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**CITY OF SANTA FE, NEW MEXICO**

**ORDINANCE NO. 2007 - 49**

**AN ORDINANCE**

**AMENDING SECTION 24-1.1 SFCC 1987 REGARDING THE CITY OF SANTA FE  
UNIFORM TRAFFIC CODE; AND AMENDING VARIOUS SECTIONS OF THE CITY  
OF SANTA FE UNIFORM TRAFFIC CODE.**

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

**Section 1. Section 24-1.1 SFCC 1987 (being Ord. #2006-34) is amended to read:**

**24-1.1 Creation of City of Santa Fe Uniform Traffic Code.**

A. Pursuant to Section 3-17-6 NMSA 1978, the New Mexico Uniform Traffic Ordinance 2004 Compilation containing all revisions through July 1, 2007, compiled by the New Mexico municipal league is adopted by reference and incorporated as if fully set out herein, except as amended by the governing body. The New Mexico Uniform Traffic Ordinance 2004 Compilation containing all revisions through July, 2007 and as amended by the governing body shall be known as "city of Santa Fe uniform traffic code".

B. The city of Santa Fe uniform traffic code shall be kept on file at the police department and the city clerk's office and shall be, at all reasonable times, available and subject to inspection. A copy of the uniform traffic code is available to any individual upon request and payment of a reasonable charge as set by the city.

**Section 2. Section 12-6-12.1 of the City of Santa Fe Uniform Traffic Code (being Ord. #2006-34) is amended to read:**

**12-6-12.1 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF**

1 **INTOXICATING LIQUOR OR DRUGS; CHEMICAL TESTING; OFFICER TO FILE**  
2 **STATEMENT; IMMEDIATE LICENSE REVOCATION.**

3 A. It is unlawful for a person who is under the influence of intoxicating liquor to  
4 drive a vehicle within this municipality.

5 B. It is unlawful for a person who is under the influence of any drug to a degree  
6 which renders the person incapable of safely driving a vehicle to drive a vehicle within this  
7 municipality.

8 C. It is unlawful for:

9 (1) a person to drive a motor vehicle in this municipality if the person has an  
10 alcohol concentration of eight one-hundredths or more in the person's blood or breath within  
11 three hours of driving the vehicle and the alcohol concentration results from alcohol consumed  
12 before or while driving the vehicle; or

13 (2) a person to drive a commercial motor vehicle in this municipality if the  
14 person has an alcohol concentration of four one hundredths or more in the person's blood or  
15 breath within three hours of driving the commercial motor vehicle and the alcohol concentration  
16 results from alcohol consumed before or while driving the vehicle.

17 D. Aggravated driving while under the influence of intoxicating liquor or drugs  
18 consists of a person who:

19 (1) drives a vehicle in this municipality and has an alcohol concentration of  
20 sixteen one-hundredths or more in the person's blood or breath within three hours of driving the  
21 vehicle and the alcohol concentration results from alcohol consumed before or while driving the  
22 vehicle;

23 (2) has caused bodily injury to a human being as a result of the unlawful  
24 operation of a motor vehicle while driving under the influence of intoxicating liquor or drugs; or

25 (3) refused to submit to chemical testing, as provided for in the Implied

1 Consent Act (66-8-105 to 66-8-112 NMSA 1978), and in the judgment of the court, based upon  
2 evidence of intoxication presented to the court, was under the influence of intoxicating liquor or  
3 drugs. (66-8-102 NMSA 1978).

4 E. Any person who operates a motor vehicle within this municipality shall be  
5 deemed to have given consent, subject to the provisions of the Implied Consent Act, to chemical  
6 tests of the person's breath or blood or both, approved by the scientific laboratory division of the  
7 Department of Health pursuant to the provision of Section 24-1-22 NMSA 1978 as determined by  
8 a law enforcement officer, or for the purpose of determining the drug or alcoholic content of his  
9 blood, if arrested for any offense arising out of the acts alleged to have been committed while the  
10 person was driving a motor vehicle while under the influence of an intoxicating liquor or any  
11 drug.

12 F. A test of blood or breath or both, approved by the scientific laboratory division of  
13 the department of health pursuant to Section 24-1-22 NMSA 1978, shall be administered at the  
14 direction of a law enforcement officer having reasonable grounds to believe the person to have  
15 been driving a motor vehicle within this municipality, while under the influence of intoxicating  
16 liquor or drug. (66-8-107 NMSA 1978)

17 G. Any person who is dead, unconscious or otherwise in a condition rendering the  
18 person incapable of refusal, shall be deemed not to have withdrawn the consent provided by  
19 Section 12-6-12.1E, and the test or tests designated by the law enforcement officer may be  
20 administered. (66-8-108 NMSA 1978)

21 H. Only the persons authorized by Section 66-8-103 NMSA 1978 shall withdraw  
22 blood from any person for the purpose of determining its drug or alcoholic content. This  
23 limitation does not apply to the taking of samples of breath.

24 I. The person tested shall be advised by the law enforcement officer of the person's  
25 right to be given an opportunity to arrange for a physician, licensed professional or practical

1 nurse, or laboratory technician or technologist who is employed by a hospital or physician, of the  
2 person's own choosing to perform a chemical test in addition to any test performed at the  
3 direction of a law enforcement officer.

4 J. Upon the request of the person tested, full information concerning the test or tests  
5 performed at the direction of the law enforcement officer shall be made available to him as soon  
6 as it is available from the person performing the test.

7 K. The law enforcement agency represented by the law enforcement officer at  
8 whose direction the chemical test is performed shall pay for the chemical test.

9 L. If a person exercises his right under Subsection I to have a chemical test  
10 performed upon him by a person of his own choosing, then the cost of that test shall be paid by  
11 the law enforcement agency represented by the law enforcement officer at whose direction a  
12 chemical test was administered under Subsection E. (66-8-109 NMSA 1978)

13 M. The results of a test performed pursuant to the Implied Consent Act may be  
14 introduced into evidence in any civil action or criminal action arising out of the acts alleged to  
15 have been committed by the person tested for driving a motor vehicle while under the influence  
16 of intoxicating liquor or drug.

17 N. When the blood or breath of the person tested contains:

18 (1) an alcohol concentration of less than four one-hundredths or less, it shall  
19 be presumed that the person was not under the influence of intoxicating liquor;

20 (2) an alcohol concentration of at least four one-hundredths but less than  
21 eight one-hundredths, no presumption shall be made that the person either was or was not under  
22 the influence of intoxicating liquor unless the person is driving a commercial vehicle and the  
23 amount of alcohol in the person's blood or breath may be considered with other competent  
24 evidence in determining whether or not the person was under the influence of intoxicating liquor;

25 (3) an alcohol concentration of eight one-hundredths or more, the arresting

1 officer shall charge him with a violation of this section; or

2 (4) an alcohol concentration of four one-hundredths or more and the person  
3 is driving a commercial vehicle, it shall be presumed that the person is under the influence of  
4 intoxicating liquor. (66-8-110 NMSA 1978)

5 O. If the test performed pursuant to the Implied Consent Act is administered more  
6 than three hours after the person was driving a vehicle, the test result may be introduced as  
7 evidence of the alcohol concentration in the person's blood or breath at the time of the test and  
8 the trier of the fact shall determine what weight to give the test result for the purpose of  
9 determining a violation of Section 12-6-12.1. (66-8-110 NMSA 1978)

10 P. The determination of alcohol concentration shall be based on the grams of  
11 alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of  
12 breath.

13 Q. The presumptions in Subsection N of this section do not limit the introduction of  
14 other competent evidence concerning whether or not a person was under the influence of  
15 intoxicating liquor. (66-8-110 NMSA 1978)

16 R. Nothing in this section is intended to authorize any police officer, or any judicial  
17 or probation officer, to make any arrest or to direct the performance of a blood-alcohol test,  
18 except in the performance of his official duties and as otherwise authorized by law. (66-8-104  
19 NMSA 1978)

20 S. If a person under arrest for violation of an offense enumerated in the Motor  
21 Vehicle Code refuses upon request of a law enforcement officer to submit to chemical tests  
22 designated by the law enforcement agency as provided in Section 12-6-12.1 E and F, none shall  
23 be administered, except when a municipal judge, magistrate or district judge issues a search  
24 warrant authorizing chemical tests as provided in Section 12-6-12.1 E and F, upon his finding in a  
25 law enforcement officer's written affidavit that there is probable cause to believe that the person

1 has driven a motor vehicle while under the influence of intoxicating alcohol or drug thereby  
2 causing the death or great bodily injury of another person, or there is probable cause to believe  
3 that the person has committed a felony while under the influence of intoxicating alcohol or drug  
4 and that chemical tests as provided in Section 12-6-12.1 E and F will produce material evidence  
5 in a felony prosecution. (66-8-111 NMSA 1978)

6 T. If a law enforcement officer has reasonable grounds to believe that a person  
7 arrested for violation of Subsections A, B, C or D of this section had been driving a motor vehicle  
8 within this municipality while under the influence of intoxicating liquor or drug and that upon his  
9 request, the person refused to submit to a chemical test, after being advised that failure to submit  
10 could result in revocation of his privilege to drive, then the law enforcement officer shall transmit  
11 to the director a statement signed under penalty of perjury stating what such reasonable grounds  
12 were and stating that the person refused to submit to a chemical test after being advised of the  
13 consequences of such refusal.

14 U. On behalf of the director, a law enforcement officer requesting a chemical test or  
15 directing the administration of a chemical test pursuant to Section 12-6-12.1 E and F shall serve  
16 immediate written notice of revocation and of right to a hearing on a person who refuses to permit  
17 chemical testing or on a person who submits to a chemical test the results of which indicate an  
18 alcohol concentration in the person's blood or breath of eight one-hundredths or more if the  
19 person is twenty-one years of age or older, four one-hundredths or more if the person is driving a  
20 commercial vehicle or two one-hundredths or more if the person is less than twenty-one years of  
21 age. Upon serving notice of revocation, the law enforcement officer shall take the license or  
22 permit of the driver, if any, and issue a temporary license valid for twenty days or, if the driver  
23 requests a hearing pursuant to Section 66-8-112 NMSA 1978, valid until the date the department  
24 issues the order following that hearing; provided that a temporary license shall not be issued to a  
25 driver without a valid license or permit. The law enforcement officer shall send the person's

1 driver's license to the director along with the signed statement required pursuant to Subsection S  
2 of this section. (66-8-111.1 NMSA 1978)

3 **Section 3. Section 12-6-12.2 of the City of Santa Fe Uniform Traffic Code**  
4 **(being Ord. #2006-34) is amended to read:**

5 **12-6-12.2 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF**  
6 **INTOXICATING LIQUOR OR DRUGS; PENALTIES; SENTENCING; FEES.**

7 A. If a person is convicted of driving a motor vehicle while under the influence of  
8 intoxicating liquor or drug (12-6-12.1A through D) the trial judge shall be required to inquire into  
9 the past driving record of the person before sentence is entered in the matter. (66-8-110 NMSA  
10 1978)

11 B. When a person is charged with a violation of 12-6-12.1A through D, any plea of  
12 guilty thereafter entered in satisfaction of the charges shall include at least a plea of guilty to  
13 violation 12-6-12.1A, B, C or D and no other disposition by plea of guilty to any other charge in  
14 satisfaction of such charge shall be authorized if:

15 (1) the results of a test performed pursuant to the Implied Consent Act  
16 discloses that the blood of the person charged contains an alcohol concentration of eight one-  
17 hundredths or more; (66-8-102 NMSA 1978 as amended)

18 (2) four one-hundredths or more if the person is driving a commercial  
19 vehicle; or

20 (3) the defendant has refused to submit to a chemical test or tests of his  
21 breath or blood. (66-8-102 NMSA 1978)

22 C. A person under first conviction pursuant to this section shall be punished by  
23 imprisonment for not more than ninety days or by a fine of not more than nine hundred ninety-  
24 nine dollars (\$999.00), or both; provided that if the sentence is suspended in whole or in part or  
25 deferred, the period of probation may extend beyond ninety days but shall not exceed one year.

1 Upon a first conviction pursuant to this section, an offender shall be sentenced to not less than 24  
2 hours of community service. In addition, the offender may be required to pay a fine of three  
3 hundred dollars (\$300.00). The offender shall be ordered by the court to participate in and  
4 complete a screening program described in Subsection F of this section and to attend a driver  
5 rehabilitation program for alcohol or drugs, also known as a "DWI school," approved by the  
6 traffic safety bureau of the state transportation department and also may be required to participate  
7 in other rehabilitative services as the court shall determine to be necessary. In addition to those  
8 penalties, when an offender commits aggravated driving while under the influence of intoxicating  
9 liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in  
10 jail. If an offender fails to complete, within a time specified by the court, any community service,  
11 screening program, treatment program or DWI school ordered by the court or fails to comply with  
12 any other condition of parole, the offender shall be sentenced to not less than an additional forty-  
13 eight consecutive hours in jail. Any jail sentence imposed pursuant to this section for failure to  
14 complete, within a time specified by the court, any community service, screening program,  
15 treatment program or DWI school ordered by the court or for aggravated driving while under the  
16 influence of intoxicating liquor or drugs shall not be suspended, deferred or taken under  
17 advisement. On a first conviction pursuant to this section, time spent in jail for the offense prior  
18 to the conviction for that offense shall be credited to any to any term of imprisonment fixed by the  
19 court. A deferred sentence pursuant to this subsection shall be considered a first conviction for  
20 the purpose of determining subsequent convictions.

21 D. A second or third conviction pursuant to this section shall be punished by  
22 imprisonment for not more than one hundred seventy-nine days or by a fine of not more than nine  
23 hundred ninety-nine dollars (\$999.00), or both; provided that if the sentence is suspended in  
24 whole or part, the period of probation may extend beyond one hundred seventy-nine days but  
25 shall not exceed one year. Notwithstanding any provision of law to the contrary for suspension or



1 deferment of execution of a sentence:

2 (1) upon a second conviction, each offender shall be sentenced to a jail term  
3 of not less than ninety-six consecutive hours, not less than forty-eight hours of community service  
4 and a fine of five hundred dollars (\$500.00). In addition to those penalties, when an offender  
5 commits aggravated driving while under the influence of intoxicating liquor or drugs, the  
6 offender shall be sentenced to a jail term of not less than ninety-six consecutive hours. If an  
7 offender fails to complete, within a time specified by the court, any community service, screening  
8 program or treatment program ordered by the court, the offender shall be sentenced to not less  
9 than an additional seven consecutive days in jail. A penalty imposed pursuant to this paragraph  
10 shall not be suspended or deferred or taken under advisement; and

11 (2) upon a third conviction, an offender shall be sentenced to a jail term of  
12 not less than thirty consecutive days, not less than 96 hours of community service and a fine of  
13 nine hundred ninety-nine dollars (\$999.00). In addition to those penalties, when an offender  
14 commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall  
15 be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to  
16 complete, within a time specified by the court, any community service, screening program or  
17 treatment program ordered by the court, the offender shall be sentenced to not less than an  
18 additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not  
19 be suspended or deferred or taken under advisement.

20 E. Fourth and subsequent offenses shall be prosecuted under state law in magistrate  
21 or district court. (66-8-102 NMSA 1978)

22 F. Upon any conviction pursuant to this section, an offender shall be required to  
23 participate in and complete, with a time specified by the court, an alcohol or drug abuse screening  
24 program approved by the Department of Finance and Administration and if necessary, a  
25 treatment program approved by the court. The requirement imposed pursuant to this subsection

1 shall not be suspended, deferred or taken under advisement.

2 G. Upon a second or third conviction pursuant to this section, an offender shall be  
3 required to participate in and complete, within a time specified by the court:

4 (1) not less than a twenty-eight-day inpatient, residential or in-custody  
5 substance abuse program approved by the court;

6 (2) not less than a ninety-day outpatient treatment program approved by the  
7 court;

8 (3) a drug court program approved by the court; or

9 (4) any other substance abuse treatment approved by the court.

10 The requirement imposed pursuant to this section shall not be suspended, deferred or taken under  
11 advisement. (66-8-102 NMSA 1978)

12 H. Upon a conviction pursuant to section 12-6-12.1, an offender shall be required to  
13 obtain an ignition interlock license and have an ignition interlock device installed and operating  
14 on all motor vehicles driven by the offender, pursuant to rules adopted by the Traffic Safety  
15 Bureau of the Department of Transportation. Unless determined by the sentencing court to be  
16 indigent, the offender shall pay all costs associated with having an ignition interlock device  
17 installed on the appropriate motor vehicles. The offender shall operate only those vehicles  
18 equipped with ignition interlock devices for:

19 (1) a period of one year, for a first offender;

20 (2) a period of two years, for a second conviction pursuant to this section;

21 (3) a period of three years, for a third conviction pursuant to this section; or

22 (4) the remainder of the offender's life, for a fourth or subsequent conviction  
23 pursuant to this section.

24 I. Five years from the date of conviction and every five years thereafter, a fourth or  
25 subsequent offender may apply to a district court for removal of the ignition interlock device

1 requirement provided in this section and for restoration of a driver's license. A district court may,  
2 for good cause shown, remove the ignition interlock device requirement and order restoration of  
3 the license; provided that the offender has not been subsequently convicted of driving a motor  
4 vehicle while under the influence of intoxicating liquor or drugs. Good cause may include an  
5 alcohol screening and proof from the interlock vendor that the person has not had violations of  
6 the interlock device. (66-8-102 NMSA 1978)

7 J. Except as otherwise prohibited in this section, a municipal judge may suspend in  
8 whole or in part the execution of sentence or place the defendant on probation for a period not  
9 exceeding one year on terms and conditions that municipal judge deems best, or both, or defer  
10 sentence. If the municipal judge decides to defer the execution of a sentence, such deferral shall  
11 be granted only as allowed in Subsection L of this section. A suspension of execution of sentence  
12 or probation, or both, as allowed pursuant to this section, shall be granted only when the  
13 municipal judge is satisfied it will serve the ends of justice and of the public, and that the  
14 defendant's liability for any fine or other punishment imposed if fully discharged upon successful  
15 completion of the terms and conditions of probation.

16 K. If a person is convicted of driving a motor vehicle while under the influence of  
17 intoxicating liquor or drugs in violation of 12-6-12.1A, B, C or D, a first offender, at the  
18 discretion of a trial court after a pre-sentence investigation, including an inquiry to the motor  
19 vehicle division of the transportation department concerning the driver's driving record, shall  
20 receive a deferred sentence on the condition that the driver attend a driver rehabilitation program,  
21 also known as the "driving-while-intoxicated-school," approved by the court and the division and  
22 such other rehabilitative services as the court may determine to be necessary; however,  
23 imposition of a deferred sentence shall classify the person as a first offender. The municipal  
24 court shall forward to the division the abstract of all proceedings and the report of the disposition  
25 of the case. For the purpose of this subsection, marijuana, as defined in the Controlled Substance

1 Act, shall be classified as a drug. (\*)

2 L. A person convicted of driving a motor vehicle while under the influence of  
3 intoxicating liquor or drugs in violation of 12-6-12.1A, B, C or D shall be assessed, in addition to  
4 any other fee or fine, a fee of sixty-five dollars (\$65.00) to defray the cost of chemical and other  
5 tests used to determine the influence of alcohol or drugs. Additionally, the person shall be  
6 assessed a fee of seventy-five dollars (\$75.00) to fund comprehensive community programs for  
7 the prevention of driving while under the influence of intoxicating liquor or drugs or for other  
8 traffic safety purposes. The municipal court shall collect the fees and maintain the fees in  
9 separate funds and transfer the fees along with other funds collected by the court per 35-14-7  
10 NMSA 1978. The municipality shall maintain the fees pursuant to this subsection in separate  
11 funds and transfer the fees collected pursuant to this subsection to the administrative office of the  
12 courts for credit to the crime laboratory fund and the traffic safety fund. (31-12-7 through 31-12-  
13 9 NMSA 1978)

14 M. With respect to this section and notwithstanding any provision of law to the  
15 contrary, if an offender's sentence was suspended or deferred in whole or in part and the offender  
16 violates any condition of probation, the court may impose any sentence that the court could have  
17 originally imposed and credit shall not be given for time served by the offender on probation.  
18 (66-8-102 NMSA 1978)

19 N. As used in this section and in 12-6-12.1:

20 (1) "bodily injury" means an injury to a person not likely to cause death or  
21 great bodily harm to the person, but does cause painful temporary disfigurement or temporary  
22 loss or impairment of the functions of any member or organ of the person's body; and

23 (2) "conviction" means adjudication of guilt and does not include imposition  
24 of a sentence.

25 (3) "commercial motor vehicle" means a motor vehicle or combination of

1 motor vehicles used in commerce to transport passengers or property if the motor vehicle:

2 (a) has a gross combination weight rating of more than twenty-six  
3 thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten  
4 thousand pounds;

5 (b) has a gross vehicle weight rating of more than twenty-six  
6 thousand pounds;

7 (c) is designed to transport sixteen or more passengers, including the  
8 driver; or

9 (d) is of any size and is used in the transportation of hazardous  
10 materials, which requires the motor vehicle to be placarded under applicable law.

11 O. A conviction pursuant to a municipal or county ordinance in New Mexico or a  
12 law of any other jurisdiction, territory, or possession of the United States or of a tribe where that  
13 ordinance is equivalent to New Mexico law for driving while under the influence of intoxicating  
14 liquor or drugs, prescribing penalties for driving while under the influence of intoxicating liquor  
15 or drugs shall be deemed to be a conviction pursuant to this section for purposes of determining  
16 whether a conviction is a second or subsequent conviction. (66-8-102.M NMSA 1978)

17 P. A law enforcement officer making an arrest for a violation of the provisions of  
18 12-6-12.2 or of similar municipal or county ordinances shall use standard arrest reports and  
19 procedures developed and approved by the Department of Public Safety in accordance with  
20 Section 8 of Laws of 2005, Chapter 269.

21 **Section 4. Section 12-6-12.19 of the City of Santa Fe Uniform Traffic Code**  
22 **(being Ord. #2006-34) is amended to read:**

23 **12-6-12.19 RACING ON STREETS.**

24 A. Unless written permission setting out pertinent conditions is obtained from the  
25 chief of the municipal police, and then only in accordance with such conditions (\*) no person

1 shall drive a vehicle on a street in any race, speed competition or contest, drag race or  
2 acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the  
3 purpose of making a speed record, whether or not the speed is in excess of the maximum speed  
4 prescribed by law, and no person shall in any manner participate in any such race, drag race,  
5 competition, contest, test or exhibition.

6 B. As used in this section:

7 (1) "drag race" means the operation of two (2) or more vehicles from a point  
8 side by side at accelerating speeds in a competitive attempt to outdistance each other, or the  
9 operation of one (1) or more vehicles over a common selected course from the same point to the  
10 same point for the purpose of comparing the relative speeds or power of acceleration of the  
11 vehicle or vehicles within a certain distance or time limit;

12 (2) "race" means the use of one (1) or more vehicles in a manner to out gain  
13 or outdistance another vehicle, prevent another vehicle from passing, arrive at a given destination  
14 ahead of another vehicle or test the physical stamina or endurance of drivers over long-distance  
15 routes. (66-8-115 NMSA 1978)

16 (3) "exhibition driving" consists of intentionally fish-tailing, peeling-out,  
17 losing traction, and burning of rubber while operating a motorcycle or motor-driven vehicle,  
18 includes intentionally operating the vehicle on a single tire (commonly known as a "wheelie");  
19 operating a vehicle from a standing position; or operating the vehicle without at least one hand  
20 gripping the handlebars. (\*)

21 **Section 5. Section 12-6-14.2 of the City of Santa Fe Uniform Traffic Code**  
22 **(being Ord. #2006-34) is amended to read:**

23 **12-6-14.2 PEDESTRIANS RIGHT OF WAY IN CROSSWALKS.**

24 A. When traffic-control signals are not in place or not in operation the driver of a  
25 vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a

1 pedestrian crossing the street within a crosswalk when the pedestrian is in the crosswalk.

2 B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run  
3 into the path of a vehicle which is so close that it is impossible for the driver to yield.

4 C. Subsection A shall not apply under the conditions stated in Section 12-6-14.4.

5 D. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked  
6 crosswalk at an intersection to permit a pedestrian to cross the street, the driver of any other  
7 vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (66-7-334  
8 NMSA 1978)

9 **Section 6. Section 12-6-16 of the City of Santa Fe Uniform Traffic Code (being**  
10 **Ord. #2006-34) is amended to read:**

11 **12-6-16 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES**

12 A. As used in this section, "electric personal assistive mobility device" means a self-  
13 balancing device having two nontandem wheels designed to transport a single person by means of  
14 an electric propulsion system with an average power of one horsepower and with a maximum  
15 speed on a paved level surface of less than twenty miles per hour when powered solely by its  
16 propulsion system and while being ridden by an operator who weighs one hundred seventy  
17 pounds.

18 B. An electric personal assistive mobility device shall be equipped with:

19 (1) front, rear and side reflectors;

20 (2) a braking system that enables the operator to bring the device to a  
21 controlled stop; and

22 (3) if operated at any time from one-half hour after sunset to one-half hour  
23 before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the  
24 device.

25 C. The secretary of the traffic safety bureau of the state department of transportation

1 shall by rule prescribe motor vehicle safety standards applicable to electric personal assistive  
2 mobility devices.

3 D. An operator of an electric personal assistive mobility device traveling on a  
4 sidewalk, roadway or bicycle path shall have the rights and duties of a pedestrian, and shall  
5 exercise due care to avoid colliding with pedestrians. An operator shall yield the right of way to  
6 pedestrians.

7 E. Except as provided in this section, no other provisions of the Uniform Traffic  
8 Ordinance shall apply to electric personal assistive mobility devices.

9 F. An operator who violates a provision of Subsection B, C or D of this section shall  
10 receive a warning for the first offense. For a second offense, the operator shall be punished by a  
11 fine of ten dollars (\$10.00). For a third or subsequent offense, in addition to the fine, the electric  
12 personal assistive mobility device shall be impounded for up to thirty days.

13 G. This section does not apply to personal assistive mobility devices used by  
14 persons with disabilities." (66-3-1102 NMSA 1978)

15 **Section 7. A new Section 12-6-16.1 of the City of Santa Fe Uniform Traffic**  
16 **Code is ordained to read:**

17 **12-6-16.1 [NEW MATERIAL] NEIGHBORHOOD ELECTRIC CARS**

18 A. A neighborhood electric car means a four-wheeled electric motor vehicle that has  
19 a maximum speed of more than twenty miles per hour but less than twenty-five miles per hour,  
20 complies with the federal requirements specified in 49 CFR 571.500 and shall be equipped with  
21 head lamps, stop lamps, front and rear turn signal lamps, tail lamps, reflex reflectors, a parking  
22 brake, at least one interior and one exterior rear view mirror, a windshield, windshield wipers, a  
23 speedometer, an odometer, braking for each wheel, seat belts and a vehicle identification number.

24 B. Except as provided for in Subsection C or D of this section, a neighborhood  
25 electric car, properly registered pursuant to provisions of the Motor Vehicle Code, in compliance



1 with the Mandatory Financial Responsibility Act and driven by an individual with a valid driver's  
2 license, may be operated on any street, roadway or highway under the jurisdiction of either the  
3 state or a local authority if the posted maximum speed limit is thirty-five miles per hour or less;  
4 provided, a neighborhood electric car may cross at an intersection or permitted crossing point at  
5 any street, roadway or highway that has a maximum speed limit higher than thirty-five miles an  
6 hour.

7 C. The city may prohibit the operation of neighborhood electric cars on any road  
8 under its jurisdiction if the governing body determines that the prohibition is necessary in the  
9 interest of safety.

10 D. The department of transportation may prohibit the operation of neighborhood  
11 electric cars on any road under its jurisdiction if it determines that the prohibition is necessary in  
12 the interest of safety.

13 E. Neighborhood electric cars are exempt from the following provisions:

14 (1) the emblems or flashing light requirements for slow-moving vehicles in  
15 Section 66-3-887 NMSA 1978;

16 (2) any requirement for vehicle emission inspections adopted by the  
17 municipality pursuant to Subsection C of Section 74-2-4 NMSA 1978; and

18 (2) the minimum motor displacement requirements of Paragraph (2) of  
19 Subsection A of Section 66-7-405 NMSA 1978.

20 **Section 8. Section 12-9-9 of the City of Santa Fe Uniform Traffic Code (being**  
21 **Ord. #2006-34) is amended to read:**

22 **12-9-9 PARKING IN DESIGNATED DISABLED PARKING SPACES.**

23 A. It is unlawful for any person to park a motor vehicle not carrying registration  
24 plates or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 in a  
25 designated accessible parking space for persons with significant mobility limitation or in such a

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

7 B. As used in this section, "designated accessible parking space" means any space  
8 including an access aisle, marked and reserved for the parking of a vehicle that carries registration  
9 plates or a parking placard indicating disability in accordance with Section 66-3-16 NMSA 1978,  
10 and designated by a conspicuously posted sign bearing the international symbol of accessibility  
11 and if paved, by a clearly visible depiction of this symbol painted white on blue on the pavement  
12 of the space. "Curb cut" means a short ramp through a curb or built up to the curb designed for  
13 access by persons with disabilities. (66-7-352.5 NMSA 1978).

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

17 D. State, county and municipal law enforcement personnel have the authority to  
18 issue citations for violations of §12-9-9 in their respective jurisdictions, whether the violation  
19 occurs on public property or private property. (Ord. No. 2006-34)

20 **Section 9. Section 12-6-16 of the City of Santa Fe Uniform Traffic Code (being**  
21 **Ord. #2006-34) is amended to read:**

22 **12-12-8 ARRESTING OFFICER TO BE IN UNIFORM.**

23 A. No person shall be arrested for violating this ordinance or other law relating to  
24 motor vehicles punishable as a misdemeanor except by a commissioned, salaried peace officer  
25 who, at the time of arrest, is wearing a uniform clearly indicating the peace officer's official

1 status. (66-8-124 NMSA 1978)

2 B. Uniformed private security guards may be commissioned by the parking division  
3 to issue parking citations for violations of clearly and properly marked fire zones and accessible  
4 zones for persons with significant, mobility limitation.

5 C. Prior to the commissioning of any security guard, the following is required:

6 (1) The employer of the security guard shall agree in writing with the chief  
7 of police to the commissioning of the employer's security guard.

8 (2) The employer of any security guard commissioned under the provisions  
9 of this section shall be liable for the actions of that security guard in carrying out the security  
10 guard's duties pursuant to that commission. Notwithstanding the provisions of the Tort Claim  
11 Act, private security guards commissioned under this section shall not be deemed public  
12 employees under that act. (66-8-124 NMSA 1978)

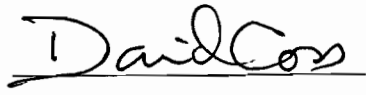
13 (3) The police department shall conduct a background check of the security  
14 guard commissioned under the provisions of this section to insure that said person is of high  
15 moral character.

16 (4) The security guard shall successfully complete an instruction course  
17 administered by the police department. Said results shall remain on file with the police  
18 department.

19 D. The issuing and receiving of citations shall be administered by the parking  
20 violations bureau. All citations issued to violators shall be turned in to the parking violations  
21 bureau within 24 hours of issuance or in the case of a holiday or weekend, by the end of the next  
22 business day. The parking violations bureau shall keep record of the citations issued to and  
23 received from said security guards and said record keeping will be done according to good  
24 accounting practices. (Ord. No. 2006-34)

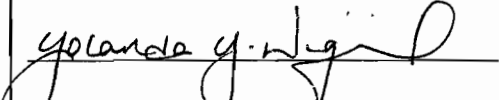
25 PASSED, APPROVED and ADOPTED this 12<sup>th</sup> day of December, 2007.

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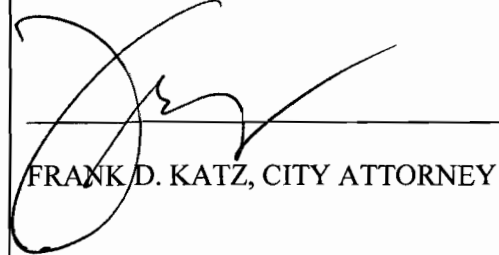


DAVID COSS, MAYOR

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

  
FRANK D. KATZ, CITY ATTORNEY

Jep/2007 ord/uniform traffic code