

PROPOSED ORDINANCE NO. 10-05

AN ORDINANCE OF THE CITY OF ROSWELL PROVIDING THAT THE CODE OF ORDINANCES, CITY OF ROSWELL, NEW MEXICO, BE AMENDED BY REVISING SECTION 15-14 IN THE ROSWELL CITY CODE TO AUTHORIZE THE MUNICIPAL COURT TO ENTER A CONDITIONAL DISCHARGE.

WHEREAS, the New Mexico Supreme Court has recognized the use of Conditional Discharges as a viable method of sentencing for the Courts of the State of New Mexico;

WHEREAS, the Municipal Court does not have jurisdiction to enter a Conditional Discharge without adoption of the sentencing option by the ordinance;

WHEREAS, having the option of entering a Conditional Discharge would enhance the ability of the Municipal Court to serve the ends of justice and of the public.

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

Section 1. The Roswell City Code, Section 15-14 is hereby amended to read as follows:

Section 15-14 Suspension of sentence; conditional discharge; probation.

- (a) The municipal court may, upon entry of a plea of guilty or judgment of conviction:
 - (1) Suspend in whole or part the execution of sentence;
 - (2) Enter a conditional discharge; or
 - (3) Place the defendant on probation for a period not exceeding one year on terms and conditions the court deems best; or any combination of the above.
- (b) Suspension of execution of the sentence or probation, or both, shall be granted only when the municipal judge is satisfied it will serve the ends of justice and of the public, and that the defendant's liability for any fine or other punishment imposed is fully discharged upon successful completion of the terms and conditions of probation.
- (c) A conditional discharge entered by the Municipal Court shall be granted only if the person has not been previously convicted of a felony offense, if the entry of a deferred or suspended sentence would be authorized for the offense and, if good cause exists for the entry of a conditional discharge.
- (d) A conditional discharge may be made by the Municipal Court only once with respect to any person during that person's lifetime.
- (e) A conditional discharge may not be entered for any offense of DWI by the Municipal Court
- (f) If the Municipal Court places a defendant on probation, the Court shall assess a probation fee of at least twenty-five dollars (\$25) per month and not to exceed seventy-five dollars (\$75) per month.
- (g) If a conditional discharge is entered by the Municipal Court, the Court shall not collect court costs.

Section 2. Repealer. All Ordinances or parts of Ordinances in conflict or inconsistent herewith are hereby repealed to the extent only of such conflict or inconsistency. This repealer shall not be construed to revive any Ordinance or part of any Ordinance heretofore repealed.

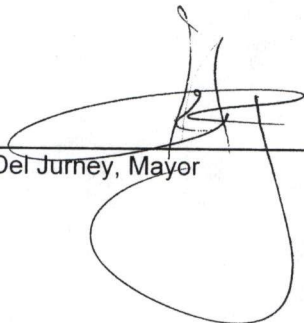
Section 3. Severability. If any section, paragraph, clause or provision of this Ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not be affected any other part of this Ordinance.

Section 4. Effective Date. This Ordinance shall be effective five (5) days following its publication.

PASSED, ADOPTED, SIGNED AND APPROVED the 11th day of November, 2010.


CITY SEAL





Del Jurney, Mayor

ATTEST:



David Kunko, City Clerk