

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2012-20**

3 **INTRODUCED BY:**

4
5 Councilor Bushee

6 Councilor Trujillo

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9
10 **A RESOLUTION**

11 **ADOPTING ADMINISTRATIVE PROCEDURES FOR THE VEHICLE FORFEITURE**
12 **ORDINANCE, ARTICLE 24-9 SFCC 1987.**

13
14 **WHEREAS**, on January 10, 2007, the Governing Body of the City of Santa Fe adopted the
15 Vehicle Forfeiture Ordinance, Article 24-9 SFCC 1987; and

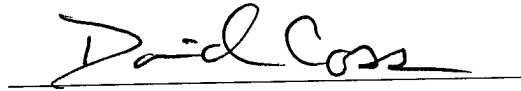
16 **WHEREAS**, on February 8, 2012, the Governing Body adopted Ordinance No. 2012-8,
17 which includes various amendments to the Vehicle Forfeiture Ordinance; and

18 **WHEREAS**, in order to fully administer the provisions of the Vehicle Forfeiture Ordinance
19 there is a need to adopt administrative procedures.

20 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
21 **CITY OF SANTA FE** that the *Administrative Procedures for the City of Santa Fe Vehicle Forfeiture*
22 *Ordinance*, attached hereto as Exhibit A, are hereby adopted.

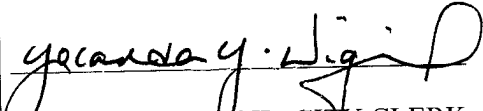
23 PASSED, APPROVED, and ADOPTED this 8th day of February, 2012.
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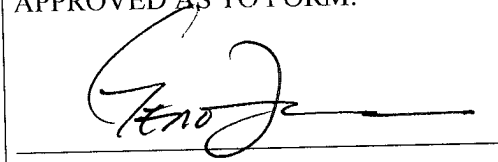


DAVID COSS, MAYOR

ATTEST:


VOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



GENO ZAMORA, CITY ATTORNEY

**Administrative Procedures for the City of Santa Fe
Vehicle Forfeiture Ordinance**

1. PURPOSE

The purpose of these administrative procedures is to establish procedures for the City of Santa Fe (herein “City”) staff, the Governing Body and any agent of the City to implement and administer the City of Santa Fe Vehicle Forfeiture Ordinance.

2. AUTHORITY

The City of Santa Fe Vehicle Forfeiture Ordinance is enacted pursuant to the express statutory authority conferred upon municipalities to enact ordinances pursuant to the police power (NMSA 1978, § 3-17-1(B) (1965)), and to define and abate nuisances and impose penalties (NMSA 1978, § 3-18-17(A) (1965)) and pursuant to any and all such other authority as may be applicable including but not limited to the City’s recognized authority to protect the general welfare of its citizens.

The City of Santa Fe Vehicle Forfeiture Ordinance is adopted pursuant to the City of Santa Fe’s powers under its municipal charter which was adopted effective March 15, 1998 pursuant to the Municipal Chart Act (NMSA 1978, §§ 3-15-1 to 3-15-16) and Article 10, Section 6 of the New Mexico State Constitution.

The City of Santa Fe Vehicle Forfeiture Ordinance is codified in the Santa Fe City Code as SFCC 1987, § 24-9, as amended. These administrative procedures were adopted by Resolution No. 2012-20. All changes to the administrative procedures shall be reviewed and approved by resolution of the governing body.

3. SCOPE

This document (the “administrative procedures”) set forth responsibilities, procedures, and standards for administrative actions necessary to implement and enforce the City of Santa Fe Vehicle Forfeiture Ordinance.

4. RESPONSIBILITY FOR ADMINISTRATION

4.1 City Attorney’s Office – The City Attorney’s Office or its designees shall be responsible for the following functions with regard to administration of the City of Santa Fe Vehicle Forfeiture Ordinance and these administrative procedures set forth below.

4.1.1 Administering all functions of City of Santa Fe Vehicle Forfeiture Ordinance, except for those which are specifically described as the responsibilities of the Santa Fe Police Department, the Finance Department, or any other city department, and providing overall coordination among city departments.

- 4.1.2 Providing forms, information, and technical assistance with regard to the administration of and compliance with the City of Santa Fe Vehicle Forfeiture Ordinance.
 - 4.1.3 Assisting in training police officers and other City employees in the implementation and enforcement of the City of Santa Fe Vehicle Forfeiture Ordinance.
 - 4.1.4 Representing the City and the Santa Fe Police Department in due process hearings before administrative hearing officers and in litigation arising out of the implementation or enforcement of the City of Santa Fe Vehicle Forfeiture Ordinance.
 - 4.1.5 Performing other functions as required by City of Santa Fe Vehicle Forfeiture Ordinance.
 - 4.1.6 Performing other functions not specifically described in the City of Santa Fe Vehicle Forfeiture Ordinance or these administrative procedures, but essential for successful administration of City of Santa Fe Vehicle Forfeiture Ordinance and within the powers and abilities of the office.
 - 4.1.7 City Attorney's Office responsibilities do not include or supersede those responsibilities of the Santa Fe Police Department in carrying out its law enforcement functions.
- 4.2 **Staff** – Administration of the City of Santa Fe Vehicle Forfeiture Ordinance shall be delegated to one or more staff in the City Attorney's Office. The staff shall specifically be responsible for:
- 4.2.1 Coordinating, training and monitoring the office's staff and any appropriate agent of the office with regard to the office's or agent's responsibilities for administering City of Santa Fe Vehicle Forfeiture Ordinance.
 - 4.2.2 Performing other duties as described in the City of Santa Fe Vehicle Forfeiture Ordinance or these administrative procedures.
- 4.3 **Santa Fe Police Department** – The Santa Fe Police Department or its designees shall be responsible for the following functions with regard to administration of the City of Santa Fe Vehicle Forfeiture Ordinance:
- 4.3.1 Administering those parts of the ordinance that permit or require the Santa Fe Police Department to seize motor vehicles under the City of Santa Fe Vehicle Forfeiture Ordinance.

- 4.3.2 Training police officers in the implementation and enforcement of the City of Santa Fe Vehicle Forfeiture Ordinance.
 - 4.3.3 Administering the vehicle impound lot, release of seized motor vehicles, and disposition of forfeited or abandoned motor vehicles.
 - 4.3.4 Performing other functions described as the responsibility of the Santa Fe Police Department in the City of Santa Fe Vehicle Forfeiture Ordinance or these administrative procedures.
- 4.4 **Finance Department** – The Finance Department or its designees shall be responsible for the following functions with regard to administration and enforcement of the City of Santa Fe Vehicle Forfeiture Ordinance:
- 4.4.1 Administering those parts of the ordinance that permit or require the City to collect fees, proceeds from the sale of forfeited vehicles, costs of suit, and attorneys’ fees, or otherwise receive money under the City of Santa Fe Vehicle Forfeiture Ordinance.
 - 4.4.2 Ensuring that all monies collected under the City of Santa Fe Vehicle Forfeiture Ordinance are directed to the appropriate City fund.
 - 4.4.3 Performing other functions described as the responsibility of the Finance Department in the City of Santa Fe Vehicle Forfeiture Ordinance or these administrative procedures.
- 4.5 **Administrative Hearing Officers** – Administrative Hearing Officers shall be responsible for the following functions with regard to administration and enforcement of the City of Santa Fe Vehicle Forfeiture Ordinance:
- 4.5.1 Coordinating with Staff the hearing officer’s availability to conduct a due process hearing.
 - 4.5.2 Conducting the due process hearing in a professional, ethical and judicious manner.
 - 4.5.3 Providing a basic explanation of the process to any claimant present at the due process hearing.
 - 4.5.4 Swearing witnesses and taking testimony.
 - 4.5.5 Determining only whether the police officer had probable cause to arrest the operator of the vehicle and probable cause to seize the vehicle pursuant to this section.

- 4.5.6 Providing written notice of the hearing officer's decision, either immediately following the due process hearing or within two days of the due process hearing.

5. APPLICABILITY

These administrative procedures are applicable to any effort by the City or its employees to enforce any provision of the City of Santa Fe Vehicle Forfeiture Ordinance.

6. DEFINITIONS

The following definitions shall apply as used in these administrative procedures unless the context clearly indicates or requires a different meaning:

Abandoned vehicle means a vehicle which has been seized under the City of Santa Fe Vehicle Forfeiture Ordinance and:

- (A) is an inoperable vehicle and the owner does not reclaim it or surrender it to the police department within thirty (30) days of seizure;
- (B) has been in the police department impound lot for thirty (30) days after seizure without the owner or operator requesting a due process hearing;
- (C) has been ordered returned to the owner by the administrative hearing officer or the District Court and has been in the police department impound lot for thirty (30) days following the order without the owner taking possession of the vehicle; or
- (D) has been in the police department impound lot for thirty (30) days following seizure and the owner has indicated he or she will not seek possession of the vehicle but refuses or fails to surrender the vehicle to the police department.

Administrative hearing officer or *hearing officer* means a person appointed by the City Manager to conduct a due process hearing and render a written decision based on evidence presented at the due process hearing.

City means the City of Santa Fe.

Claimant means any person claiming an ownership interest in or having a lien against or security interest in a motor vehicle seized pursuant to the City of Santa Fe Vehicle Forfeiture Ordinance.

Co-owner means a person who, along with one or more other persons, holds the legal title of a vehicle and may include a conservator, guardian, personal representative, executor or similar fiduciary, or, in the event that a vehicle is the subject of an agreement for

conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event that a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor.

District Court means the First Judicial District Court, County of Santa Fe, State of New Mexico.

Driving on a revoked license or driving on a license revoked for DWI or in violation of the New Mexico Implied Consent Act means a violation of NMSA 1978, § 66-5-39(A) or SFCC 1987, § 12-6-12.6(A)(6), including but not limited to driving a motor vehicle while having a license with an interlock restriction but driving in violation of such restriction or driving while attempting to circumvent the restriction.

Due process hearing means a hearing conducted by an administrative hearing officer to determine only whether the police officer had probable cause to arrest the operator of the vehicle and probable cause to seize the vehicle pursuant to the Santa Fe Vehicle Forfeiture Ordinance. The due process hearing is informal and not bound by the technical rules of evidence.

DWI means the offense of Driving While Under the Influence of Intoxicating Liquor or Drugs as defined in the New Mexico Motor Vehicle Code or the Uniform Traffic Ordinance adopted by the City of Santa Fe.

Forfeiture action means a lawsuit filed in the District Court, seeking to have the District Court forfeit a motor vehicle to the City of Santa Fe.

Inoperable vehicle means a vehicle of a type otherwise subject to registration that:

- (A) has no resale value except as a source of parts or scrap metal or that the owner irreversibly designates as a source of parts or scrap metal for destruction;
- (B) is a substantially burned vehicle that has burned to the extent that there are no more usable or repairable body or interior components, tires and wheels or drive train components or that the owner irreversibly designates for destruction or as having little or no resale value other than its worth as a source of scrap metal or as a source of a vehicle identification number that could be used illegally; or
- (C) in the opinion of a representative of the Santa Fe Police Department, is damaged beyond the ability of any person to operate without extensive and costly repairs.

Mail means any item properly addressed with postage prepaid delivered by the United States Postal Service or any other public or private enterprise primarily engaged in the transport and delivery of letter, packages and parcels.

Motor vehicle means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries.

Notice of forfeiture means a notice in the form required by the City of Santa Fe Vehicle Forfeiture Ordinance and containing the information set forth in Section 8.1 below.

Nuisance means a motor vehicle: (a) operated by a person who is arrested for a DWI offense; or (b) operated by a person whose license is currently revoked or denied as a result of a DWI arrest or conviction prohibiting them from driving, and/or whose license is conditioned upon the use of an ignition interlock device, and the terms and conditions of the restrictions are violated.

Off-highway motor vehicle means any motor vehicle operated or used exclusively off the highways of this state and the streets of the City of Santa Fe and that is not legally equipped for operation on the highways of this state or the streets of the City of Santa Fe.

Operator or *driver* means every person who drives or is actual physical control of a motor vehicle, including a motorcycle, within the city limits of the City of Santa Fe, who is exercising control over or steering a vehicle being towed by a motor vehicle, or who operates or is in actual physical control of an off-highway motor vehicle.

Owner means a person who holds the legal title of a vehicle and may include a conservator, guardian, personal representative, executor or similar fiduciary, or, in the event that a vehicle is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event that a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor.

Person means natural persons and every legal entity whatsoever, including but not limited to sole proprietors, corporations, limited liability companies, partnerships, limited partnerships, and associations.

Personal property means all property of every kind and nature whatsoever including cash, animals, and intangible property, but not including a motor vehicle or any part of a motor vehicle seized under the City of Santa Fe Vehicle Forfeiture Ordinance.

Police department means the Santa Fe Police Department.

Probable cause means the evidence presented would cause a reasonable person to believe that the driver of the vehicle seized under the City of Santa Fe Vehicle Forfeiture Ordinance committed the offense of DWI or driving on a revoked license. Probable cause merely requires that the evidence warrants a person of reasonable caution to conclude that the driver should be arrested for DWI or driving on a revoked license. Probable cause does require proof beyond a reasonable doubt.

Street or *highway* means a way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purposes of construction, maintenance, repair or construction.

Vehicle means a motor vehicle as defined in these administrative procedures or in the New Mexico Motor Vehicle Code.

7. SEIZURE UPON ORDER OF THE DISTRICT COURT

7.1 For purposes of determining whether to file a forfeiture action, the City Attorney's Office may investigate DWI or driving on a revoked license charges filed by law enforcement agencies other than the police department. The police department will provide any necessary assistance for such investigations.

7.2 Based on such an investigation, the City Attorney's Office may file a forfeiture action in District Court. If the District Court issues an order to seize a motor vehicle, the motor vehicle shall be seized by the police department.

8. SEIZURE UPON ARREST OF OPERATOR

The following procedures shall apply when the Santa Fe Police Department arrests an operator for Driving While Under the Influence of Intoxicating Liquor or Drugs ("DWI"), under NMSA 1978, § 66-8-102 or SFCC 1987, § 12-6-12.1, or for driving on a license revoked for DWI or in violation of the New Mexico Implied Consent Act, under NMSA 1978, § 66-5-39(A) or SFCC 1987, § 12-6-12.6(A)(6):

8.1 At the time of seizure, the police department shall serve a copy of the notice of forfeiture upon the operator of the vehicle. The notice shall include the following:

8.1.1 The license plate number, make, type and color of the vehicle;

8.1.2 The location from which the vehicle was temporarily seized;

8.1.3 A statement that the vehicle has been taken into custody and stored;

8.1.4 The reason for temporary seizure;

8.1.5 A name, phone number and title of the city employee from whom the owner can obtain further information;

8.1.6 A statement that daily storage charges will be assessed in addition to a towing charge;

8.1.7 A statement that the owner has the right to contest the validity of the impoundment by requesting a hearing in writing within fifteen (15) city business days of the date of mailing of the notice of forfeiture; and

- 8.1.8 A copy of the City of Santa Fe Vehicle Forfeiture Ordinance.
- 8.2 A copy of the notice of forfeiture shall be mailed postage prepaid to the lawfully registered owner as verified by the New Mexico motor vehicle division on the next city business day following the arrest.
- 8.3 The police department may take custody of the vehicle and remove it to appropriate and official locations within the district court's jurisdiction for disposition in accordance with the City of Santa Fe Vehicle Forfeiture Ordinance.
- 8.4 At any time subsequent to seizure and prior to the entry of a district court judgment, the owner of a motor vehicle seized under the City of Santa Fe Vehicle Forfeiture Ordinance may retrieve personal property (other than the motor vehicle) from the motor vehicle. The police department shall allow an owner to retrieve personal property within seventy-two (72) hours, excluding non-city business days, of contacting the police department.

9. **ALTERNATIVES TO FORFEITURE**

- 9.1 The following procedures shall apply if the owner of the vehicle was not the operator of the vehicle subject to the forfeiture:
 - 9.1.1 There shall be no forfeiture if the operator had no prior DWI history.
 - 9.1.2 Upon the first seizure of the vehicle, if the owner demonstrates by notarized affidavit that the owner of the vehicle had no prior knowledge of the operator's DWI history, no action shall be taken against the vehicle. The affidavit shall remain on file with the city.
 - 9.1.3 Upon the second seizure of the same vehicle, if the owner demonstrates by notarized affidavit that the owner of the vehicle had no prior knowledge of the operator's DWI history, the vehicle shall be immobilized for a period of thirty (30) calendar days and shall not be forfeited.
 - 9.1.4 Upon the third seizure of the same vehicle, the vehicle shall be subject to the forfeiture under this section if the operator is arrested for DWI or for driving on a license revoked or denied as a result of an arrest or conviction for DWI.
- 9.2 The following procedures shall apply to an owner who is properly licensed but is arrested for driving while intoxicated.
 - 9.2.1 An owner who has never been convicted of DWI may elect in lieu of forfeiture to have installed at the owner's expense an ignition interlock device approved by the New Mexico Department of Transportation Traffic Safety Bureau or to have the vehicle immobilized for the period of time

during which the charges are pending, and, if convicted, for as long thereafter as required by the court.

9.2.2 An owner whose arrest for DWI does not result in a conviction for DWI shall not have his or her vehicle forfeited.

9.2.3 If the records of the activity of the ignition interlock device prior to adjudication of the DWI charge show alcohol use by any operator, regardless whether it is the owner whose use was originally declared to be a nuisance, the vehicle shall be returned to the police department within 24 hours of notification to the owner by the police department, to be impounded until the DWI charge is resolved, and the police department may assess additional towing and storage charges. If the owner fails to return the vehicle within 24 hours after notification of an ignition interlock violation, the owner shall be deemed to have abandoned all alternatives to forfeiture and the vehicle will be subject to forfeiture proceedings.

9.3 The following procedures shall apply to an owner who is not properly licensed but is arrested for driving on a license revoked or denied as a result of a DWI arrest or conviction, and is not also arrested at the same time for a second or subsequent DWI:

9.3.1 An owner who, according to the records of the New Mexico Motor Vehicle Division at the time of arrest, had completed the period of revocation imposed by the Motor Vehicle Division and was eligible to have his or her license reinstated with or without an ignition interlock, may elect in lieu of forfeiture to obtain a valid license (which may contain an ignition interlock restriction) within thirty (30) calendar days of arrest and within that time pay towing, storage and administrative fees set by the police department to have the motor vehicle returned to the owner.

9.3.2 If the owner needs to install an ignition interlock in the motor vehicle to obtain an ignition interlock license:

9.3.2.1 the ignition interlock shall be installed at the police department impound lot;

9.3.2.2 the owner shall sign an agreement with the police department allowing the owner to remove the motor vehicle from the lot for the purpose of obtaining the ignition interlock license within twenty-four (24) hours of removal of the motor vehicle, which agreement shall confess forfeiture of the motor vehicle upon any default by the owner of any terms of the agreement. The agreement shall provide, in addition to any other reasonable provisions, that:

9.3.2.2.1 the owner will report within twenty-four (24) hours of removal whether the owner has obtained the required interlock license;

9.3.2.2.2 if the interlock license has not been obtained, the owner shall have the remainder of the thirty (30) days to attempt to get the interlock license;

9.3.2.2.3 if it is not possible to obtain the interlock license, the vehicle will be subject to forfeiture and may be seized by the police department if not returned within twenty-four (24) hours of removal;

9.3.2.2.4 if the records of the activity of the ignition interlock device during the period of time required by the Motor Vehicle Division show alcohol use by any operator, regardless whether it is the owner whose use was originally declared to be a nuisance, the vehicle shall be returned to the police department within twenty-four (24) hours of notification to the owner by the police department, to be immobilized for a period of thirty (60) days for a first incident of alcohol use, and the police department may assess additional towing, storage and immobilization charges. If the owner fails to return the vehicle within 24 hours after notification of an ignition interlock violation, or if there is a second incident of alcohol use, the owner shall be deemed to have abandoned all alternatives to forfeiture and the vehicle will be subject to forfeiture proceedings.

9.3.3 An owner who has previously had his or her motor vehicle returned under this procedure shall be ineligible to have that or any other motor vehicle returned under this procedure.

9.4 Immobilization may be accomplished by an immobilization device (boot) at the owner's designated location within the city limits, or by impoundment at a secure facility, in accordance with procedures established by the police department.

9.5 The operator or owner shall pay towing and storage fees and all fees associated with the immobilization or interlock device.

9.6 If a vehicle is determined by the police department to be inoperable or so seriously damaged that it cannot be driven without extensive repairs and if the vehicle is not impounded as evidence, the police department may have the vehicle towed to a private towing company lot.

9.6.1 The owner of the vehicle may recover the vehicle by a payment of \$270 to the police department and payment of any towing and storage charges to the private towing company.

9.6.2 In the alternative, the owner may convey his or her interest in the vehicle to the police department and the owner will not be charged any fees.

9.6.3 If an owner does not choose either of these two options within 30 days of impoundment, the vehicle will be deemed abandoned.

10. SCHEDULE OF FEES

10.1 The police department shall establish reasonable towing and storage fees for vehicles temporarily seized in accordance with the City of Santa Fe Vehicle Forfeiture Ordinance.

11. ABANDONED VEHICLES; VOLUNTARY SURRENDER OF VEHICLE

11.1 The police department shall provide monthly reports to the City Attorney's Office of abandoned vehicles, and the City Attorney's Office shall file actions when necessary in the District Court to obtain possession of and title to the abandoned vehicles.

11.2 Owners of vehicles seized under the City of Santa Fe Vehicle Forfeiture Ordinance may voluntarily surrender their vehicles by executing paperwork provided by the police department. Title to surrendered vehicles will then be transferred to the City.

12. DUE PROCESS HEARINGS

12.1 The owner may request that a hearing be scheduled before an administrative hearing officer.

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

12.1.2 The hearing shall be informal and not bound by the technical rules of evidence.

12.1.3 The hearing officer shall only determine whether the police officer had probable cause to arrest the operator of the vehicle and probable cause to seize the vehicle pursuant to this section.

12.1.4 The hearing officer shall mail written notice of his or her decision to the owner within two (2) city business days of the hearing, or the hearing

officer shall deliver to the owner a written notice of his or her decision immediately following the hearing.

- 12.2** If the hearing officer finds that the police officer did not have probable cause to arrest the operator and seize the vehicle, the vehicle shall be released.
- 12.2.1** The hearing officer shall provide a written certificate of release to the owner of the vehicle.
- 12.2.2** Upon receipt of the owner's copy of such certificate, the city shall release the vehicle to its owner or the owner's agent and storage fees shall be waived.
- 12.2.3** If the owner fails to present such certificate to the city employee having custody of the vehicle within seventy-two (72) hours of its receipt, excluding non-city business days, the owner shall assume liability for all subsequent storage charges. The certificate shall advise the owner of such requirement.
- 12.2.4** Any vehicle not recovered by the owner within thirty (30) calendar days after being notified by the city that such vehicle has been released by the city shall be deemed abandoned and disposed of in accordance with the notice provisions of Section 29-1-4, NMSA 1978.

13. FORFEITURE PROCEEDINGS IN DISTRICT COURT

- 13.1** If the hearing officer determines that there was probable cause to arrest the operator of the vehicle and that the vehicle was properly seized, the city shall promptly file a verified petition in district court to abate the public nuisance and forfeit the vehicle pursuant to Section 30-8-8 NMSA 1978.
- 13.2** Any person who, pursuant to the records of the motor vehicle division of the state taxation and revenue department, has an ownership or security interest in the vehicle subject to forfeiture shall be served with notice of the verified complaint in district court.

14. CO-OWNERS AND SECURED PARTIES

- 14.1** Any forfeiture shall be subject to the interest of:
- 14.1.1** Any owner or co-owner of the vehicle not listed or named on the title or registration with the operator who caused the vehicle to become a nuisance, who did not have knowledge of, nor consented to, the use of the vehicle by the operator who caused the vehicle to become a nuisance, provided that upon establishment of a prima facie case of lack of

knowledge or consent by the owner or co-owner, the burden of proving knowledge and consent shall be upon the city.

14.1.2 Any secured party, to the extent of the security interest, if the secured party establishes the security interest was acquired in good faith with no knowledge or reason to believe that the vehicle would be used by the operator of the vehicle declared to be a public nuisance as set forth in this section.

14.2 If the secured interest is greater than the value of the vehicle, title shall be transferred to the secured party upon approval of the district court. Any secured party acquiring an interest after the vehicle is in the custody of the police department shall have the burden of intervening in the forfeiture proceeding to protect such interest. Any interest in the vehicle shall be properly filed with the New Mexico motor vehicle division in accordance with Sections 66-3-201 and 66-3-202 NMSA 1978 before the date of incident leading to the seizure.

15. DISPOSITION OF FORFEITED, ABANDONED, OR VOLUNTARILY SURRENDERED VEHICLES

15.1 Any vehicle that has been forfeited, abandoned, or voluntarily surrendered to the City shall be titled in the name of the City of Santa Fe.

15.2 The police department may keep up to five vehicles at a time for official police department purposes.

15.3 Except for those vehicles used for official police department purposes, all vehicles titled in the City under the City of Santa Fe Vehicle Forfeiture Ordinance shall be sold at auction.

16. USE OF MONEY FROM FEES AND SOLD VEHICLES

16.1 The proceeds from all fees collected and vehicles sold under the City of Santa Fe Vehicle Forfeiture Ordinance shall be used to carry out the purpose and intent of the City of Santa Fe Vehicle Forfeiture Ordinance.

16.2 Any proceeds that exceed the costs of administering the City of Santa Fe Vehicle Forfeiture Ordinance shall be used for DWI enforcement, prevention and education.