

ORDINANCE NO. 1252

AN ORDINANCE OF THE CITY OF ROSWELL ESTABLISHING A MAXIMUM PENALTY FOR VIOLATIONS OF ANY MUNICIPAL ORDINANCE UNLESS A DIFFERENT MAXIMUM PENALTY HAS BEEN ESTABLISHED FOR A PARTICULAR OFFENSE; IMPOSING A MANDATORY CORRECTIONS FEE UPON CONVICTION OF VIOLATING CERTAIN MUNICIPAL ORDINANCES; IMPOSING A MANDATORY JUDICIAL EDUCATION FEE UPON CONVICTION OF VIOLATING CERTAIN MUNICIPAL ORDINANCES; IMPOSING A MANDATORY COURT AUTOMATION FEE UPON CONVICTION OF VIOLATING CERTAIN MUNICIPAL ORDINANCES; AMENDING SECTIONS 1-8 AND 1-8.1 OF THE ROSWELL CITY CODE, 1984; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE AND REPEAL OF PORTIONS OF THIS ORDINANCE.

BE IT HEREBY ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL, OF ROSWELL, NEW MEXICO:

SECTION 1. Sections 1-8 and 1-8.1 in the Roswell City Code (1984), are hereby amended by deleting Section 1-8.1 entirely and by changing Section 1-8 to read as follows:

Section 1-8. General Penalty; continuing violations.

(a) Whenever in this Code or in any other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or whenever in such Code or other ordinance the doing of any act is required or the failure to do any act is declared to be unlawful where no specific penalty is provided therefor, the violation of any such provisions of this Code or any other ordinance shall be punished by fines or terms of imprisonment or both fines and imprisonment provided such penalties shall not exceed the following:

- (1) except for those violations of ordinances described in Paragraphs (2) and (3) of this section, a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both;
- (2) for violations of an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, a fine of not more than nine hundred and ninety-nine dollars (\$999.00) or imprisonment for not more than one hundred and seventy-nine (179) days or both; and
- (3) for violations of an industrial user wastewater pretreatment ordinance as required by the United States environmental protection agency, a fine of not more than nine hundred and ninety-nine dollars (\$999.00) a day for each violation.

(b) Mandatory Fees Collected Upon Conviction. In addition to any fine or imprisonment described in Section (a) of this ordinance, there is imposed upon any person convicted of violating any municipal ordinance the penalty for which carries a potential jail term or any ordinance relating to the operation of a motor vehicle the following mandatory fees:

- (1) a corrections fee of ten dollars (\$10.00);
- (2) a judicial education fee of one dollar (\$1.00); and
- (3) a court automation fee of three dollars (\$3.00).

As used in this ordinance, "convicted" means the defendant has been found guilty of a criminal charge by the municipal judge, either after trial, a plea of guilty or a plea of nolo contendere, or has elected to pay a penalty assessment in lieu of trial.

(c) Disposition and Use of Fees Collected.

- (1) All corrections fees collected shall be deposited in a special corrections fund in the municipal treasury and shall be used only for municipal jailer training, for construction planning, construction, operation and maintenance of the municipal jail, for paying the costs of housing the municipality's prisoners in other detention facilities in the state, or for complying with match or contribution requirements relating to jails.
- (2) All judicial education fees collected shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of benchbooks and other written materials, of municipal judges and other municipal court personnel.
- (3) all court automation fees collected shall be remitted monthly to the state treasurer for credit to the municipal court automation fund and shall be used for the purchase and maintenance of court automation systems in the municipal courts. The court automation systems shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information system council.

(d) Each day any violation of any provision of this Code or of any other ordinance shall continue shall constitute a separate offense.


SECTION 2. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 3. Repealer. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

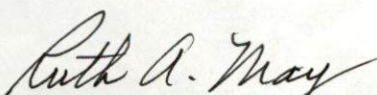
SECTION 4. Effective Date and Repealer. This ordinance shall be effective on and after five (5) days following its publication except that the provisions of Section (b), Paragraph (3), and Section (c), Paragraph (3) are effective on July 1, 1994 and repealed effective July 1, 1999.

PASSED, ADOPTED, SIGNED AND APPROVED the 14th day of July, 1994.

CITY SEAL


THOMAS E. JENNINGS, Mayor

ATTEST:


Ruth A. May, City Clerk