

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Bill No. 2016-10

UTO Update

SPONSOR(S): Councilor Lindell

SUMMARY: The proposed bill amends the Uniform Traffic Ordinance to remove a provision requiring a court appearance for ADA accessible parking violations, and making all penalties civil violations.

PREPARED BY: Jesse Guillen, Legislative Liaison

FISCAL IMPACT: No

DATE: February 15, 2016

ATTACHMENTS: Bill
FIR

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2016-10

3 INTRODUCED BY:

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5 Councilor Signe I. Lindell

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10 AN ORDINANCE

11 AMENDING SUBSECTION 12-9-3.9 OF THE UNIFORM TRAFFIC
12 ORDINANCE RELATING TO ADA ACCESSIBLE PARKING VIOLATIONS
13 REQUIRING A MANDATORY COURT APPEARANCE.

14
15 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

16 Section 1. Subsection 12-9-3.9 of the Uniform Traffic Ordinance (being Ord.
17 #2011-4 (as amended)) is amended to read:

18 12-9-3.9 PARKING IN DESIGNATED ADA ACCESSIBLE PARKING
19 SPACES.

20 A. It is unlawful for any person to park a motor vehicle not carrying registration
21 plates or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and
22 Section 3-51-46 NMSA 1978 in a designated accessible parking space for persons with
23 significant mobility limitation or in such a manner as to block access to any part of a curb cut
24 designed for access by persons with significant mobility limitations. Any person who violates
25 this section shall be subject to [~~a mandatory court appearance and~~] a fine[⁵] of not less than two

1 hundred fifty dollars (\$250) or more than five hundred dollars (\$500). Failure to properly display
2 a parking placard or special registration plate issued pursuant to Section 66-3-16 NMSA 1978 is
3 not a defense against a charge of violation of Subsection A of this section (66-7-352.5 NMSA
4 1978)

5 B. It is unlawful for any person to stand or stop a motor vehicle not carrying
6 registration plates or a placard indicating disability in accordance with Section 66-3-16 NMSA
7 1978 and Section 3-51-46 NMSA 1978 in a designated accessible parking space for persons with
8 significant mobility limitation. Any person who violates this section shall be subject to [a
9 ~~mandatory court appearance and~~] a fine^[5] of not less than two hundred fifty dollars (\$250) or
10 more than five hundred dollars (\$500). Failure to properly display a parking placard or special
11 registration plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a
12 charge of violation of Subsection A of this section (66-7-352.5 NMSA 1978).

13 C. It is unlawful for any person to use a designated accessible parking space for
14 persons with significant mobility limitation for the purpose of receiving or discharging passengers
15 or for loading or unloading if the vehicle receiving or discharging the passengers or loading or
16 unloading does not carry registration plates or a placard indicating disability in accordance with
17 Section 66-3-16 NMSA 1978 and Section 3-51-46 NMSA 1978. Any person who violates this
18 section shall be subject to [~~a mandatory court appearance and~~] a fine^[5] of not less than two
19 hundred fifty dollars (\$250) or more than five hundred dollars (\$500). Failure to properly display
20 a parking placard or special registration plate issued pursuant to Section 66-3-16 NMSA 1978 is
21 not a defense against a charge of violation of Subsection A of this section (66-7-352.5 NMSA
22 1978).

23 D. As used in this section, "designated accessible parking space" means any space
24 including an access aisle, marked and reserved for the parking of a vehicle that carries registration
25 plates or a parking placard indicating disability in accordance with Section 66-3-16 NMSA 1978

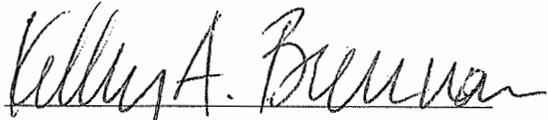
1 and Section 3-51-46 NMSA 1978, and designated by a conspicuously posted sign bearing the
2 international symbol of accessibility and if paved, by a clearly visible depiction of this symbol
3 painted white on blue on the pavement of the space, except where the total number of parking
4 spaces is four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

8 E. Any vehicle parked in violation of Subsections A, B or C of this section is
9 subject to being towed at the expense of the vehicle owner upon authorization by law
10 enforcement personnel or by the property owner or parking division director.

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

15 G. A law enforcement officer may issue a citation or authorize towing of a vehicle
16 for a violation of Section A of this section regardless of the presence of the driver (66-7-352.5
17 NMSA 1978).

18
19 APPROVED AS TO FORM:

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22 KELLEY A. BRENNAN, CITY ATTORNEY

23
24
25 *M/Legislation/Bills 2016/UTO Update*

**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 AMENDING SUBSECTION 12-9-3.9 OF THE UNIFORM TRAFFIC ORDINANCE RELATING TO ADA ACCESSIBLE PARKING VIOLATIONS REQUIRING A MANDATORY COURT APPEARANCE.

Sponsor(s): Councilor Lindell

Reviewing Department(s): Transportation

Persons Completing FIR: Noel Correia Date: 2/12/16 Phone: x6611

Reviewed by City Attorney: Kelley A. Brennan Date: 2/19/16
(Signature)

Reviewed by Finance Director: [Signature] Date: 2-15-2016
(Signature)

Section B. Summary

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

The purpose of this bill is to remove language from Subsection 12-9-3.9 of the Uniform Traffic Ordinance to clarify that persons who violate this section are NOT subject to a mandatory court appearance. The Governing Body passed Ordinance 2016-3 on January 13, 2016, decriminalizing all on-street and off-street parking violations and established them as civil parking violations subject to administrative adjudication and external 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: [Signature]

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY 15/16	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY 16/17	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ 0				\$ 0			
Fringe**	\$ 0				\$ 0			
Capital Outlay	\$ 0				\$ 0			
Land/ Building	\$ 0				\$ 0			
Professional Services	\$ 0				\$ 0			
All Other Operating Costs	\$ 0				\$ 0			
Total:	\$ 0				\$ 0			

* 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 15/16	"R" Costs Recurring or "NR" Non-recurring	FY 16/17	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

	\$ 0			\$ 0		
	\$ 0			\$ 0		
	\$ 0			\$ 0		
Total:	\$ 0			\$ 0		

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.)

N/A

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.

None identified.

2. Consequences of Not Enacting This Bill/Resolution:

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

ADA Violators will still be subject to a mandatory court appearance.

3. Technical Issues:

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

None identified.

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.

This would eliminate the requirement of a mandatory court appearance, freeing up time and money at Municipal court, and remove a burdensome requirement for drivers.

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 03/21/16
FOR CITY COUNCIL MEETING OF 03/30/16

ISSUE:

30. Request for Approval of an Ordinance Amending Subsection 12-9-3.9 of the Uniform Traffic Ordinance Relating to ADA Accessible Parking Violations Requiring a Mandatory Court Appearance. (Councilor Lindell) (Sara Smith and Noel Correia)

Committee Review:

Public Works Committee (approved)	02/22/16
City Council (request to publish) (approved)	02/24/16
City Council (public hearing) (scheduled)	03/30/16

Fiscal Impact – No

FINANCE COMMITTEE ACTION:

Approved as consent item.

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR VILLAREAL	X		
COUNCILOR IVES	X		
COUNCILOR LINDELL	X		
COUNCILOR HARRIS	X		
CHAIRPERSON DOMINGUEZ			

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, FEBRUARY 22, 2016**

ITEM 13

REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SUBSECTION 12-9-3.9 OF THE UNIFORM TRAFFIC ORDINANCE RELATING TO ADA ACCESSIBLE PARKING VIOLATIONS REQUIRING A MANDATORY COURT APPEARANCE (**COUNCILOR LINDELL**) (**NOEL CORREIA/SARA SMITH**)

PUBLIC WORKS COMMITTEE ACTION: Approved

FUNDING SOURCE:

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON TRUJILLO			
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	Excused		
COUNCILOR DOMINGUEZ			X
COUNCILOR IVES	X		

mentioned seven positions but she saw no cuts listed here. You want all things on the table. Cuts need to be on the table too. Our GRT is the highest or second highest in the State. People cringe at having that tax added on to their sales. It is not very balanced; the way we are approaching this budget. It is a discussion we haven't had.

Councilor Dominguez said the Finance Committee is working hard and not taking this lightly. We are having good debate about whether we should cut \$4 million or \$15 million. He was not sure how much we can cut and still provide a high quality of service to the citizens. We have already made a number of cuts through the years. Maybe we can go more than \$4 million but how far before we cut the quality of what we provide. Do we cut senior services, summer youth program, etc.? no one has been willing to say we need to cut 110 people from Community Services.

Councilor Bushee said this is the first time she has seen Finance Committee things in the agenda. She would like to see the full picture.

Councilor Dominguez wanted to see it too and he was not sure they would have to raise taxes.

Councilor Bushee said that for her, this has been a nonstarter from the beginning. In 1994, we just took on the water company with proprietary software and couldn't get a bill out. Now we can hardly get a bill out. This is misguided. Leave the water company alone. Make the tough choices. If not here, send it out as a referendum. The GRT is a burden on small businesses here and this is going to kill them.

Chair Trujillo said they tried a referendum with the gas tax and that got shot down.

The motion to approve passed by majority (2-1) voice vote with Councilor Bushee dissenting.

12. REQUEST FOR APPROVAL OF AN ORDINANCE ADOPTING A MUNICIPAL GROSS RECEIPTS TAX (COUNCILOR DOMINGUEZ) (OSCAR RODRIGUEZ)

Committee Review:

Council (Request to publish)	02/24/16
Finance Committee (Scheduled)	02/29/16
Council (Public hearing)	03/30/16

Councilor Bushee moved to deny. The motion died for lack of a second.

Councilor Dominguez moved to approve the request. Councilor Ives seconded the motion and it passed by majority (2-1) voice vote with Councilor Bushee dissenting.

13. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SUBSECTION 12-9-3.9 OF THE UNIFORM TRAFFIC ORDINANCE RELATING TO ADA ACCESSIBLE PARKING VIOLATIONS REQUIRING A MANDATORY COURT APPEARANCE (COUNCILOR LINDELL) (NOEL CORREIA/SARA SMITH)

Committee Review:

Council (Request to publish)	02/24/16
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Finance Committee (Scheduled)
Council (Public hearing)

02/29/16
03/30/16

Councilor Bushee related meeting a couple from South Carolina who left their placard in the glove box. What do we see if they have to appear in municipal court? She helped that couple get it expedited before they had to leave town. Otherwise, it is a big cost. It is a \$500 fine.

Mr. Guillen clarified that this proposed amendment is to remove that mandatory court appearance requirement.

Councilor Bushee said great.

Councilor Bushee moved to approve the request. Councilor Ives seconded the motion and it passed by unanimous voice vote except Councilor Dominguez abstained.

14. REQUEST FOR APPROVAL OF A RESOLUTION INCREASING THE PROPERTY TAX WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF SANTA FE (COUNCILOR DOMINGUÉZ) (OSCAR RODRIGUEZ)

Committee Review:

Finance Committee (Scheduled)
Council (Scheduled)

02/29/16
03/30/16

Councilor Bushee asked Mr. Rodriguez if \$3.8 million is all that can be generated out of the property tax increase.

Mr. Rodriguez agreed.

Councilor Bushee asked if there is a possibility it could produce more in the future.

Mr. Rodriguez predicted the State will have a huge overhaul of its tax structure and property taxes will be a major target. It is one of the lowest in the country. It is very restricted and home rule allows the Governing Body to give exemptions up to \$72,000 dollars. There is a head of household exemption, a veterans' exemption. So it is not very much. The homestead exemption allows people with higher incomes to pay little in property tax. There is a big limit and you have to ask the State for permission to do it.

The State adjusts the base every year. If the base increases, the State will lower the rate to maintain the yield. Municipal government in New Mexico is very limited in what it can do.

Councilor Bushee said this is less regressive than other taxes. So it is even more targeted to find people who can pay.

Councilor Bushee moved to move it forward this matter without a recommendation to the Finance Committee.

Councilor Ives seconded the motion and it passed by unanimous voice vote.