

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, JULY 28, 2014**

ITEM 15

REQUEST FOR APPROVAL OF 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 NUISANCES AND SUBJECT TO ADMINISTRATIVE ADJUDICATION; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO MEET THE PURPOSES OF THIS ORDINANCE **(COUNCILOR DIMAS) (SEVASTIAN GURULE)**

PUBLIC WORKS COMMITTEE ACTION: Approved

FUNDING SOURCE:

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON TRUJILLO	X		
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	X		
COUNCILOR DOMINGUEZ	X		
COUNCILOR RIVERA	X		

City of Santa Fe, New Mexico

memo

Date: July 21, 2014

To: Public Works Committee

Via: Jon Bulthuis, Transportation Department Director ~~ZZ~~

From: Sevastian E. Gurule 
Interim Parking Division Director

Re: An Ordinance Repealing and Readopting Article IX of The Uniform Traffic Ordinance

Item and Issue:

This 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 nuisances and subject to administrative adjudication which would also include the use of a collection agency.

Background:

The total number of citations issued in calendar year 2013 was thirty thousand and five (30,005) with a base fine value of eight hundred fifty thousand, five hundred and twelve (\$850,512); the total outstanding amount is three hundred twenty four thousand forty four (\$324,044).

Those violations that would be considered nuisances make up approximately 69% of total violations issued. They are:

- | | |
|-------------------------------------|---------------------------------|
| * Parking at an Expired Meter (53%) | * Exceeding the Time Limit (1%) |
| * Fee Notices (9%) | * Penalty Assessments (6%) |

The total number of citations that would be considered a nuisance under the proposed code amendment is twenty thousand nine hundred thirty eight (20,938), with a base fine value of two hundred eight five thousand, nine hundred eighty eight (\$285,988); the total outstanding amount is one hundred thirty six thousand, six hundred sixty nine (\$136,669) or 5,307. New Mexico plates were issued sixteen thousand seven hundred and eight (16,708) and four thousand two hundred thirty were issued to out-of-state plates.

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.

Under the proposed code amendment, the parking division will have the opportunity to become more proactive in its collection efforts and responsive to its requests for appeal for parking violations related to parking meters, city parking lots and city parking garages. The parking division will implement a new process for collections and appeals for violators cited for parking nuisance violations:

1. After 15 days of non-payment, the Parking Violations Bureau will send a default notice to the vehicle's registered owner (the violator) notifying them that they have incurred a twenty five dollar (\$25) late fee and that payment is due within fifteen (15) days from the date of the default notice.
2. If payment is not received within fifteen (15) days from the date of the default notice, Parking Violations Bureau staff will pursue all remedies for collection.

Upon researching collection opportunities, we have learned that our current parking management software company, T2 Systems Inc. provides collection services and that they have a substantial collection rate. Through our preliminary discussions, we have discovered that the vendor offers three options for payment for these services:

1. The city of Santa Fe pays the full price for the collection services;
2. T2 Systems Inc. will keep a percentage of the collected amount; or
3. T2 Systems Inc. will pass their collection fee onto the violator.

In option three, the city will collect 100% of the outstanding violation amount and the customer will be charged an additional fee for the collection services.

The parking division will establish a separate section called the Parking Violations Bureau which will be comprised of a supervisor and two additional staff members whose job duties will be dedicated to the new nuisance violation adjudication processes to include management of the collection agency contract and the existing citation adjudication processes in conjunction with Municipal Court. In addition to these two processes the Parking Violations Bureau will be solely responsible for the management of the online appeal and citation module of our parking management system which is expected to be implemented by late October of this year. This will allow for greater customer service, internal controls, efficiencies, and thorough accountability.

Establishing the Parking Violations Bureau outside of the current parking accounting section will create a needed separation of duties. There are currently two full-time and one part-time staff members that work in Parking's accounting section who are assigned and responsible for providing direct citation adjudication job functions. These staff members are responsible for attending Municipal Court, collecting, researching and preparing all required documentation to be presented to the judge during parking court, making all necessary account adjustments and ensuring that all relative correspondence is scanned and attached to the customer accounts in our parking management software system as required by our new internal controls. These same staff members are also responsible for providing the same job functions for the requests for dismissals that are received directly through the parking division and are presented to the Judge separately from parking court.

Unfortunately, these same staff members also have additional, critical job duties separate and apart from addressing citation adjudication, one position being the supervisor of the accounting section. This has proven to be challenging over the years, primarily because this excess citation adjudication paperwork is quite time consuming and takes the accounting supervisor as well as two key staff members away from other supervisory and needed services, the lack of system automation within the Parking Division and Municipal Court, in addition to the extra internal control processes implemented as a result of the 2013 forensic audit. If this code amendment is approved, the parking division can hire additional staff that will absorb the adjudication duties and restore the accounting section supervisor and support staff to their original job duties. In addition, the division can potentially collect up to 95% of

the fines which could potentially result in an estimated additional two hundred seventy one thousand six hundred eighty eight dollars (\$271,688) in revenue.

In speaking with Municipal Court Judge Ann Yalman, her main concern is that patrons who wish to appeal a parking violation will be confused about whether they have to appear in Municipal Court or before a Hearing Officer. In order to avoid confusion and make the process as clear as possible, we plan to issue two separate types of notices that clearly identify whether the patron should present their case for appeal to the Municipal Court or to the Hearing Officer.

Judie Amer, former Assistant City Attorney, reported during the June 17, 2014, Public Safety Committee meeting that the parking division can only collect on cases that have been filed one year from the date the citation was issued. Ms. Amer also reported that she believes the parking division can collect on the outstanding citations issued in 2013.

Therefore, the estimated uncollectable debt is approximately seven million six hundred ninety two thousand five hundred thirty dollars (\$7,692,530) in parking violation fines issued between 2000 and July 7, 2013.

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

- Hire a Hearing Officer;
- Establish the Parking Violation Bureau as a separate entity from parking's accounting section and hire / transfer staff;
- Revise internal standard operating procedures and provide training to staff;
- Order additional supplies as needed;
- Develop a strategic public relations campaign

Requested Action:

Staff is recommending approval of this code amendment.

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-__

3 INTRODUCED BY:

4
5 Councilor Bill Dimas

6
7
8
9
10 AN ORDINANCE

11 REPEALING AND READOPTING ARTICLE IX OF THE UNIFORM TRAFFIC
12 ORDINANCE TO ESTABLISH THAT PARKING VIOLATIONS RELATED TO PARKING
13 METERS, CITY PARKING LOTS AND CITY PARKING GARAGES ARE NUISANCES
14 AND SUBJECT TO ADMINISTRATIVE ADJUDICATION; AND MAKING SUCH OTHER
15 CHANGES AS ARE NECESSARY TO MEET THE PURPOSES OF THIS ORDINANCE.

16
17 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

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

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

22 ARTICLE IX [NEW MATERIAL] PARKING

23 12-9-1 ADMINISTRATION. The parking division director has the authority to administer
24 the provisions of Article 12-9.*

25 12-9-2 DEFINITIONS. As used in this Article:

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

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

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

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

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

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

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

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

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

24 *Parking meter* means:

25 (1) Multi-space parking meter, including a pay and display machine that is a type

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1 of ticket machine used for regulating parking in city parking lots or garages for one or more
2 spaces; and

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

4 *Parking violations bureau* means the entity of the city of Santa Fe that is charged with the
5 administration of parking violations.*

6 **12-9-3 PARKING REGULATIONS**

7 **12-9-3.1 AUTHORITY TO ESTABLISH PARKING METER ZONES (formerly 12-9-1).**

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

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

14 C. The parking meter zone may be diminished or extended and enlarged, or other
15 parking meter zones may be created.*

16 **12-9-3.2 INSTALLATION OF PARKING METERS (formerly 12-9-2).**

17 A. The parking division director shall install parking meters in established parking meter
18 zones.

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

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

25 D. Each parking meter shall be designed, constructed, installed and set so that an

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1 appropriate signal will indicate expiration of the lawful parking meter period which was registered by
2 the deposit of payment as provided herein.

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

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

10 **12-9-3.3 PARKING METER SPACES (formerly 12-9-3).**

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

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

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

23 **12-9-3.4 PARKING TIME LIMITS (formerly 12-9-4).** Parking or standing a vehicle in a
24 designated space in parking meter zones shall be lawful upon the deposit of legal coins as indicated
25 on each parking meter.(*)

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1 **12-9-3.5 DEPOSIT OF COINS OR OTHER METHOD OF PAYMENT** *(formerly 12-9-*
2 *5).*

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

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

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

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

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

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

23 G. The provisions of this section shall not apply in a period of emergency determined by
24 an officer of the fire department or the police department or in compliance with the directions of a
25 police officer or traffic-control device.

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

4 **12-9-3.6 USE OF SLUGS PROHIBITED** (*formerly 12-9-6*). No person shall deposit or
5 attempt to deposit in any parking meter any slug, button or any other device or substance as
6 substitutes for coins of United States currency or other method of payment as provided in this
7 ordinance.(*)

8 **12-9-3.7 TAMPERING WITH METER** (*formerly 12-9-7*). No person shall deface, injure,
9 tamper with, open or willfully break, destroy or impair the usefulness of any parking meter. A
10 violation of this section shall be considered a nuisance and shall be abated by the payment to the city
11 of the fine set forth in 12-9-4.5 and, at the election of the city, the city's actual damages.(*)

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

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

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

22 **12-9-3.9 PARKING IN DESIGNATED ACCESSIBLE PARKING SPACES** (*formerly 12-*
23 *9-9*).

24 A. It is unlawful for any person to park a motor vehicle not carrying registration plates
25 or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and Section 3-51-

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1 46 NMSA 1978 in a designated accessible parking space for persons with significant mobility
2 limitation or in such a manner as to block access to any part of a curb cut designed for access by
3 persons with significant mobility limitations. Any person who violates this section shall be subject to
4 a mandatory court appearance and a fine, of not less than two hundred fifty dollars (\$250) or more
5 than five hundred dollars (500). Failure to properly display a parking placard or special registration
6 plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of
7 Subsection A of this section (66-7-352.5 NMSA 1978)

8 B. It is unlawful for any person to stand or stop a motor vehicle not carrying registration
9 plates or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and Section
10 3-51-46 NMSA 1978 in a designated accessible parking space for persons with significant mobility
11 limitation. Any person who violates this section shall be subject to a mandatory court appearance and
12 a fine, of not less than two hundred fifty dollars (\$250) or more than five hundred dollars (500).
13 Failure to properly display a parking placard or special registration plate issued pursuant to Section
14 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A of this section
15 (66-7-352.5 NMSA 1978).

16 C. It is unlawful for any person to use a designated accessible parking space for persons
17 with significant mobility limitation for the purpose of receiving or discharging passengers or for
18 loading or unloading if the vehicle receiving or discharging the passengers or loading or unloading
19 does not carry registration plates or a placard indicating disability in accordance with Section 66-3-16
20 NMSA 1978 and Section 3-51-46 NMSA 1978. Any person who violates this section shall be subject
21 to a mandatory court appearance and a fine, of not less than two hundred fifty dollars (\$250) or more
22 than five hundred dollars (500). Failure to properly display a parking placard or special registration
23 plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of
24 Subsection A of this section (66-7-352.5 NMSA 1978).

25 D. As used in this section, "designated accessible parking space" means any space

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

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

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

17 G. A law enforcement officer may issue a citation or authorize towing of a vehicle for a
18 violation of Section A of this section regardless of the presence of the driver (66-7-352.5 NMSA
19 1978). (Ord. No. 2006-34, Ord. No. 2007-49, Ord. No. 2009-11)

20 **12-9-3.10 SPECIAL REGISTRATION PLATE OR PARKING PLACARD INDICATING**
21 **DISABILITY (formerly 12-9-10).**

22 A. Vehicles displaying a valid special registration plate or parking placard pursuant to
23 Section 66-3-16 (1999) NMSA 1978 and Section 3-51-46 NMSA 1978 are exempt from the payment
24 of any parking fee imposed by the city of Santa Fe but shall not be exempt from any penalty or other
25 provisions of the Santa Fe City Code or of this Ordinance.

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

9 C. All special registration plate or parking placard issued pursuant to Section 66-3-16
10 (1999) NMSA 1978 shall expire on the same date as the person's driver's license or identification
11 card issued pursuant to Section 66-5-401 NMSA 1978.

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

17 **12-9.3.11 CITY PARKING LOTS AND GARAGES.**

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

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

23 C. It is unlawful for any person to deface, injure, tamper with, open or willfully break,
24 destroy or impair the usefulness of any parking meter. This nuisance shall be abated by payment of
25 the city's actual damages plus the fine set forth in 12-9-4.5. A violation of this section shall be

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1 considered a nuisance and shall be abated by the payment to the city of the fine set forth in 12-9-4.5
2 and, at the election of the city, the city's actual damages.

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

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

9 **12-9-4 PARKING NUISANCE**

10 **12-9-4.1 AUTHORITY; TITLE.**

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

14 **12-9-4.2 PURPOSE AND INTENT.**

15 A. It is the intent of the governing body by adopting this Section to abate the following
16 nuisances:

17 (1) Nuisances caused by persons who park in city-owned metered spaces or city
18 parking lots and garages and fail to make the required payments or remain parked after the
19 paid period of time has expired; and

20 (2) Nuisances caused by persons who aggregate numerous parking fine
21 notifications and fail to pay fines assessed by the parking violations bureau.

22 B. The governing body declares that this section is a nuisance abatement measure
23 enacted pursuant to the city's inherent authority under state law and that the remedies are purely civil
24 and not criminal in nature.*

25 **12-9-4.3 PARKING NUISANCES.**

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1 It is a nuisance for any person to park a vehicle in violation of the following sections of the Uniform
2 Traffic Ordinance:

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

10 **12-9-4.5 Fines.**

11 A. The fines for parking nuisances shall be:

12 <u>Nuisance</u>	13 <u>UTO Section</u>	14 <u>Fine</u>
15 Occupying more than one parking meter space	16 12-9-3.3(C)	17 \$27.00
18 Parking time limits	19 12-9-3.4	20 \$16.00
21 Deposit of coins or other method of payment	22 12-9-3.5	23 \$16.00
24 Use of slugs	25 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)	\$16.00
Unlawful parking – covered parking meter	12-9-3.8(B)	\$27.00
City parking lot and garage nuisances	12-9-3.11	\$16.00

21 B. Fines are subject to a \$25.00 additional penalty if the fine is not paid within fifteen
22 (15) days from receipt of the fine.

23 C. Fines shall be paid to the city:

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

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

3 (c) in person at locations designated by the city.

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

5 **12-9-4.6 Enforcement.**

6 A. *Parking Fine Notification.*

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

17 (2) **Delivery.** Correspondence from the city regarding parking fine notifications
18 shall be delivered to the address of the registered owner according to the address registered
19 with the department of motor vehicles (DMV). The registered owner has a duty to timely
20 notify DMV of a change of address or if vehicle was stolen. The failure to do so does not
21 entitle the registered owner to assert the defense of inadequate notice. The mailing of a
22 parking fine notification to the address of the registered owner of a vehicle according to the
23 records of DMV is constructive notice of a parking fine notification.

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

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1 for a hearing.

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

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

15 C. *Default with forfeit of hearing on the merits.* If the city does not receive payment of
16 the fine or a request for a hearing within fifteen (15) days from the date of the parking fine
17 notification, the registered owner is in default. Default automatically results in liability to the
18 registered owner of the vehicle for the violation and the registered owner is barred from requesting or
19 obtaining any hearing on the merits of the parking fine after the date of the default. A default results
20 in an additional penalty of twenty-five dollars (\$25.00). The parking violations bureau shall mail the
21 notice of default to the defaulting party. The notice of default shall inform the recipient that they have
22 fifteen (15) days from the date of mailing of the notice of default to pay the fine and default penalty..
23 If the default is not cured within 15 days, the city may pursue all remedies for collection of a debt and
24 is entitled to an award of reasonable attorney's fees incurred. An uncured notice of default shall be
25 entered into the records of the parking violations bureau and, at the City's discretion, the default may

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1 be cured even after 15 days from the mailing of the notice of default by payment in full plus penalties
2 but only if the payment is made before being sent to a contracted collection agency, or the default
3 may be promptly sent to a contracted collection agency, and once sent to a collection agency the
4 default may only be cured by payment to the collection agency.

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

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

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

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

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

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

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

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

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

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1 conveyance.

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

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

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

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

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

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

19 (1) paying the fine within the time specified in the citation/notice of arrest at the
20 traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court;
21 or

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

25 ~~[B]~~C. For the purpose of this ordinance, the payment of a fine to the traffic violations

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1 bureau shall be deemed an acknowledgment of conviction of the alleged offense. The traffic
2 violations bureau, upon accepting the prescribed fine, shall issue a receipt to the violator
3 acknowledging payment of the fine. (*)

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

6 **12-12-1 PENALTIES.**

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

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

12 **SCHEDULE B**

13 **PARKING VIOLATION FINES SCHEDULE**

14 ADOPTED: July 12, 2006

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

16 _____, 2014 – Ord. #2014-

17 **SECTION 1.**

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

19 **SECTION 2.**

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

24 COMMON NAME OF OFFENSE	SECTION VIOLATED	FINE
25 Stopping, Standing or Parking Prohibited	12-6-6.1	\$27

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1	Additional Parking Regulations	12-6-6.2	\$21
2	Stopped/Parked Vehicles		
3	Interferes with other Traffic	12-6-6.3	\$35
4	Parking <u>in</u> Alleys Prohibited	12-6-6.4	\$27
5	All-Night Parking Prohibited	12-6-6.5	\$27
6	Parking for Certain Purposes Prohibited	12-6-6.6	\$27
7	Parking Adjacent to Schools Prohibited	12-6-6.7	\$27
8	Parking Prohibited on Narrow Streets	12-6-6.8	\$27
9	Standing or Parking on One-Way Streets	12-6-6.9	\$27
10	Standing or Parking on Divided Streets	12-6-6.10	\$27
11	Stopping Standing or Parking/Hazardous Places	12-6-6.11	\$27
12	Stopping, Standing or Parking/Certain streets	12-6-6.12	\$27
13	Stopping, Standing or		
14	Parking/Business/Residence distr.	12-6-6.14	\$27
15	Parking in a Special Parking Area Without a Permit	12-6-6.15	\$32
16	Stopping, Standing or Parking/Freight		
17	Loading Zones	12-6-8.4	\$37
18	Parking of Buses and Taxicabs	12-6-9.3	\$37
19	Restricted Use of Bus and Taxicab Stands	12-6-9.4	\$27
20	[Parking Meter Space	12-9-3	\$27
21	Parking Time Limits	12-9-4	\$16
22	Presumption of Unlawful Parking	12-9-8	\$27]
23	Abandoned vehicles on private property	12-12-18	\$15

24 **SECTION 3. MUNICIPAL COURT FEES**

25 The municipal court fees set forth in Section 1-3.2 Section SFCC 1987 shall not apply to parking

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1 violations set forth in Section 2 above.

2 **SECTION 4. PAYMENT OF FINES**

3 Fines shall be paid to the city:

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

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

8 (c) in person at locations designated by the city.

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

10 Failure to pay the fine may result in the booting of the vehicle as set forth in section 12-12-20 of the
11 city of Santa Fe uniform traffic code adopted in section 24-1.1 SFCC 1987. An alleged violator may
12 protest the charge of violation by filing the proper form to protest the violation with the municipal
13 judge located at 2511 Camino Entrada within 30 days of the charge of violation. No fine imposed
14 upon later conviction shall exceed the fine established for the particular parking violation.

15 **SECTION 5. MANDATORY COURT APPEARANCE.**

16 This parking violations fines schedule and the fines set forth in 12-9-4.5 do not apply to the following
17 parking violations which requires a mandatory court appearance and a fine no less than two hundred
18 fifty dollars (\$250) and no more than five hundred dollars (\$500):

19 Parking in Designated Accessible Parking Space ~~[12-9-9]~~ 12-9-3.9

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

21 **Section 6. Effective Date.** This Ordinance shall become effective on January 1, 2015.

22 APPROVED AS TO FORM:

23 

24 KELLEY A. BRENNAN, CITY ATTORNEY

M/Melissa/Bills 2013/Parking UTO Changes(5_30_14

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

ISSUE: Proposed ordinance relating to the City of Santa Fe Uniform Traffic Ordinance; amending the provisions regarding 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 device while driving in a school zone. .

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/fcmissue