SFC CLERK RECORDED 12/23/2013

**THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

**ORDINANCE NO. 2013-5**

**AN ORDINANCE AMENDING ORDINANCE 2006-5 FOR THE PURPOSE OF: DECREASING THE NUMBER OF CONVICTIONS NECESSARY FOR A NUISANCE DECLARATION; CLARIFYING THE TIME FOLLOWING SEIZURE OF A VEHICLE DURING WHICH STORAGE CHARGES WILL ACCRUE; CLARIFYING WHEN THE COUNTY MAY COMMENCE FORFEITURE PROCEEDINGS; INCREASING THE HEARING FEE; CLARIFYING WHEN THE SHERIFF MAY OFFER VOLUNTARY SEIZURE/IMMOBILIZATION; AND CORRECTING A TYPOGRAPHICAL ERROR**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT ORDINANCE 2006-5 IS AMENDED AS FOLLOWS:**

1. The Title of Ordinance 2006-5 is amended by placing a period after the word "vehicle" and deleting "following the third offense of driving under the influence of intoxicating liquor or drugs".

2. Article I, "VEHICLE NUISANCE", is hereby replaced with the following:

## I. VEHICLE NUISANCE

A motor vehicle is hereby declared to be a nuisance and subject to forfeiture pursuant to the provisions of this Ordinance if it is:

A. Operated in the unincorporated areas of the County by a person who has been convicted of one prior driving while intoxicated offense and is arrested for a second or subsequent offense of driving under the influence of intoxicating liquor or drugs, or

B. Operated in the unincorporated areas of the County by a person whose license is suspended or revoked as a result of one or more convictions for driving while under the influence of intoxicating liquor or drugs or suspended or revoked as a result of an arrest for driving while under the influence of intoxicating liquor or drugs.

3. Article III, "SEIZURE; FORFEITURE PROCEEDING", subsection B is hereby replaced with the following:

B. Seizure may be made if it is incident to an arrest of the driver of the vehicle for either driving while intoxicated (second offense, one prior conviction) or driving while his or her license is suspended or revoked as a result of a driving while intoxicated arrest.

4. Article III, "SEIZURE; FORFEITURE PROCEEDING", subsection C is hereby amended to add the following:

Storage fees shall be charged for each full and/or partial day of storage, including the day the vehicle is first taken to the storage facility and the day the vehicle is released from storage.

5. Article III, "SEIZURE; FORFEITURE PROCEEDING", subsection E is hereby amended by replacing the last sentence with the following:

If the County hearing officer determines that the vehicle was properly seized, or if the owner fails to request a hearing in writing within ten (10) business days of the date of mailing the notice of forfeiture, proceedings for an order for forfeiture from the District Court shall be instituted promptly.

6. Article III, "SEIZURE; FORFEITURE PROCEEDING", subsection H is hereby replaced with the following:

A hearing fee of $165 shall accompany each request for hearing with the county hearing officer made pursuant to this section.

7. Article IV, "VOLUNTARY SEIZURE/IMMOBILIZATION, is hereby replaced with the following:

Notwithstanding any other provision of this Ordinance, in the interest of public safety and health, the Sheriff may at any time following seizure of a vehicle pursuant to this Ordinance, offer the owner an opportunity to voluntarily request the alternative of (i) immobilization of the vehicle for a period of thirty (30) days and/or (ii) installation, at the owner's expense, of an ignition interlock device for a period of one (1) year. If the owner elects to accept an offered alternative(s), the owner shall agree to the voluntary seizure/immobilization and/or installation of the ignition interlock device in writing, on a form provided by the County. Such immobilization may be accomplished by an Immobilization Device (Boot) at the owner's designated location within the County of Santa Fe, or by impoundment at a secure facility, in accordance with procedures established by the Sheriff. The owner shall pay the Sheriff a fee for any such voluntary, temporary seizure/immobilization and sign an Immobilization and/or Ignition Interlock Agreement with the County of Santa Fe. Eligibility for the immobilization or the installation of an



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ignition interlock device is only available if the person arrested has no more than one (1) previous conviction for driving under the influence of intoxicating liquor or drugs.

8. Article V, "PROPERTY INTEREST NOT SUBJECT TO FORFEITURE", subsection B, is hereby amended by replacing the word "on" in the first sentence with the word "or".

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT** Ordinance 2013- amending Ordinance 2006-5 is PASSED, APPROVED, and ADOPTED this 27 day of August, 2013.

**THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

By: Kathleen S. Holian
Kathleen S. Holian, Chair

**ATTEST:**

Geraldine Salazar
Geraldine Salazar, Santa Fe County Clerk 8/27/2013

**APPROVED AS TO FORM:**

for
Stephen C. Ross, County Attorney

COUNTY CLERK SANTA FE COUNTY NEW MEXICO GERALDINE SALAZAR

COUNTY OF SANTA FE )
STATE OF NEW MEXICO ) ss

BCC ORDINANCE
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I Hereby Certify That This Instrument Was Filed for Record On The 29TH Day Of August, 2013 at 09:53:53 AM And Was Duly Recorded as Instrument # 1716510 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy Marcella Salazar County Clerk, Santa Fe, NM

SFC CLERK RECORDED 08/29/2013