

ORDINANCE NO. 2003-3

AN ORDINANCE 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; IMPOSING A MANDATORY JUDICIAL EDUCATION FEE; IMPOSING A MANDATORY COURT AUTOMATION FEE; ENUMERATING USES OF THE CORRECTIONS FEE; PERMITTING THE CREDIT OF INTEREST IN THE CORRECTIONS FEE TO THE MUNICIPAL GENERAL FUND.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD

Section 1. Maximum Penalty. Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty for violation of any municipal ordinance shall be as follows:

A. except for those violations of ordinances described in Paragraphs B and C of this section, a fine of not more than five hundred dollars (\$500) or imprisonment for not more than ninety (90) days or both;

B. 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

C. for violations of an industrial user wastewater pre-treatment ordinance as required by the United States environmental protection agency, a fine of not more than nine hundred and ninety-nine dollars (\$999.000) a day for each violation.

Section 2. Mandatory Fees Collected Upon Conviction. In addition to any fine or imprisonment described in Section 1 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:

A. a corrections fee of twenty dollars (\$20.00);

B. a judicial education fee of two dollars (\$2.00); and

C. a court automation fee of six dollars (\$6.00).

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.

Section 3. Disposition and Use of Fees Collected.

A. All corrections fees collected shall be deposited in a special corrections fund in the municipal treasury and shall be used only for:

- (1) municipal jailer training;
- (2) construction planning, construction, operation and maintenance of the municipal jail;
- (3) paying the costs of housing the municipality's prisoners in a county jail or detention facility or housing juveniles in a detention facility;
- (4) complying with match or contribution requirements relating to jails or juvenile detention facilities;
- (5) providing in-patient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;
- (6) defraying the cost of transporting prisoners to jails or juvenile detention facilities; or
- (7) providing electronic monitoring systems.

B. A municipality may credit the interest collected from fees deposited in the special corrections fund to the municipality's general fund.

C. 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.

D. 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 system shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information system council.


Section 4. 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 5. 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 6. Effective Date. The provisions of this ordinance are effective July 9, 2003.


PASSED, APPROVED AND ADOPTED as Ordinance No. 2003-3

This 2nd day of July, 2003.



Mayor

ATTEST:



Clerk-Treasurer



To: Municipal Clerks, Municipal Judges

From: Randy Van Vleck, General Counsel *DW*
Roger Makin, NMMJA Staff Liaison *RM*

Subject: Corrections Fee, Education Fee – 2003 Legislative Amendments
Judicial Education Fee reporting form

Date: May 8, 2003

The 2003 Legislature amended state statute that increased the municipal and magistrate Corrections Fee from \$10 to \$20 and the Judicial Education fee from \$1 to \$2. In addition, the legislation also expanded the uses of the Corrections Fee for municipal courts and allows the municipality to credit interest earned on the Corrections Fund to its General Fund. **These changes are effective July 1, 2003**, and will require each municipality to amend its local ordinance requiring collection of the Corrections Fee, the Judicial Education Fee and the Court Automation Fee. Also enclosed is an updated reporting form for the Judicial Education Fee that reflects the increase.

The following is the amended state statute §35-14-11 that requires each municipality that has a municipal court to collect the fees and explains the disposition of such fees. **The underlined material is the new material that must be incorporated into your local ordinances.** Since many local ordinances are copies of the state statute, I am including the entire section for your convenience. (Your existing ordinance must be amended by ordinance. If by some chance you do not have this ordinance, you must enact it!)

"35-14-11. MUNICIPAL ORDINANCE--COURT COSTS--COLLECTION--PURPOSE.

A. Every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs and used as provided in this section.

B. A municipal judge shall collect the following costs:

- (1) a corrections fee of **twenty dollars (\$20.00)**;
- (2) a judicial education fee of **two dollars (\$2.00)**; and
- (3) a court automation fee of six dollars (\$6.00).

C. The fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

(more)

D. All money collected pursuant to Paragraph (1) of Subsection B of this section shall be deposited in a special fund in the municipal treasury and shall be used for:

- (1) municipal jailer or juvenile detention officer training;
- (2) the construction planning, construction, operation and maintenance of a municipal jail or juvenile detention facility;
- (3) paying the cost of housing municipal prisoners in a county jail or detention facility or housing juveniles in a detention facility;
- (4) complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities;
- (5) providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;**
- (6) defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities; or**
- (7) providing electronic monitoring system.**

E. A municipality may credit the interest collected from fees deposited in the special fund pursuant to Subsection D of this section to the municipality's general fund.

F. All money collected pursuant to Paragraph (2) of Subsection B of this section 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 bench books and other written materials, of municipal judges and other municipal court employees.

G. All money collected pursuant to Paragraph (3) of Subsection B of this section 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 systems council.

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

PLEASE NOTE: Section D requires that the Corrections Fee must be deposited in a **special fund in the municipal treasury** and used for the purposes enumerated. The League has always recommended that Correction Fund proceeds be kept in a segregated account apart from the General Fund. With these 2003 amendments, this is even more important in order for the municipality to be able to credit interest earned on that account to its General Fund. Unless your municipality is a home rule municipality, the municipal court is **NOT** authorized to impose any additional fees (e.g., a traffic safety fee) on defendants.

If you have any questions, please contact myself or Roger Makin at the League office at 1-800-432-2036.

NEW MEXICO JUDICIAL EDUCATION CENTER
1117 Stanford NE
Albuquerque, NM 87131-1446



MUNICIPAL COURT MONTHLY REPORT

Name of Municipality: _____
Report for the Month of: _____ / 200
Date Submitted: _____

PLEASE COMPLETE THIS REPORT REGARDLESS OF WHETHER FEES HAVE BEEN COLLECTED. MAIL TO THE NEW MEXICO JUDICIAL EDUCATION CENTER.

1. Fee of two dollars (\$2.00), pursuant to NMSA 1978, §35-14-11 (B)(2), to be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court employees ("Judicial Education Fee") \$ _____

TOTAL TRANSMITTED TO JEC: \$ _____

Signature of Court's Contact Person: _____

Printed Name of Court's Contact Person: _____

Address: _____

City, State and Zip Code _____

Telephone Number: _____