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CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2024-7

INTRODUCED BY:

Councilor Carol Romero-Wirth

AN ORDINANCE

**RELATING TO HOUSE BILL 139, ADOPTED DURING THE 2023 REGULAR SESSION;
AMENDING SECTION 1-3.2 SFCC 1987 TO REMOVE TEXT ABOUT THE
CORRECTIONS FEE, JUDICIAL EDUCATION FEE, COURT AUTOMATION FEE,
AND SUBSTANCE ABUSE FEE, CONSISTENT WITH THE REPEAL OF SECTIONS 31-
12-8 AND 34-14-11 NMSA 1978; AND AMENDING SECTION 12-6-12.2 OF THE
UNIFORM TRAFFIC ORDINANCE, TO REMOVE TEXT ABOUT THE DWI
PREVENTION FEE AND THE CRIME LABORATORY FEE, CONSISTENT WITH THE
REPEAL OF SECTION 31-12-7 NMSA 1978.**

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

**Section 1. Section 1-3.2 of SFCC 1987 (being Ord. No. 2011-06, as amended) is
amended to read:**

1-3.2 Imposition of Municipal Court Fees.

A. The city hereby imposes the following fees which shall be collected by the
municipal court upon conviction from persons convicted of violating any ordinance relating to the

1 operation of a motor vehicle, except those related to parking, or any ordinance that may be
2 enforced by the imposition of a term of imprisonment:

- 3 (1) Court administrative fee \$10.00
- 4 (2) In-house automation fee \$2.00
- 5 (3) Public safety fee \$5.00

6 B. As used in this section, convicted means the defendant has been found guilty of a
7 criminal charge by the municipal judge, either after trial, a plea of guilty or a plea of nolo
8 contendere.

9 C. The court administrative fee shall be retained by the city for the municipal court.

10 D. The in-house automation fee shall be retained by the city and used for in-house
11 automation systems in the municipal court.

12 E. The public safety fee shall be retained by the city for use by the police
13 department.

14 F. Five dollars (\$5.00) out of the ten dollars (\$10.00) administrative fee shall be
15 specifically earmarked for alternative sentencing programs at the municipal court. If the amount
16 collected under this paragraph is more than is needed for this program, the funds may be used for
17 other court programs or costs.

18 G. A person convicted of driving while under the influence of intoxicating liquor or
19 drugs in violation of Section 12-6-12.2 of the City of Santa Fe Uniform Traffic Code shall be
20 assessed by the court, in addition to any other court fee or fine, the fees as set forth in said
21 section.

22 H. Upon issuance of a bench warrant, the municipal court shall assess an
23 administrative fee of one hundred dollars (\$100.00) against the individual whose arrest is
24 commanded by the bench warrant. Many collected pursuant to the bench warrant fee assessment
25 authorized by this subsection shall be deposited in the general fund of the city of Santa Fe.

1 **Section 2. Section 12-6-12.2 of the Uniform Traffic Ordinance, Exhibit A to**
2 **Section 24-10 SFCC 1987 (being Ord. No. 2021-2) is amended to read:**

3 **12-6-12.2 Operating a Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs;**
4 **Penalties; Sentencing; Fees.**

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

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

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

16 (2) the results of a test performed pursuant to the Implied Consent Act disclose
17 that the blood of the person charged contains an alcohol concentration of four one-
18 hundredths or more if the person is driving a commercial vehicle; (Section 66-8-102
19 NMSA 1978 as amended) or

20 (3) the defendant has refused to submit to a chemical test or tests of their
21 breath or blood. (Section 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-nine
24 dollars (\$999.00), or both; provided that if the sentence is suspended in whole or in part or deferred,
25 the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first

1 conviction pursuant to this section, an offender shall be sentenced to not less than twenty-four hours
2 of community service. In addition, the offender may be required to pay a fine of three hundred
3 dollars (\$300.00). The offender shall be ordered by the court to participate in and complete a
4 screening program described in Subsection F of this section and to attend a driver rehabilitation
5 **program for alcohol or drugs, also known as a “DWI school,” approved by the traffic safety bureau**
6 of the state transportation department and also may be required to participate in other rehabilitative
7 services as the court shall determine to be necessary. In addition to those penalties, when an
8 offender commits aggravated driving while under the influence of intoxicating liquor or drugs, the
9 offender shall be sentenced to not less than forty-eight consecutive hours in jail. If an offender fails
10 to complete, within a time specified by the court, any community service, screening program,
11 treatment program, or DWI school ordered by the court or fails to comply with any other condition
12 of parole, the offender shall be sentenced to not less than an additional forty-eight consecutive
13 hours in jail. Any jail sentence imposed pursuant to this section for failure to complete, within a
14 time specified by the court, any community service, screening program, treatment program or DWI
15 school ordered by the court or for aggravated driving while under the influence of intoxicating
16 liquor or drugs shall not be suspended, deferred or taken under advisement. On a first conviction
17 pursuant to this section, time spent in jail for the offense prior to the conviction for that offense
18 shall be credited to any terms of imprisonment fixed by the court. A deferred sentence pursuant to
19 this subsection shall be considered a first conviction for the purpose of determining subsequent
20 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 fine of not more than nine
23 hundred ninety-nine dollars (\$999.00), or both; provided that if the sentence is suspended in whole
24 or part, the period or probation may extend beyond one hundred seventy-nine days but shall not
25 exceed one year. Notwithstanding any provision of law to the contrary for suspension or deferment

1 of execution of a sentence that meets the following criteria:

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

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

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

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

1 program approved by the court. The requirement imposed pursuant to this subsection shall not be
2 suspended, deferred or taken under advisement.

3 G. Upon a second or third conviction pursuant to this section, an offender shall be
4 required to participate in and complete, within a time specified by the court, one of the following
5 substance abuse treatment programs:

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

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

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

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

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

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

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

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

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

25 (4) **the remainder of the offender's life, for a fourth or subsequent conviction**

1 pursuant to this section.

2 I. A person who is issued an ignition interlock license and operates a vehicle that is
3 not equipped with an ignition interlock device is driving with a license that was revoked for driving
4 under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act and
5 may be subject to the penalties provided in section 12-6-12.6.

6 J. A person who is issued an ignition interlock license and who knowingly and
7 deliberately tampers or interferes or causes another to tamper or interfere with the proper and
8 intended operation of an ignition interlock device may be subject to the penalties for driving with
9 a license that was revoked for driving under the influence of intoxicating liquor or drugs or a
10 violation of the Implied Consent Act as provided in Section 12-6-12.6. (Section 66-5-504 NMSA
11 1978)

12 K. Five years from the date of the conviction and every five years thereafter, a fourth
13 or subsequent offender may apply to district court for removal of the ignition interlock device
14 requirement **provided in this section and for restoration of a driver's license. A district court may,**
15 for good cause shown, remove the ignition interlock device requirement and order restoration of
16 the license; provided that the offender has not been subsequently convicted of driving a motor
17 vehicle while under the influence of intoxicating liquor or drugs. Good cause may include an
18 alcohol screening and proof from the interlock vendor that the person has not had violations of the
19 interlock device. (Section 66-8-102 NMSA 1978)

20 L. An offender who obtains an ignition interlock license and installs an ignition
21 interlock device prior to conviction shall be given credit at sentencing for the time period the
22 ignition interlock device has been in use. (Section 66-8-102 NMSA 1978)

23 M. Except as otherwise prohibited in this section, a municipal judge may suspend in
24 whole or in part the execution of sentence or place the defendant on probation for a period not
25 exceeding one year on terms and conditions that municipal judge deems best, or both, or defer

1 sentence. If the municipal judge decides to defer the execution of a sentence, such deferral shall be
2 granted only as allowed in Subsection N of this section. A suspension of execution of sentence or
3 probation, or both, as allowed pursuant to this section, shall be granted only when the municipal
4 **judge is satisfied it will serve the ends of justice and of the public, and that the defendant's liability**
5 for any fine or other punishment imposed is fully discharged upon successful completion of the
6 terms and conditions of probation.

7 N. If a person is convicted of driving a motor vehicle while under the influence of
8 intoxicating liquor or drugs in violation of Section 12-6-12.1A, B, C or D, a first offender, at the
9 discretion of a trial court after a presentence investigation, including an inquiry to the motor vehicle
10 **division of the transportation department concerning the driver's driving record, may receive a**
11 deferred sentence on the condition that the driver attend a driver rehabilitation program, also known
12 **as the "driving-while-intoxicated-school," approved by the court and the division and such other**
13 rehabilitation services as the court may determine to be necessary; however, imposition of a
14 deferred sentence shall classify the person as a first offender. The municipal court shall forward to
15 the division that abstract of all proceedings and the report of the disposition of the case. For the
16 purpose of this subsection, marijuana, as defined in the Controlled Substance Act, shall be classified
17 as a drug. *

18 O. With respect to the section and notwithstanding any provisions of law to the
19 **contrary, if an offender's sentence was suspended or deferred in whole or in part and the offender**
20 violates any condition or probation, the court may impose any sentence that the court could have
21 originally imposed and credit shall not be given for time served by the offender on probation.

22 (Section 66-8-102 NMSA 1978)

23 P. As used in this section and in 12-6-12.1:

24 (1) **"bodily injury" means an injury to a person not likely to cause death or**
25 **great bodily harm to the person, but does cause painful temporary disfigurement or**

1 temporary loss or impairment of the functions of any member or **organ of the person's**
2 body; and

3 (2) **"conviction" means adjudication of guilt and does not include** imposition
4 of a sentence.

5 (3) **"commercial motor vehicle" means a motor vehicle or combination of**
6 motor vehicles used in commerce to transport passengers or property if the motor vehicle
7 meets the following criteria:

8 (a) has a gross combination weight rating of more than twenty-six
9 thousand pound inclusive of a towed unit with a gross vehicle weight rating of
10 more than ten thousand pounds;

11 (b) has a gross weight rating of more than twenty-six thousand
12 pounds;

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

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

17 Q. A conviction pursuant to a municipal or country ordinance in New Mexico or a
18 law of any other jurisdiction, territory, or possession of the United States or of a tribe where that
19 ordinance is equivalent to New Mexico Law for driving while under the influence of intoxicating
20 liquor or drugs, prescribing penalties for driving while under the influence of intoxicating liquor or
21 drugs shall be deemed to be a conviction pursuant to this section for purposes of determining
22 whether a conviction is a second or subsequent conviction. (Section 66-8-102 NMSA 1978)


23 R. A law enforcement officer making an arrest for a violation of the provisions of 12-
24 6-12.2 or of similar municipal or county ordinances shall use standard arrest reports and procedures
25 developed and approved by the Department of Public Safety in accordance with Section 8 of Laws

1 of 2005, Chapter 269.

2 PASSED, APPROVED, and ADOPTED this 11th day of September, 2024.

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Alan Webber (Sep 12, 2024 17:09 MDT)

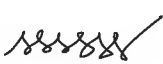
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ALAN WEBBER, MAYOR

7 ATTEST:

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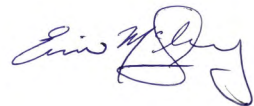
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10 GERALYN F. CARDENAS, INTERIM CITY CLERK

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12 APPROVED AS TO FORM:

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15 ERIN K. McSHERRY, CITY ATTORNEY

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Bill No. 2024-11

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Legislation/2024/Ordinances2024-7(O)//Eliminating Certain Court Fees