

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 Code adopted by reference
- 70.02 Penalty assessment program
- 70.03 Penalty assessment misdemeanors; option; effect
- 70.04 Traffic control devices
- 70.05 Additional parking restrictions
- 70.06 Ordinance available for inspection
- 70.07 Copies of ordinances

' 70.01 CODE ADOPTED BY REFERENCE.

(A) Except as otherwise provided herein, the 2010 compilation of the New Mexico Uniform Traffic Ordinance, being a traffic code, is adopted by reference pursuant to NMSA ' 3-17-6.

(B) The following sections of the 2010 New Mexico Uniform Traffic Ordinance are amended or adopted to read as follows:

- (1) Section 12-6-6.1 A. is amended by adding a new subpart (17) as follows:

12-6-6.1 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIC PLACES.

A. (17) at any place which obstructs entrance into the garage doors of the Fire Station.

- (2) Section 12-1-76 is amended to read as follows:

12-1-76 STREET OR HIGHWAY.

"Street or Highway" means any way or place generally open to the use of the public as a matter of right and every way, place or parking lot, regardless of ownership, used for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction.

- (3) Section 12-6-1.2 A. (2) is amended to read as follows:

(2) 20 mph in any business or residential district, or

Tularosa - Traffic Code

- (4) Section 12-12-1.1 is amended to read as follows:

12-12-1.1 MAXIMUM PENALTY.

Unless another penalty is expressly provided in the 2010 New Mexico Uniform Traffic Ordinance or as otherwise provided by state law, every person convicted of a violation of any provision of this Ordinance shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than ninety days or by both such fine and imprisonment.

- (5) Section 12-6-15 is hereby amended to read as follows:

12-6-15 PREFERENCE TO VEHICLES UPON STREETS.

- A. The provisions of Article VI of the 2010 New Mexico Uniform Traffic Ordinance relating to the operation of vehicles, refer exclusively to the operation of vehicles upon the streets or highways, except where a different place is specifically referred to in a given section.
- B. The provisions of Article IV of the 2010 New Mexico Uniform Traffic Ordinance, Section 12-6-12.1 thru 12-6-12.3, Section 12-6-4, Section 12-6-5.7, Section 12-6-12.4, Section 12-6-12.9, Section 12-6-13.8, Section 12-9-9 and Section 12-6-12.7 of the 2010 New Mexico Uniform Traffic Ordinance shall apply upon the streets and highways and in privately owned parking lots throughout this municipality which are open to the public as a matter of course as business invitees.

- (6) Section 12-1-2.1 is amended to read as follows:

12-1-2.1 ACCESS AISLE.

Access Aisle means a space designed to allow a person with a significant mobility limitation to safely exit and enter a motor vehicle that is immediately adjacent to a designated parking space for persons with significant mobility limitations and that may be common to two such parking spaces of at least 60 inches in width or, if the parking space is designed for van accessibility, 96 inches in width and clearly marked and maintained with blue striping, and after January 1, 2011, the words NO PARKING in capital letters, each of which shall be at least one foot high and at least two inches wide, placed at the rear of the access aisle so as to be close to where an adjacent vehicle's rear tires would be placed (NMSA ' 66-1-4.1)

(7) Section 12-8-5 is amended to read as follows:

12-8-5 RIDING ON STREETS AND BICYCLE PATHS.

A. Every person operating a bicycle upon a street shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. (NMSA ' 66-3-705) It shall not be considered practicable to ride as near to the right side of the street under the following circumstances:

- (1) when overtaking and passing another bicycle or vehicle proceeding in the same direction;
- (2) when preparing for a left turn at an intersection or into a private road or roadway;
- (3) when reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a substandard width lane is a lane that is too narrow for a bicycle and vehicle to travel safely side by side within the lane;
- (4) when operating a bicycle or a moped upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.(*)

B. Persons riding bicycles upon a street shall not ride more than two abreast except on paths or parts of streets set aside for the exclusive use of bicycles. (NMSA ' 66-3-705)

(8) Section 12-6-12.6 is amended to read as follows:

12-6-12.6 UNLAWFUL USE OF LICENSE; DRIVING WHEN PRIVILEGE TO DO SO HAS BEEN SUSPENDED OR REVOKED.

A. No person shall:

- (1) Display or cause or permit to be displayed or have in his or her possession any cancelled, revoked, or suspended driver=s license or permit;
- (2) Lend his or her driver's license or permit to any other person or knowingly permit the use thereof by another;
- (3) Display or represent as one's own any driver's license or permit not issued to him or her;

- (4) Fail or refuse to surrender to the court upon its lawful demand any driver's license or permit which has been suspended, revoked or cancelled;
 - (5) Permit any unlawful use of driver's license or permit issued to him or her; (NMSA _ 66-5-37)
 - (6) Drive a motor vehicle on any public street or highway at a time when his or her privilege to do so is suspended and who knows or should have known that his or her license was suspended. Upon conviction, the person shall be punished by imprisonment for not less than four days nor more than 90 days or participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed, in addition, a fine of not more than \$500. When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court; (NMSA _ 66-5-39)
 - (7) Drive a motor vehicle on a highway of this state at a time when the person's privilege to do so is revoked and who knows or should have known that the person's license was revoked is guilty of a misdemeanor and shall be charged with a violation of this section. Upon conviction, the person shall be punished, notwithstanding the provisions of NMSA _ 31-18-13, by imprisonment for not less than four days or more than 90 days or by participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed, in addition, a fine of not more than \$500. When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court; and
 - (8) Notwithstanding any other provision of law for suspension or deferment of execution of a sentence, if the person's privilege to drive was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act, upon conviction shall be punished by imprisonment for not less than seven consecutive days and shall be fined not less than \$300 and not more than \$500 and the fine and imprisonment shall not be suspended, deferred or taken under advisement. No other disposition by plea of guilty to any other charge in satisfaction of a charge under this section shall be authorized if the person's privilege to drive was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act. (NMSA _ 66-5-39.1)
- B. In addition to any other penalties imposed pursuant to the provisions of this section, when a person is convicted pursuant to the provisions of this section, the motor vehicle the person was driving shall be immobilized by an immobilization device for 30 days, unless immobilization of the motor vehicle poses an imminent danger to the

health, safety or employment of the convicted person's immediate family or the family of the owner of the motor vehicle. The convicted person shall bear the cost of immobilizing the motor vehicle. (NMSA _ 66-5-39.1)

(9) Section 12-12-3 is amended to read as follows:

12-12-3 CONDUCT OF ARRESTING OFFICER - NOTICES BY CITATION.

- A. Except as provided in Section 12-12-5, unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of this section or other law relating to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release him or her from custody.
- B. Whenever a person is arrested for violation of a penalty assessment misdemeanor and elects to pay the penalty assessment, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare the penalty assessment notice indicating the amount of the penalty assessment, have the arrested person sign the agreement to pay the amount prescribed, give a copy of the citation along with a business reply envelope addressed to the municipal court with jurisdiction and release him or her from custody. No officer shall accept custody or payment of any penalty assessment. If the arrested person declines to accept a penalty assessment notice, the officer shall issue a notice to appear. [NMSA _ 66-8-123(B)]
- C. The arresting officer may issue a warning notice, but shall fill in the information section of the uniform traffic citation in paper or electronic form and give a copy to the arrested person after requiring his or her signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of suspension or revocation of license under NMSA _ 66-5-30.
- D. In order to secure his or her release, the arrested person must give his or her written promise to appear in court, or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice.
- E. Any officer violating this section is guilty of misconduct in office and is subject to removal. (NMSA _ 66-8-123)
- F. An electronic traffic citation, prescribed by Section 12-12-3.1, is an electronic version of the uniform traffic citation. For the purposes of this section, an electronic citation may be completed instead of a uniform traffic citation, provided, however, that where this section requires a copy of a citation to be given to an arrested person, a physical

Tularosa - Traffic Code

copy of the citation shall be provided whether a uniform traffic citation or an electronic form of the uniform traffic citation was used. An electronic form of the uniform traffic citation may be signed electronically.

(10)A new Section 12-12-3.1 is adopted to read as follows:

12-12-3.1 ELECTRONIC UNIFORM TRAFFIC CITATION.

An electronic version of a uniform traffic citation shall include the same information required to be included in a uniform traffic citation. An electronic version of a uniform traffic citation may be signed electronically and a law enforcement officer may submit or file with a court an electronic version of a uniform traffic citation if prior permission of the department has been secured. Where the law requires a law enforcement officer to provide a copy of a citation to a person cited or arrested, a physical copy of the citation shall be provided regardless of whether a paper uniform traffic citation or an electronic version of a uniform traffic citation was used. (NMSA _ 66-8-128)

(11)A new Section 12-12-11 is adopted to read as follows:

12-12-11 ABSTRACT OF TRAFFIC CASES - REPORT ON CONVICTIONS.

- A. Every municipal judge shall keep a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in the judge's court or its traffic violations bureau and every official action and disposition of the charge by that court. The court shall notify the department if a defendant fails to appear on a charge of violating the Motor Vehicle Code or other law or ordinance relating to motor vehicles.
- B. Within ten days of the later of entry of a final disposition on a conviction for violation of this section or other law or ordinance relating to motor vehicles or the final decision of any higher court that reviews the matter and from which no appeal or review is successfully taken, every municipal judge, including children's court judges, or the clerk of the court in which the entry of the final disposition occurred shall prepare and forward to the department an abstract of the record containing the name and address of the defendant, the specific section number and common name of the provision of the local law, ordinance or regulation under which the defendant was tried, the plea, finding of the court and disposition of the charge, including fine or jail sentence or both, total costs assessed to the defendant, the date of the hearing, the court's name and address, whether defendant was a first or subsequent offender, and whether the defendant was represented by counsel or waived his or her right to counsel and, if represented, the name and address of counsel.
- C. The abstract of record prepared and forwarded under division B of this section shall be

certified as correct by the person required to prepare it. With the prior approval of the department, the information required in division B of this section may be

2014 S-10

General Provisions

4E

transmitted electronically to the department. Report need not be made of any disposition of a charge of illegal parking or standing of a vehicle except when the uniform traffic citation is used.

D. When the uniform traffic citation is used, the court shall provide the information required in division B of this Section in the manner prescribed by the director. A copy of each penalty assessment processed shall be forwarded to the division within ten days of completion of local processing for posting to the driver's record. With the prior approval of the director, the required information may be submitted to the division by electronic means in lieu of forwarding copies of the penalty assessments.

E. The willful failure or refusal of any judicial officer to comply with this section is misconduct in office and grounds for removal. (NMSA _ 66-8-135)

(Ord. 183, passed 5-19-1998; Am. Ord. 187, passed 9-15-1998; Am. Ord. 202, passed 10-15-2002; Am. Ord. 211, passed 7-20-2004; Am. Ord. 241, passed 8-18-2010; Am. Ord. 244, passed 8-15-2012; Am. Ord. 249, passed 11-20-2013)

70.02 PENALTY ASSESSMENT PROGRAM.

Pursuant to Section 12-12-1.2 of the 2010 New Mexico Traffic Ordinance, a penalty assessment program is adopted as follows:

(A) As used in the 2010 New Mexico Uniform Traffic Ordinance adopted by the Village of Tularosa, New Mexico, the term **PENALTY ASSESSMENT MISDEMEANOR** means violation of the following listed sections of the 2010 New Mexico Uniform Traffic Ordinance, for which the listed penalty assessment is established:

<i>Common Name of Offense</i>	<i>Section Violated</i>	<i>Penalty Assessment</i>
Flashing signals	12-5-8	\$60
Speeding regulations	12-6-1	
(1) Up to and including 10 mph over speed limit		\$70
(2) From 11 up to and including 15 mph over speed limit		\$85
(3) From 16 up to and including 20 mph		\$120

<i>Common Name of Offense</i>	<i>Section Violated</i>	<i>Penalty Assessment</i>
over speed limit		
(4) From 21 up to and including 25 mph over speed limit		\$155

2014 S-10
4F

Tularosa - Traffic Code

<i>Common Name of Offense</i>	<i>Section Violated</i>	<i>Penalty Assessment</i>
(5) From 26 up to and including 30 mph over speed limit		\$180
(6) From 31 up to and including 35 mph over speed limit		\$205
(7) More than 35 mph over the speed limit		\$255
(8) Double division (1) above up to 10 mph		\$95
(9) Double division (2) above from 11 to and including 15 mph		\$115
(10) Double division (3) above from 16 to and including 20 mph		\$185

2014 S-10

General Provisions

<i>Common Name of Offense</i>	<i>Section Violated</i>	<i>Penalty Assessment</i>
(11) Double division (4) above from 21 to and including 25 mph		\$255
(12) Double division (5) above from 26 to and including 30 mph		\$305
(13) Double division (6) above from 31 to and including 35 mph		\$355
(14) Double division (7) above 36 mph		\$444
(15) Penalty assessment for speeding in a marked construction zone pursuant to 12-6-1.3(G) through (K) shall be as set forth above in divisions (8) to (14) above		
Minimum speed regulations	12-6-1.5	\$65
Overtaking vehicle on left	12-6-2.3	\$65
Limitations on overtaking vehicle on the left	12-6-2.4	\$65
No passing zones and restrictions on passing	12-6-2.7	\$65
No passing in school zone	12-6-2.7(D)	\$130
No passing in marked construction zone	12-6-2.7(A)	\$130
Following too closely	12-6-2.13	\$61
Driving on divided street	12-6-2.14	\$61
Vehicle approaching or entering intersection	12-6-4.1	\$61
Vehicle turning left at intersection	12-6-4.2	\$61
Vehicle entering stop or yield intersection	12-6-4.3	\$61
Limitations on turning around	12-6-5.5	\$61
Starting parked vehicle	12-6-5.7	\$65

Tularosa - Traffic Code

<i>Common Name of Offense</i>	<i>Section Violated</i>	<i>Penalty Assessment</i>
Turning and stopping movements and required signals	12-6-5.8	\$65
Stopping, standing and parking	12-6-6	\$60
Special stops required	12-6-7	\$60
Stopping for school bus	12-6-7.3	\$154
Railroad-highway grade crossing violation	12-6-7.6	\$150
Failure to stop at railroad-highway grade crossing	12-6-7.7	\$150
Operators and chauffeurs must be licensed	12-6-12.5	\$65
Limitations on backing	12-6-12.9	\$61
Child not in restraint device or safety belt	12-6-13.12	\$73
Mandatory use of seat belts	12-6-13.13	\$76
Possession or consumption of alcoholic beverages in open containers - first offense	12-6-13.14	\$80
Destructive or injurious material on roadway	12-6-13.5	\$301
Littering	12-6-13.15	\$300
Pedestrian violation	12-6-14	\$60
Drivers to exercise due care	12-6-14.8	\$60
When lighted lamps are required	12-10-1.3	\$60
Headlamps on vehicles	12-10-1.5	\$60
Dimming of lights	12-10-1.6	\$65
Tail lamps	12-10-1.7	\$60
Mufflers, prevention of noise	12-10-1.10	\$60
Lamp or flag on projecting load	12-10-1.11	\$60
Display of current valid registration plate	12-10-4	\$112
Evidence of registration to be signed and exhibited on demand	12-10-5	\$65

(B) The term ***PENALTY ASSESSMENT MISDEMEANOR*** does not include any violation which has caused or contributed to the cause of an accident resulting in injury or death to any person.

(C) When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor and no probation imposed upon a suspended or deferred sentence shall exceed 90 days.

(D) The penalty assessment for speeding in violation of Section 12-6-1.2(4) of the 2010 New Mexico Uniform Traffic Ordinance is twice the penalty assessment established in division (A) of this section for the equivalent miles per hour over the speed limit.

(E) In addition to the penalty assessment established for each penalty assessment misdemeanor pursuant to this section, there shall be assessed the fees provided for in ' 10.99(B). (Am. Ord. 202, passed 10-15-2002; Am. Ord. 204, passed 5-20-2003; Am. Ord. 211, passed 7-20-2004; Am. Ord. 219, passed 8-15-2006; Am. Ord. 236; passed 8-19-2009; Am. Ord. 241, passed 8-18-2010; Am. Ord. 246, passed 2-13-2013)

' 70.03 PENALTY ASSESSMENT MISDEMEANORS; OPTION; EFFECT.

(A) Unless a warning notice is given at the time of making an arrest for any penalty assessment misdemeanor, the arresting officer shall offer the alleged violator the option of accepting a penalty assessment. The violator's signature on the penalty assessment notice constitutes an acknowledgment of guilt of the offense stated in the notice, and payment of the prescribed penalty assessment is a complete satisfaction of the violation.

(B) Payment of any penalty assessment must be made by mail to the Municipal Court, Village of Tularosa, New Mexico, within 30 days from the date of arrest. Payments of penalty assessments are timely if postmarked within the time limits set from the date of the arrest. The Court Clerk shall issue a receipt when a penalty assessment is paid by currency, but checks tendered by the violator upon which payment is received are sufficient receipt.

(C) No record of any penalty assessment payment is admissible as evidence in any court in any civil action.

(D) If a penalty assessment is not paid within 30 days from date of arrest, the violator may be prosecuted for the violation charged on the penalty assessment notice in a manner as if a penalty assessment notice had not been issued. Upon conviction in such prosecution, the court may impose penalties as provided by the 2010 New Mexico Uniform Traffic Ordinance (Section 12-12-1.1) or other law relating to motor vehicles for the particular offense charged, and the schedule of penalty assessments may not apply.

(E) In addition to the prosecution provided for in division (D), it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so within 30 days from the date of arrest.

(F) The office of the Municipal Court shall notify the Division of Motor Vehicles of the State of New Mexico when a person fails to pay a penalty assessment within the required period of time. The Department of Motor Vehicles shall report the notice upon the driver's record and shall not renew the person's license to drive until the office of the Municipal Court notifies the Department of Motor Vehicles that the penalty assessment, or its equivalent, as well as any additional penalties imposed are properly disposed of.

(Am. Ord. 202, passed 10-15-2002; Am. Ord. 211, passed 7-20-2004; Am. Ord. 241, passed 8-18-2010)

70.04 TRAFFIC CONTROL DEVICES.

(A) Permitted traffic control devices.

(1) Private parties and commercial entities constructing streets, alleys, and rights-of-way within the village shall place and maintain traffic control devices necessary to regulate, warn, and guide traffic on those streets, alleys, and rights-of-way. The traffic control devices shall conform to standards and conventions provided by Article V of the 2010 New Mexico Uniform Traffic Ordinance. The village shall have jurisdiction to approve all traffic control devices placed and maintained by those private parties, contractors, or developers. When such streets, alleys, and rights-of-way are ceded to the village and accepted by the village as public rights-of-way for public use, the village assumes responsibility for the placement and maintenance of necessary traffic control devices.

(2) Construction contractors and public utilities are permitted to erect temporary traffic control devices to protect the public, workers, and equipment during short term projects. The devices shall conform to the provisions of Article V of the 2010 New Mexico Uniform Traffic Ordinance, and the Chief of Police or his or her designated representative shall be notified at least 24 hours prior to the initiation of planned projects and the location of such projects. In the event of an emergency project, the Police Department shall be notified as soon as possible concerning the project location. A short-term project for the purpose of this section is a project that may be completed in less than eight hours but shall not take more than five consecutive days to complete.

(3) Parties or entities required to place and maintain traffic control devices in their construction areas or on their projects shall review the current edition of the AManual on Uniform Traffic Control Devices@ on file at the village office or consult the New Mexico State Highway and Transportation Department to obtain in guidance on standards and conventions provided by Article V of the 2010 New Mexico Uniform Traffic Ordinance.

(B) *Prohibited signage.*

(1) No traffic control device or its support shall bear any advertising or commercial message, or any other message that is not essential to traffic control. Traffic control devices erected and placed by a private party or commercial entity shall not identify the party or entity placing the device.

(2) No sign bearing a commercial or advertising message shall contain a traffic control device as a component of that sign.

(3) Any unauthorized traffic control device placed on a village right-of-way by a private individual or organization, or commercial entity shall constitute a public nuisance and such unofficial and nonessential devices shall be removed upon instruction by the Chief of Police.

(4) It shall be unlawful to maintain any such prohibited signage.

(C) *Administrative designation.*

(1) *Responsibility.* The Chief of Police is responsible for the administration of this Article and reasonable rules and regulations may be prescribed by the Chief of Police to carry out the intent and purpose of this Article.

(2) *Investigation.* The Chief of Police or his or her designated representative shall have the authority to investigate any complaint concerning violations of this chapter.

(3) *Enforcement.* The Chief of Police or his or her designated representative shall have the authority to issue citations for violation of this chapter and to perform such other duties as are prescribed herein.

(4) *Traffic control devices and signage authority.* The Chief of Police is responsible for identifying, selecting and approving locations and types of all traffic control devices located on all streets, alleys, and rights-of-way. The Chief of Police is responsible for approving or disapproving requests for the placements and types of traffic control devices by private parties, commercial entities, contractors, or developers under the provisions of this chapter.

(Ord. 211, passed 7-20-2004; Am. Ord. 241, passed 8-18-2010)

70.05 ADDITIONAL PARKING RESTRICTIONS.

(A) No person shall park a truck-tractor, road tractor, or combination of any such tractor and trailer or semitrailer on a street in a residential district except when necessary for loading or unloading of property. In any event, parking of any such vehicle shall not obstruct traffic to any greater degree than is strictly necessary.

(B) No person shall park a truck-tractor, road tractor, or combination of any such tractor and trailer or semitrailer anywhere within a residential district between the hours of 9:00 p.m. and 7:00 a.m.
(Ord. 241, passed 8-18-2010)

' 70.06 ORDINANCE AVAILABLE FOR INSPECTION.

A copy of the 2010 New Mexico Uniform Traffic Ordinance is available for inspection during the Village Clerk's/Treasurer's normal and regular business hours at the Village Offices, 703 St. Francis Drive, Tularosa, New Mexico.
(Ord. 211, passed 7-20-2004; Am. Ord. 241, passed 8-18-2010)

' 70.07 COPIES OF ORDINANCES.

A copy of the Tularosa 2010 New Mexico Uniform Traffic Ordinance may be purchased from the Village Clerk/Treasurer at the cost of publication.
(Ord. 211, passed 7-20-2004; Am. Ord. 241, passed 8-18-2010)