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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2019-34

INTRODUCED BY:

Councilor Signe I. Lindell

AN ORDINANCE

AMENDING SECTION 24-4.3 TO PROVIDE THAT THE CITY MANAGER APPOINTS THE HEARING OFFICER INSTEAD OF THE PRESIDING JUDGE OF THE CIVIL DIVISION OF DISTRICT COURT; AND AMENDING SUBSECTION 24-4.5(H) TO REMOVE INCREASED FINES FOR SUBSEQUENT STOP VIOLATIONS WITHIN A TWO-YEAR PERIOD.

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

Section 1. Section 24-4.3 of SFCC 1987 (being Ord. #2008-47 § 4, as amended) is amended to read:

24-4.3 - Definitions.

For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Authorized emergency vehicle means the same as defined under NMSA 1978 66-1-4.1(E) (2001) as amended from time to time and, without limitation on the foregoing, shall mean any fire department vehicle, police vehicle, ambulance and any emergency vehicles of

1 municipal departments or public utilities that are designated or authorized as emergency
2 vehicles by the director of the New Mexico State Police Division of the Department of Public
3 Safety or chief of police of the Santa Fe police department.

4 *Camera, speed device* or "*CSD*" means the instrument that detects a violation of this
5 section. The definition includes but is not limited to electronic speed detection equipment
6 reasonably relied upon by police officers.

7 *City* means the city of Santa Fe.

8 *City clerk* means the city clerk of the city of Santa Fe.

9 *City manager* means the city manager of the city of Santa Fe.

10 *Contractor* means a person or entity that enters a contract with the city to provide the
11 city with photographic or electronic evidence of a violation through a CSD.

12 *Default* means the failure to pay a STOP fine or to timely pay a fine pursuant to a
13 decision of a hearing officer under this section.

14 *Delivery or delivered* means the mailing of a STOP fine notification to a registered
15 owner or nominee or personal service of a STOP fine notification or hearing officer decision on
16 a registered owner or nominee.

17 *Department* means the police agency that employs the police officer who issued a
18 STOP fine notification or caused a STOP fine notification to be issued.

19 *Department of motor vehicles* or *DMV* means the motor vehicle division of the taxation
20 and revenue department of the state of New Mexico or its successor agencies.

21 *Driver* means the person operating a motor vehicle at the time of a violation.

22 *Effective date* means the date a STOP fine notification is mailed to the recipient by the
23 contractor as indicated on the face of the STOP fine notification.

24 *Finance department* means the city department established as per Section 2-8 SFCC
25 1987.

1 *Hearing officer* means the city hearing officer, as appointed by the [~~presiding judge of~~
2 ~~the civil division of the district court~~] city manager. The hearing officer shall be a licensed
3 member of the New Mexico Bar.

4 *Identify* means to submit all information on a driver sufficient to allow the city to locate
5 and notify the driver in lieu of the registered owner including but not limited to the name and
6 address of the driver.

7 *Nomination* means identification of the actual driver of a car by the registered owner as
8 the responsible party for a violation.

9 *Nominee* means the person or entity identified by the registered owner as the driver or
10 responsible party.

11 *Notice of default* means a document delivered to the registered owner and stating that
12 the registered owner is in default.

13 *Nuisance* means the act of operating a vehicle in violation of this section.

14 *Owner's affidavit* means a written statement signed under oath and submitted to the city
15 or the city's contractor under penalty of perjury by the registered owner of a vehicle who asserts
16 therein that the registered owner was not driving a vehicle at the time of a violation.

17 *Police officer* means a sworn member of the Santa Fe city police department, the Santa
18 Fe county sheriff's office, the New Mexico state police, or any other public official with
19 authority to stop a vehicle for a traffic violation in the city of Santa Fe.

20 *Public safety aide* means a public safety aide of the Santa Fe city police department.

21 *Registered owner* means the owner or owners of a vehicle according to the license plate
22 number or information obtained from the department of motor vehicles, from similar motor
23 vehicle agencies outside New Mexico, from information obtained from the Santa Fe municipal
24 court, from the Santa Fe county magistrate court, from department records, from a CSD or from
25 any other documentation or methods reasonably relied upon by police officers. The singular

1 includes the plural.

2 *Respondent* means an accused violator who has received a STOP fine notification and
3 requested a hearing.

4 *School zone* means a posted "safety zone" as that term is defined under NMSA 1978
5 66-1-4.16 (2001) as amended from time to time.

6 *Stop fine notification* means a written document mailed to the address of the registered
7 owner or nominee stating that a violation has occurred and payment is due.

8 *Violation* means a violation of this section.

9 **Section 2. Subsection 24-4.5(H) of SFCC 1987 (being Ord. #2008-47 § 6, as**
10 **amended) is amended to read:**

11 H. *Fine.* Except as set forth in paragraph ([3]2) below, the following fines are
12 prescribed for all violations including those imposed by the hearing officer. Nothing in this
13 section shall prohibit the department from entering into pre-hearing settlement agreements
14 with respondents.

15 (1) For ~~the first~~ each violation, the fines for speeding are as follows:

16 (a) More than five (5) miles per hour over the speed limit in
17 school ~~and~~ or construction zones: one hundred dollars (\$100.00);

18 (b) More than ten (10) miles per hour over the speed limit: fifty
19 dollars (\$50.00).

20 ~~[(2) For subsequent violations within two (2) years of the preceding~~
21 ~~violation, the fines for speeding are as follows:~~

22 ~~(a) More than five (5) miles per hour over the speed limit in~~
23 ~~school and construction zones: one hundred and fifty dollars (\$150.00);~~

24 ~~(b) More than ten (10) miles per hour over the speed limit: one~~
25 ~~hundred dollars (\$100.00).]~~

1 ([3]2) The hearing officer may allow service to the city as an alternative to
2 payment of fines. A violator who elects to avail themselves of the option of service to
3 the city in lieu of payment of a fine does so voluntarily and is entitled to none of the
4 benefits conferred upon city employees, including, without limitation, workers
5 compensation. The city is not responsible for damages incurred except as otherwise
6 provided by law. The person seeking relief hereunder shall timely request the option
7 of service to the city in lieu of payment of a fine by requesting a hearing before a
8 hearing office ~~[at which]~~ to demonstrate that the person is eligible for the option and
9 ~~[shall]~~ is not ~~[be]~~ in default on payment of other fines, fees, or liens levied by the city
10 of Santa Fe. Respondents ordered to perform community service in lieu of payment of
11 a fine shall complete such community service within thirty (30) days from the date of
12 hearing. ~~[No person who cannot p]~~ Passing [the] a background check is required to
13 qualify as a volunteer ~~[may obtain relief]~~ under this paragraph. The services shall be
14 performed ~~[with]~~ for approved organizations or city departments. Services shall be
15 rendered in not less than full hour increments and shall be credited against the fine
16 payable at a rate consistent with the city of Santa Fe Living Wage Ordinance, Section
17 28-1.5(B) SFCC 1987. The city manager or designee shall establish procedures for
18 administering this paragraph including, but not limited to, the nature of services that
19 may be performed.

20 APPROVED AS TO FORM:

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22 _____
23 ERIN K. McSHERRY, CITY ATTORNEY

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25 *M/Legislation/Bills 2019/2019-34 STOP Amendment*