

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE 02-357

A CODE ORDINANCE AMENDING CHAPTER 26, MUNICIPAL COURT, ARTICLE I, SECTION 6, TO ABOLISH THE CORRECTIONS FEE, THE MANDATORY JUDICIAL EDUCATION FEE, AND THE MANDATORY COURT AUTOMATION FEE TO COMPLY WITH AMENDMENTS TO STATE LAW THAT TAKE EFFECT JULY 1, 2024

WHEREAS, the Incorporated County of Los Alamos ("County") has general authority to enact and/or amend legislation designed to protect the safety, health, and welfare of its citizens and the general public; and

WHEREAS, Chapter 26 of the Code of Ordinances of the incorporated County of Los Alamos governs Municipal Court; and

WHEREAS, the New Mexico Legislature passes and the Governor signed legislation addressing penalty assessment provisions for certain traffic vehicles, driving while intoxicated; and

WHEREAS, County desires to adopt similar amendments to bring the County ordinances governing traffic and vehicles into conformity with recently adopted state law; and

WHEREAS, the purpose of this amendment is to correct our Ordinances to conform with state law in Section 26-6, penalty for violations – Fee's.

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS, the Los Alamos County Code of Ordinances is hereby amended as follows:

Section 1. Chapter 26, Article I, Section 6 of the Code of the Incorporated County of Los Alamos is hereby amended to read as follows:

Sec. 26-6. Fees.

(a) *Court discretion as to penalty.*

- (1) Any court having jurisdiction to hear or try cases involving suit or prosecution for violation of this Code may, upon entry of a plea of guilty or judgment of conviction:
 - a. Suspend, in whole or in part, the execution of sentence; or
 - b. Place the defendant on probation for a period not exceeding one year on terms and conditions the court deems best, or both. The court may as a condition of probation require the defendant to serve a period of time in volunteer labor to be known as community service. The type of labor and period of service shall be at the sole discretion of the court, provided that any person receiving community service shall be immune from any civil liability other than gross negligence arising out of the community service, and any person who performs community service pursuant to court order or any criminal diversion program shall not be entitled to wages, shall not be considered an employee for any purpose and shall not be entitled to workmen's compensation, unemployment benefits or any other benefits otherwise provided by law. As used in this section, the term "community service"

means any labor that benefits the public at large or any public, charitable or educational entity or institution.

- (2) Suspension of execution of the sentence or probation, or both, shall be granted only when the judge is satisfied it will serve the ends of justice and of the public.
- (3) The defendant's liability for any fine or other punishment imposed shall be fully discharged upon his successful completion of the terms and conditions of probation, as provided for in this Code.

~~(b) Mandatory corrections fee.~~

- ~~(1) Any person convicted of violating any provision of this Code, the penalty for which carries a potential jail term, or any provision of this Code relating to operation of a motor vehicle shall be assessed a mandatory corrections fee of \$20.00 per conviction, in addition to any fee, fine or other penalty imposed for such conviction.~~
- ~~(2) The clerk of the municipal court shall remit all money collected as fees pursuant to this subsection to the office of management and budget to be deposited in a separate account of the general fund to be used only for:
 - a. County jailer or juvenile detention officer training;
 - b. The construction planning, construction, operation and maintenance of a county jail or juvenile detention facility;
 - c. Paying the cost of housing county prisoners in a county or municipal jail or detention facility or housing juveniles in a detention facility;
 - d. Complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities;
 - e. Providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;
 - f. Defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities; or
 - g. Providing electronic monitoring systems.~~

~~(c) Mandatory judicial education fee.~~

- ~~(1) Any person convicted of violating any provision of this Code, the penalty for which carries a potential jail term, or any provision relating to the operation of a motor vehicle shall be assessed a mandatory judicial education fee of \$3.00 per conviction, in addition to any fee, fine or other penalty imposed for such conviction.~~
- ~~(2) The clerk of the municipal court shall remit all money collected as fees pursuant to this subsection monthly to the state treasurer or his designee for credit to the judicial education fund and all such money collected shall be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court employees.~~

~~(d) Mandatory court automation fee.~~

- ~~(1) Any person convicted of violating any provision of this Code, the penalty for which carries a potential jail term, or any provision of this Code relating to the operation of a motor vehicle shall be assessed a mandatory court automation fee of \$6.00 per conviction, in addition to any fee, fine or other penalty imposed for such conviction.~~

~~(2) The clerk of the municipal court shall remit all money collected as fees pursuant to this subsection monthly to the state treasurer for credit to the municipal court automation fund to 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 counsel.~~

(b) *Traffic safety fee.*

- (1) Any person convicted of violating any provision of this Code, the penalty for which carries a potential jail term, or any provisions of this Code relating to the operation of a motor vehicle shall be assessed a traffic safety fee of \$5.00 per conviction, in addition to any fee, fine or other penalty imposed for such conviction.
- (2) All moneys collected pursuant to this subsection shall be deposited in the county treasury in a special fund. This fund shall be used only for traffic safety programs and traffic safety training.

(c) *Community services fee.*

- (1) Any person convicted of violating any provision of this Code, the penalty for which carries a potential jail term, or any provisions of this Code relating to the operation of a motor vehicle shall be assessed a community services fee of \$7.00 per conviction, in addition to any fee, fine or other penalty imposed for such conviction.
- (2) All moneys collected pursuant to this subsection shall be deposited in the county general fund. Moneys collected shall be used only for court community services programs.

(d) *Alternative programs fee.*

- (1) Any person convicted of violating any provision of this Code, the penalty for which carries a potential jail term, or any provisions of this Code relating to the operation of a motor vehicle shall be assessed an alternative programs fee of \$14.00 per conviction, in addition to any fee, fine or other penalty imposed for such conviction.
- (2) All moneys collected pursuant to this subsection shall be deposited in the county general fund. Moneys collected shall be used for alternative programs such as a teen court which are designed to divert offenders from the traditional court process into an alternative process aimed at decreasing recidivism.

(e) *Court facilities fee.*

- (1) Any person convicted of violating any provision of this Code, the penalty for which carries a potential jail term, or any provisions of this Code relating to the operation of a motor vehicle shall be assessed a court facilities fee of \$10.00 per conviction, in addition to any fee, fine or other penalty imposed for such conviction.
- (2) All moneys collected pursuant to this subsection shall be deposited in the county general fund. Moneys collected shall be used for the maintenance of court facilities.

Secs. 26-7—26-40. Reserved.

Section 2. Severability. If any section, paragraph, clause or provision of this Code Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Code Ordinance.

Section 3. Effective Date. This Code Ordinance shall become effective July 1, 2024.

Section 4. Repealer. All other ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this 28th day of May 2024.

**COUNCIL OF THE INCORPORATED
COUNTY OF LOS ALAMOS**

**Denise Derkacs,
Council Chair**

ATTEST:

**Naomi D. Maestas,
Los Alamos County Clerk**