
6 persons with significant mobility limitations. Any person who violates this section shall be subject to  
7 a mandatory court appearance and a fine, of not less than two hundred fifty dollars (\$250) or more  
8 than five hundred dollars (500). Failure to properly display a parking placard or special registration  
9 plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of  
10 Subsection A of this section (66-7-352.5 NMSA 1978)

11 B. It is unlawful for any person to stand or stop a motor vehicle not carrying registration  
12 plates or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and Section  
13 3-51-46 NMSA 1978 in a designated accessible parking space for persons with significant mobility  
14 limitation. Any person who violates this section shall be subject to a mandatory court appearance and  
15 a fine, of not less than two hundred fifty dollars (\$250) or more than five hundred dollars (500).  
16 Failure to properly display a parking placard or special registration plate issued pursuant to Section  
17 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A of this section  
18 (66-7-352.5 NMSA 1978).

19 C. It is unlawful for any person to use a designated accessible parking space for persons  
20 with significant mobility limitation for the purpose of receiving or discharging passengers or for  
21 loading or unloading if the vehicle receiving or discharging the passengers or loading or unloading  
22 does not carry registration plates or a placard indicating disability in accordance with Section 66-3-16  
23 NMSA 1978 and Section 3-51-46 NMSA 1978. Any person who violates this section shall be subject  
24 to a mandatory court appearance and a fine, of not less than two hundred fifty dollars (\$250) or more  
25 than five hundred dollars (500). Failure to properly display a parking placard or special registration

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1 plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of  
2 Subsection A of this section (66-7-352.5 NMSA 1978).

3 D. As used in this section, "designated accessible parking space" means any space  
4 including an access aisle, marked and reserved for the parking of a vehicle that carries registration  
5 plates or a parking placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and  
6 Section 3-51-46 NMSA 1978, and designated by a conspicuously posted sign bearing the  
7 international symbol of accessibility and if paved, by a clearly visible depiction of this symbol  
8 painted white on blue on the pavement of the space, except where the total number of parking spaces  
9 is four or less. Temporary accessible parking spaces may be designated by a blue hood labeled as  
10 accessible parking or in such other manner as to clearly indicate the space is for accessible parking  
11 only. "Curb cut" means a short ramp through a curb or built up to the curb designed for access by  
12 persons with disabilities. (66-7-352.5 NMSA 1978).

13 E. Any vehicle parked in violation of Subsections A., B. or C. of this section is subject  
14 to being towed at the expense of the vehicle owner upon authorization by law enforcement personnel  
15 or by the property owner or manager of a parking lot.

16 F. State, county and municipal law enforcement personnel, including city of Santa Fe  
17 parking enforcement officers, have the authority to issue citations for violations of §12-9-3.9 in their  
18 respective jurisdictions, whether the violation occurs on public property or private property (Section  
19 3-51-46 NMSA 1978).

20 G. A law enforcement officer may issue a citation or authorize towing of a vehicle for a  
21 violation of Section A of this section regardless of the presence of the driver (66-7-352.5 NMSA  
22 1978). (Ord. No. 2006-34, Ord. No. 2007-49, Ord. No. 2009-11)

23 **12-9-3.10 SPECIAL REGISTRATION PLATE OR PARKING PLACARD INDICATING**  
24 **DISABILITY (formerly 12-9-10).**

25 A. Vehicles displaying a valid special registration plate or parking placard pursuant to

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1 Section 66-3-16 (1999) NMSA 1978 and Section 3-51-46 NMSA 1978 are exempt from the payment  
2 of any parking fee imposed by the city of Santa Fe but shall not be exempt from any penalty or other  
3 provisions of the Santa Fe City Code or of this Ordinance.

4 B. Vehicles displaying a valid special registration plate or parking placard pursuant to  
5 Section 66-3-16 (1999) NMSA 1978 and Section 3-51-46 NMSA 1978 shall be permitted to park for  
6 unlimited periods of time in parking zones where the length of time for parking is normally restricted  
7 and no penalty shall be imposed for such parking subject, however, to the following limitations. The  
8 provisions of this section do not pertain to zones where stopping, standing or parking is prohibited,  
9 zones reserved for special types of vehicles, zones where parking is prohibited during certain hours of  
10 the day in order to facilitate traffic, during those hours when parking is prohibited, and zones subject  
11 to similar regulation because parking presents a traffic hazard.

12 C. All special registration plate or parking placard issued pursuant to Section 66-3-16  
13 (1999) NMSA 1978 shall expire on the same date as the person's driver's license or identification  
14 card issued pursuant to Section 66-5-401 NMSA 1978.

15 D. A special registration plate or parking placard displayed on a vehicle parked in a  
16 designated accessible parking space in the absence of the holder of that plate or placard, is subject to  
17 immediate seizure by a law enforcement official and if seized shall be delivered to the division within  
18 72 hours. Failure to surrender the parking placard on demand of a law enforcement officer is a petty  
19 misdemeanor and punishable by a fine not to exceed \$100.00.\*

20 **12-9.3.11 CITY PARKING LOTS AND GARAGES.**

21 A. It is unlawful for any person to park a vehicle in a city parking lot or garage without  
22 providing sufficient payment for the period of time the vehicle was parked.

23 B. It is unlawful for any person to deposit or attempt to deposit in any parking meter  
24 located in a city parking lot or garage, any slug, button or any other device or substance as substitutes  
25 for coins of United States currency or other method of payment as provided in this ordinance.

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1 C. It is unlawful for any person to deface, injure, tamper with, open or willfully break,  
2 destroy or impair the usefulness of any parking meter. This civil parking violation shall be abated by  
3 payment of the city's actual damages plus the fine set forth in 12-9-4.5. A violation of this section  
4 shall be considered a civil parking violation and shall be abated by the payment to the city of the fine  
5 set forth in 12-9-4.5 and, at the election of the city, the city's actual damages.

6 D. The provisions of this section shall not apply in a period of emergency determined by  
7 an officer of the fire department or the police department or in compliance with the directions of a  
8 police officer or traffic-control device.

9 E. The provisions of this section shall not relieve any person from the duty to observe  
10 other and more restrictive provisions of this ordinance prohibiting or limiting the stopping, standing  
11 or parking of vehicles in specified places or at specified times.\*

12 **12-9-4 CIVIL PARKING VIOLATION**

13 **12-9-4.1 AUTHORITY; TITLE.**

14 Section 12-9-4 is adopted pursuant to the statutory grant of authority contained in Sections 3-17-1 and  
15 3-18-17A NMSA 1978 and shall be referred to as the "Civil Parking Violation Ordinance". This  
16 Section shall be effective and enforced within the geographical boundaries of the city of Santa Fe.\*

17 **12-9-4.2 PURPOSE AND INTENT.**

18 A. It is the intent of the governing body by adopting this Section to abate the following  
19 civil parking violations:

20 (1) Civil parking violations caused by persons who park in city-owned metered  
21 spaces or city parking lots and garages and fail to make the required payments or remain  
22 parked after the paid period of time has expired; and

23 (2) Civil parking violations caused by persons who aggregate numerous parking  
24 fine notifications and fail to pay fines assessed by the parking violations bureau.

25 B. The governing body declares that this section is a civil parking violation abatement

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1 measure enacted pursuant to the city's inherent authority under state law and that the remedies are  
 2 purely civil and not criminal in nature.\*

3 **12-9-4.3 CIVIL PARKING VIOLATIONS.**

4 It is a civil parking violation for any person to park a vehicle in violation of the following sections of  
 5 the Uniform Traffic Ordinance:

- 6 A. 12-9-3.3 – Parking Meter Spaces;
- 7 B. 12-9-3.4 – Parking Time Limits;
- 8 C. 12-9-3.5 – Deposit of Coins or Other Method of Payment;
- 9 D. 12-9-3.6 – Use of Slugs Prohibited;
- 10 E. 12-9-3.7 – Tampering with Meter;
- 11 F. 12-9-3.8 – Presumption of Unlawful Parking; and
- 12 G. 12-9-3.11 – City Parking Lots and Garages.\*

13 **12-9-4.5 Fines.**

14 A. The fines for civil parking violations shall be:

<u>Civil Parking Violations</u>	<u>UTO Section</u>	<u>Fine</u>
Occupying more than one parking meter space	12-9-3.3(C)	\$27.00
Parking time limits	12-9-3.4	\$16.00
Deposit of coins or other method of payment	12-9-3.5	\$16.00
Use of slugs	12-9-3.6	\$16.00
Tampering with meter	12-9-3.7	\$16.00
Unlawful parking – violation indicator is showing	12-9-3.8(A)	<del>[\$16.00]</del> <u>\$10.00</u>
Unlawful parking – covered parking meter	12-9-3.8(B)	\$27.00
City parking lot and garage civil parking violations	12-9-3.11	\$10.00

25 B. Fines are subject to a \$25.00 additional penalty if the fine is not paid within fifteen

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1 (15) days from receipt of the fine.

2 C. Fines shall be paid to the city:

3 (a) by mailing a check or money order to city of Santa Fe parking violations  
4 bureau P.O. Box 909 Santa Fe New Mexico 87504-0909; or

5 (b) by depositing a check, money order or cash in a yellow collection box  
6 located on parking meters around the down town area; or

7 (c) by telephone with a city-accepted form of credit card; or

8 (d) online, on the city of Santa Fe website; or

9 (e) in person at locations designated by the city.

10 Upon receipt, the parking violations bureau shall issue a receipt for payment of the fine.

11 **12-9-4.6 Enforcement.**

12 A. *Parking Fine Notification.*

13 (1) **Form and contents.** The parking fine notification shall state and contain the  
14 license plate number, the date and time of the parking fine notification; the type of violation,  
15 the location of the violation, the amount of the fine, the due date and address of the parking  
16 violations bureau. The parking fine notification shall conspicuously and in bold face type  
17 state; "Failure to pay this fine on time may lead to serious legal consequences including the  
18 assessment of additional fines and monies due." The parking fine notification shall inform the  
19 registered owner that within fifteen (15) days of the date of the parking fine notification, the  
20 owner may either pay the fine or submit a request for hearing to the parking violations bureau  
21 on a form provided by the parking violations bureau, in accordance with Subsection 12-9-  
22 4.6(B)(2) SFCC 1987.

23 (2) **Delivery.** Correspondence from the city regarding parking fine notifications  
24 shall be delivered to the address of the registered owner according to the address registered  
25 with the department of motor vehicles (DMV). The registered owner has a duty to timely

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1 notify DMV of a change of address or if vehicle was stolen. The failure to do so does not  
2 entitle the registered owner to assert the defense of inadequate notice. The mailing of a  
3 parking fine notification to the address of the registered owner of a vehicle according to the  
4 records of DMV is constructive notice of a parking fine notification.

5 B. *Response to a Parking Fine Notification.* Within fifteen (15) days from the date of  
6 issuance of the parking fine notification, the registered owner shall pay the fine or submit a request  
7 for a hearing.

8 (1) *Payment of the parking fine.* Upon receipt of the parking fine notification, the  
9 recipient may elect to admit the violation and pay the fine. To proceed under this paragraph,  
10 the recipient shall admit the violation by signing and dating the parking fine notification on a  
11 space provided and returning the parking fine notification with payment to the parking  
12 violations bureau within fifteen (15) days. The city may, but is not required to, adopt  
13 procedures for alternative methods of payment of fines using the internet or other on-line  
14 services. There shall be a fifty dollar (\$50.00) penalty for any payment tendered that is not  
15 honored or is returned for any reason.

16 (2) *Request for hearing.* The recipient of a parking fine notification may submit  
17 a request for hearing on a form provided by the parking violations bureau by so indicating  
18 and returning the parking fine notification to the parking violations bureau within fifteen(15)  
19 days of the date of the parking fine notification. There is no fee for a hearing. The hearing  
20 officer shall schedule a hearing.

21 C. *Default with forfeit of hearing on the merits.* If the city does not receive payment of  
22 the fine or a request for a hearing within fifteen (15) days from the date of the parking fine  
23 notification, the registered owner is in default. Default automatically results in liability to the  
24 registered owner of the vehicle for the violation and the registered owner is barred from requesting or  
25 obtaining any hearing on the merits of the parking fine after the date of the default. A default results

\*An asterisk (\*) at the end of a paragraph indicates that there are no comparable provisions in the State Code.  
A reference includes any unreferenced paragraphs that precede it.

1 in an additional penalty of twenty-five dollars (\$25.00). The parking violations bureau shall mail the  
2 notice of default to the defaulting party. The notice of default shall inform the recipient that they have  
3 fifteen (15) days from the date of mailing of the notice of default to pay the fine and default penalty..  
4 If the default is not cured within 15 days, the city may pursue all remedies for collection of a debt and  
5 is entitled to an award of reasonable attorney's fees incurred. An uncured notice of default shall be  
6 entered into the records of the parking violations bureau and, at the City's discretion, the default may  
7 be cured even after 15 days from the mailing of the notice of default by payment in full plus penalties  
8 but only if the payment is made before being sent to a contracted collection agency, or the default  
9 may be promptly sent to a contracted collection agency, and once sent to a collection agency the  
10 default may only be cured by payment to the collection agency.

11 D. *Hearing on the Merits.* The recipient of a parking fine notification may request that a  
12 hearing be scheduled before a hearing officer.

13 (1) The hearing on the merits shall be held within fifteen (15) city business days  
14 of receipt of the request unless the hearing is continued with agreement of the parties.

15 (2) The hearing on the merits shall be informal and not bound by the technical  
16 rules of evidence.

17 (3) The hearing officer shall only determine whether there was a violation of  
18 Section 12-9-3 of the Uniform Traffic Ordinance.

19 (4) The hearing officer shall mail or deliver written notice of his or her decision  
20 to the owner within fifteen (15) city business days of the hearing.

21 (5) The registered owner is strictly and vicariously liable for the violation unless  
22 one (1) of the exceptions herein applies. If there is more than one (1) registered owner, all  
23 registered owners shall be jointly and severally liable.

24 E. *Defenses.* The respondent may present the following defenses in addition to any other  
25 defenses available under law and has the burden of proof concerning the defenses:

\*An asterisk (\*) at the end of a paragraph indicates that there are no comparable provisions in the State Code.  
A reference includes any unreferenced paragraphs that precede it.

1           (1)     The vehicle was stolen or otherwise being driven without the registered  
2 owner's knowledge or permission at the time of the alleged violation. The registered owner  
3 shall have a police report pertaining to the theft to avail the owner of this defense.

4           (2)     The ownership of the vehicle had lawfully been transferred and conveyed  
5 from the registered owner to another person before the time of the alleged violation. To assert  
6 this defense, the registered owner shall identify the transferee and provide proof of  
7 conveyance.

8           (3)     The evidence does not show that a parking violation was committed  
9 involving the subject vehicle.

10         F.     *Revenue.* The revenue generated through parking violations fines, hearings and  
11 collections shall be retained and distributed by the parking violations bureau. Each month, the  
12 parking violations bureau shall retain the gross total amount of penalties, fines, fees and costs  
13 assessed and collected that month and the parking violations bureau shall be responsible for paying all  
14 costs associated with the hearing officer, or a collection contract or other contractors that assist the  
15 city in imposing and collecting penalties or fines and costs or fees.

16           **Section 3.     Section 12-11-3 of City of Santa Fe Uniform Traffic Ordinance (being**  
17 **Ordinance No. 2006-34) is amended to read:**

18 **12-11- 3         WHEN PERSON CHARGED MAY ELECT TO APPEAR AT BUREAU OR**  
19 **BEFORE MUNICIPAL JUDGE.**

20           A.     This section applies to all violations of the Uniform Traffic Ordinance except for  
21 civil parking violations (parking meter violations and city parking lot and garage violations) as set  
22 forth in Section 12-9-3and 12-9-4 of the Uniform Traffic Ordinance.

23           B.     Any person charged with an offense for which payment of a fine may be made to the  
24 traffic violations bureau under the foregoing provisions shall have the option of:

25           (1)     paying the fine within the time specified in the citation/notice of arrest at the

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A reference includes any unreferenced paragraphs that precede it.

1 traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court;  
2 or

3 (2) upon a plea of not guilty shall be entitled to a trial as authorized by law and  
4 depositing any bail required as provided in the Rules of Procedure for the Municipal Courts,  
5 adopted by the New Mexico Supreme Court, as amended.

6 [B]C. For the purpose of this ordinance, the payment of a fine to the traffic violations  
7 bureau shall be deemed an acknowledgment of conviction of the alleged offense. The traffic  
8 violations bureau, upon accepting the prescribed fine, shall issue a receipt to the violator  
9 acknowledging payment of the fine.(\*)

10 **Section 4. Section 12-12-1 of City of Santa Fe Uniform Traffic Ordinance (being**  
11 **Ordinance No. 2006-34) is amended to read:**

12 **12-12-1 PENALTIES.**

13 The following provisions in Article 12-12 of the Uniform Traffic Ordinance shall not apply to parking  
14 meter violations or city parking lot and garage violations as fines for these violations are covered in  
15 12-9-3 and 12-9-4 of the Uniform Traffic Ordinance.

16 **Section 5. Schedule B, Parking Violation Fines Schedule of City of Santa Fe**  
17 **Uniform Traffic Ordinance (being Ordinance No. 2006-34, as amended) is amended to read:**

18 **SCHEDULE B**

19 **PARKING VIOLATION FINES SCHEDULE**

20 ADOPTED: July 12, 2006

21 AMENDED: March 25, 2009 – Ord. #2009-11

22 \_\_\_\_\_, 2014 – Ord. #2014-

23 **SECTION 1.**

24 This Exhibit may be cited as the city of Santa Fe parking violation fines schedule.

25 **SECTION 2.**

\*An asterisk (\*) at the end of a paragraph indicates that there are no comparable provisions in the State Code. A reference includes any unreferenced paragraphs that precede it.

1 "Parking violation" means violation of the following listed sections of the city of Santa Fe Uniform  
 2 Traffic Code for which the listed fine is established. The term "parking violation" does not include  
 3 any violation which has caused or contributed to the cause of an accident resulting in injury or death  
 4 to any person.

5	COMMON NAME OF OFFENSE	SECTION VIOLATED	FINE
6	Stopping, Standing or Parking Prohibited	12-6-6.1	\$27
7	Additional Parking Regulations	12-6-6.2	\$21
8	Stopped/Parked Vehicles		
9	Interferes with other Traffic	12-6-6.3	\$35
10	Parking <u>in</u> Alleys Prohibited	12-6-6.4	\$27
11	All-Night Parking <u>ing</u> Prohibited	12-6-6.5	\$27
12	Parking for Certain Purposes Prohibited	12-6-6.6	\$27
13	Parking Adjacent to Schools Prohibited	12-6-6.7	\$27
14	Parking Prohibited on Narrow Streets	12-6-6.8	\$27
15	Standing or Parking on One-Way Streets	12-6-6.9	\$27
16	Standing or Parking on Divided Streets	12-6-6.10	\$27
17	Stopping Standing or Parking/Hazardous Places	12-6-6.11	\$27
18	Stopping, Standing or Parking/Certain streets	12-6-6.12	\$27
19	Stopping, Standing or		
20	Parking/Business/Residence distr.	12-6-6.14	\$27
21	Parking in a Special Parking Area Without a Permit	12-6-6.15	\$32
22	Stopping, Standing or Parking/Freight		
23	Loading Zones	12-6-8.4	\$37
24	Parking of Buses and Taxicabs	12-6-9.3	\$37
25	Restricted Use of Bus and Taxicab Stands	12-6-9.4	\$27

\*An asterisk (\*) at the end of a paragraph indicates that there are no comparable provisions in the State Code. A reference includes any unreferenced paragraphs that precede it.

1	<del>[Parking Meter Space</del>	<del>12-9-3</del>	<del>\$27</del>
2	<del>Parking Time Limits</del>	<del>12-9-4</del>	<del>\$16</del>
3	<del>Presumption of Unlawful Parking</del>	<del>12-9-8</del>	<del>\$27]</del>
4	Abandoned vehicles on private property	12-12-18	\$15

**SECTION 3. MUNICIPAL COURT FEES**

The municipal court fees set forth in Section 1-3.2 Section SFCC 1987 shall not apply to parking violations set forth in Section 2 above.

**SECTION 4. PAYMENT OF FINES**

Fines shall be paid to the city:

(a) by mailing a check or money order to city of Santa Fe parking violations bureau P.O. Box 909 Santa Fe New Mexico 87504-0909; or

(b) by depositing a check, money order or cash in a yellow collection box located on parking meters around the down town area; or

(c) by telephone with a city-accepted form of credit card; or

(d) online, on the city of Santa Fe website; or

(e) in person at locations designated by the city.

Upon receipt, the parking violations bureau shall issue a receipt for payment of the fine.

Payment shall be received within 15 days of the date of citation otherwise, the fine shall double.

Failure to pay the fine may result in the booting of the vehicle as set forth in section 12-12-20 of the city of Santa Fe uniform traffic code adopted in section 24-1.1 SFCC 1987. An alleged violator may

protest the charge of violation by filing the proper form to protest the violation with the municipal judge located at 2511 Camino Entrada within 30 days of the charge of violation. No fine imposed

upon later conviction shall exceed the fine established for the particular parking violation.

**SECTION 5. MANDATORY COURT APPEARANCE.**

This parking violations fines schedule and the fines set forth in 12-9-4.5 do not apply to the following

\*An asterisk (\*) at the end of a paragraph indicates that there are no comparable provisions in the State Code. A reference includes any unreferenced paragraphs that precede it.

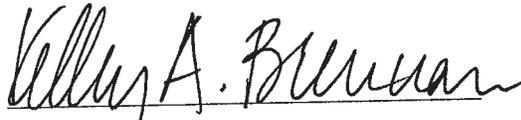
1 parking violations which requires a mandatory court appearance and a fine no less than two hundred  
2 fifty dollars (\$250) and no more than five hundred dollars (\$500):

3 Parking in Designated Accessible Parking Space [12-9-9] 12-9-3.9

4 Special Registration Plate or Parking Placard Indicating Disability 12-9-3.10

5 **Section 6. Effective Date.** This Ordinance shall become effective on July 1, 2015.

6 APPROVED AS TO FORM:

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8 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Melissa/Bills 2013/Parking UTO Changes(11\_06\_14)*

\*An asterisk (\*) at the end of a paragraph indicates that there are no comparable provisions in the State Code.  
A reference includes any unreferenced paragraphs that precede it.

## 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:   X   Resolution: \_\_\_\_\_

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

Short Title(s): An 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 Civil Parking Violations and Subject to Administrative Adjudication and Collection From an External Collection Agency; and Making Such Other Changes as are Necessary to Meet the Purposes of This Ordinance.

Sponsor(s): Councilor Dimas

Reviewing Department(s): Transportation Department

Persons Completing FIR: Sevastian Gurule Date: 11/04/14 Phone: ex: 6611

Reviewed by City Attorney: *Ally A. Brennan* Date: 11/7/14  
(Signature)

Reviewed by Finance Director: *Dorothea Cyran* Date: 11/7/14  
(Signature)

**Section B. Summary**

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

The purpose of this bill is to decriminalize parking violations related to parking meters, city parking lots and city parking garages; to establish them as civil parking violations and subject to administrative adjudication and collection services.

**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 14/15	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY 15/16	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel* (Includes Benefits)	\$57,734	<u>  N  </u>	<u>  R  </u>	\$147,930	<u>  N  </u>	<u>  R  </u>	<u>05150</u>
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$20,000	<u>  N  </u>	<u>  NR  </u>	\$ _____	_____	_____	<u>05150</u>
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
Professional Services	\$0	<u>  N  </u>	<u>  R  </u>	\$39,750	<u>  N  </u>	<u>  R  </u>	<u>05150</u>
All Other Operating Costs	\$5,000	<u>  N  </u>	<u>  R  </u>	\$5,000	<u>  N  </u>	<u>  R  </u>	<u>05150</u>
Total:	<u>\$82,734</u>			<u>\$192,680</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 14/15	"R" Costs Recurring or "NR" Non-recurring	FY 15/16	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Fees/Penalties	\$105,388	<u>  R  </u>	\$210,777	<u>  R  </u>	<u>05150.51150.450610</u>
Online Pymt	\$57,294	<u>  R  </u>	\$114,588	<u>  R  </u>	<u>05150.51150.450610</u>
_____	\$ _____	_____	\$ _____	_____	_____
Total:	<u>\$162,683</u>		<u>\$325,365</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.)

Please see attached cover memo

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### 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.

No

### **2. Consequences of Not Enacting This Bill/Resolution:**

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

The consequences of not enacting this bill would be that we will continue to have a large number of parking violations that are unpaid.

### **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.

No

### **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 positive effects of this bill are that we will have an opportunity, through a hearing officer, to hold hearings more frequently (one per week if needed); we will also have an opportunity to contract with a collection agency that specializes in the collection of parking violations. Furthermore, we have the opportunity to effectively and efficiently staff an official Parking Violations Bureau which will focus on the collection and adjudication of all civil parking violations/citations and not be distracted by additional job duties; we are expecting our overall collection rate to increase to approximately 75%. In addition, we have an opportunity to further strengthen our internal controls and ensure a thorough accountability of all civil parking violations/citations issued, adjudicated and/or paid.

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