

ORDINANCE NO. 707

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF TRUTH OR CONSEQUENCES, BE AMENDED BY AMENDING THE UNIFORM TRAFFIC ORDINANCE (UTO).

BE IT ORDAINED BY THE CITY COMMISSIONERS OF THE CITY OF TRUTH OR CONSEQUENCES:

Section 1. That the Uniform Traffic Ordinance is hereby amended and such ordinance shall read as follows:

12-6-12.3 DRIVING WHILE INTOXICATED WITH A MINOR IN THE VEHICLE

A. Driving while intoxicated with a minor in the vehicle consists of a person committing a violation of 12-6-12.3 when a minor is in the vehicle and when the minor does not suffer great bodily harm or death. Whoever commits driving while intoxicated with a minor in the vehicle is guilty of a misdemeanor.

B. A charge for a violation of Subsection A of this section shall be in addition to a charge for the violation of ~~12-6-12.3~~ 66-8-102 NMSA 1978 and shall be punished as a separate offense.

C. As used in this section, "minor" means an individual who is younger than thirteen years of age.

12-6-12.7 UNLAWFUL USE OF LICENSE; DRIVING WHEN PRIVILEGE TO DO SO HAS BEEN SUSPENDED OR REVOKED

No person shall:

A.

(1) display or cause or permit to be displayed or have in his possession any canceled, revoked or suspended driver's license or permit;

(2) lend his 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;

(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 canceled;

(5) permit any unlawful use of driver's license or permit issued to him; (66-5-37 NMSA 1978)

(6) drive a motor vehicle on any public street or highway at a time when his privilege to do so is suspended and who knows or should have known that the persons license was suspended, may be punished Pursuant to Subsection B of 12-6-12.7 or for no more that ninety days or participation for an equivalent period of time in a certified alternative sentencing program 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. Any municipal ordinance prohibiting driving with a suspended license shall provide penalties no less stringent than provided in this section. (66-5-39 NMSA 1978)

(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 Sec. 31-18-13 NMSA 1978, by imprisonment for not less than four days or more than ninety 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 three hundred dollars (\$300) and not more than five hundred dollars (\$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. (66-5-39.1 NMSA 1978)

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, or a municipal ordinance that prohibits driving on a suspended license, the motor vehicle the person was driving shall be immobilized by an immobilization device for thirty 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. (66-5-39.1 NMSA 1978)

12-6-12.8 DRIVING WHILE LICENSE ADMINISTRATIVELY SUSPENDED

A. The division may issue an administrative suspension of the instruction permit, driver's license or provisional license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence, including information provided to the state pursuant to an intergovernmental agreement authorized by Section 66-5-27.1 NMSA 1978, that the licensee has failed to:

- (1) Fulfill a signed promise to appear or notice to appear in court as evidenced by notice from a state court or tribal court, whenever appearance is required by law or by the court as a consequence of a charge or conviction under the Motor Vehicle Code of pursuant to the laws of the ~~tribe~~ state;
- (2) Pay a penalty assessment within thirty days of the date of issuance by the state ~~or a tribe~~; or
- (3) Comply with the terms of a citation issued in a foreign jurisdiction that is a party to the Nonresident Violator Compact and that has notified the department of the failure in accordance with the Nonresident Violator Compact.

B. If a person whose license was issued by a jurisdiction outside New Mexico that is a party to the Nonresident Violator Compact fails to comply with the terms of a citation issued in New Mexico, the department shall notify that other jurisdiction of the failure and that jurisdiction shall initiate a license suspension action in accordance with the provisions of Article IV of the Nonresident Violator Compact.

12-9-9 PARKING IN DESIGNATED DISABLED PARKING SPACES

A. It is unlawful for any person to park a motor vehicle not carrying registration plates or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 in a designated accessible parking space for persons with significant mobility limitation or in such a manner as to block access to any part of a curb cut a designated accessible parking space for persons with significant mobility limitations. Any person who violates this section shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) or more than five hundred dollars (\$500.00). Failure to properly display a parking placard or special registration plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A of this section. (66-7-352.5 NMSA 1978)

B. As used in this section, "designated disabled parking space" means any space, including an access aisle, marked and reserved for the parking of a passenger vehicle that carries registration plates or a parking placard indicating disability in accordance with Section 66-3-16 NMSA 1978, and designated by a conspicuously posted sign bearing the international disabled symbol of a wheelchair and if paved, by a clearly visible depiction of this symbol painted in blue on the

pavement of the space. "Curb cut" means a short ramp through a curb or built up to the curb designed for access by the handicapped.

C. A vehicle parked in violation of Subsection A of this section is subject to being towed at the expense of the vehicle owner upon authorization by law enforcement personnel or by the property owner or manager of a parking lot. (66-1-4.4E and 66-7-352.5 NMSA 1978).

D. State, county and municipal law enforcement personnel may issue citations for violations of §12-9-9 in their respective jurisdictions, whether the violation occurs on public property or private property. (*)

E. Parking enforcement personnel of each of the state educational institutions designated in Article 12, Section 11 of the Constitution of New Mexico may issue citations for violations of Subsection A of this section within the exterior boundaries of lands under the control of their respective institutions, except portions of those lands that are public highways or streets. (66-7-352.6 NMSA 1987).

F. A law enforcement officer may issue a citation or authorize towing of a vehicle for a violation of Section A of this section regardless of the presence of the driver (66-7-352.5 NMSA 1978).

12-10-6 **MANDATORY FINANCIAL RESPONSIBILITY**

A. No owner shall permit the operation of an uninsured motor vehicle, or a motor vehicle for which evidence of financial responsibility as was affirmed to the department is not currently valid, upon the streets or highways of New Mexico unless the vehicle is specifically exempted from the provisions of the Mandatory Financial Responsibility Act [66-5-201 to 66-5-239 NMSA 1978].

B. No person shall drive an uninsured motor vehicle, or a motor vehicle for which evidence of financial responsibility as was affirmed to the department is not currently valid, upon the streets or highways of New Mexico unless he is specifically exempted from the provisions of the Mandatory Financial Responsibility Act.

C. For the purposes of the Mandatory Financial Responsibility Act, "uninsured motor vehicle" means a motor vehicle for which a motor vehicle insurance policy meeting the requirements of the laws of New Mexico and of the secretary is not in effect or a surety bond or evidence of a sufficient cash deposit with the state treasurer. (66-5-205 NMSA 1978)

D. When financial responsibility is satisfied through coverage under a motor vehicle insurance policy, the owner's or operator's carrying of evidence in print or accessible through a portable electronic device is acceptable. An owner or operator of a vehicle who provides evidence of financial responsibility through a portable electronic device:

1. Assumes all liability for any resulting damage to the portable electronic evidence; and
2. Is presumed not to consent to provide access to a law enforcement officer to any other information stored in the portable electronic device

E. "Evidence of Financial Responsibility", as used in this Section, means evidence of the ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the evidence, arising out of the ownership, maintenance or use of a vehicle of a type subject to registration under the laws of New Mexico, in the following amounts:

- (1) twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one person in any one accident;
- (2) subject to this limit for one person, fifty thousand dollars (\$50,000) because of bodily injury to or death of two or more persons in any one accident;
- (3) ten thousand dollars (\$10,000) because of injury to or destruction of property of others in any one accident; and
- (4) if evidence is in the form of a surety bond or a cash deposit with the state treasurer, the total amount shall be sixty thousand dollars (\$60,000). (66-5-208 NMSA 1978)

F. Exemptions--Exempted from the mandatory financial responsibility provisions of this Section are the following:

- (1) a motor vehicle owned by the United States government, any state or any political subdivision of a state;
- (2) an implement of husbandry or special mobile equipment which is only incidentally operated upon the streets or highways within the limits of the municipality;
- (3) a motor vehicle operated upon a street or highway within the limits of the municipality only for the purpose of crossing such street or highway from one property to another;
- (4) a commercial motor vehicle registered or proportionally registered in New Mexico and any other jurisdiction, provided such motor vehicle is covered by a motor vehicle insurance policy or equivalent coverage or other form of financial responsibility in compliance with the laws of any other jurisdiction in which it is registered;
- (5) a motor vehicle approved as self-insured by the superintendent of insurance pursuant to Section 66-5-207.1 NMSA 1978; and

- (6) any motor vehicle when the owner has submitted to the department a signed statement, in the form prescribed by the department, declaring that the vehicle will not be operated on the highways of New Mexico and explaining the reasons therefore. (66-5-207 NMSA 1978)

G. The office of the municipal court shall notify the Division of Motor Vehicles of the Transportation Department of the State of New Mexico of the conviction of any person violating the provisions of this Section.

H. Penalty. Any person found guilty of violating this Section shall be fined not more than three hundred dollars (\$300) (66-5-205 E NMSA 1978); provided however, that no person charged with violating this section shall be convicted if he produces in court evidence of financial responsibility valid at the time of issuance of the citation. (*)

I. When a law enforcement officer issues a driver who is involved in an accident a citation for failure to comply with the provisions of the Mandatory Financial Responsibility Act, the law enforcement officer shall at the same time:

- (1) issue to the driver cited a temporary operation sticker, valid for thirty days after the date the sticker is issued, and forward by mail or delivery to the department a duplicate of the issued sticker; and
- (2) remove the license plate from the vehicle and send it with the duplicate of the sticker to the department or, if it cannot be removed, permanently deface the plate. (66-5-205.1 NMSA 1978)

PENALTY ASSESSMENT

SECTION 1.

This Ordinance may be cited as the City of Truth or Consequences of Penalty Assessment Program.

SECTION 2.

A. As used in the New Mexico Uniform Traffic Ordinance adopted by the City of Truth or Consequences, New Mexico, "penalty assessment misdemeanor" means violation of the following listed sections of the New Mexico Uniform Traffic Ordinance, for which the listed penalty assessment is established:

<u>COMMON NAME OF OFFENSE</u>	<u>SECTION VIOLATED</u>	<u>PENALTY ASSESSMENT</u>
PEDESTRIAN CONTROL SIGNALS	12-5-7	\$25.00

FLASHING SIGNALS	12-5-8	25.00
DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS	12-5-10	25.00
SPEED REGULATIONS	12-6-1	
(1) Up to and limited ten miles an hour over speed limit		25.00
(2) From eleven up to and including fifteen miles an hour over speed limit		30.00
(3) From sixteen up to and including twenty miles an hour over speed limit		65.00
(4) From twenty-one up to and including twenty- five miles an hour over speed limit		100.00
(5) From twenty-six up to and including thirty miles an hour over speed limit		125.00
(6) From thirty-one up to and including thirty five miles an hour over speed limit		150.00
(7) More than thirty-five miles per hour over the speed limit		200.00
MINIMUM SPEED REGULATIONS	12-6-1.5	25.00
OVERTAKING A VEHICLE ON THE LEFT	12-6-2.3	10.00
LIMITATIONS ON OVERTAKING ON THE LEFT	12-6-2.4	10.00
NO PASSING ZONES & RESTRICTIONS ON PASSING	12-2-2.7	25.00
FOLLOWING TOO CLOSELY	12-6-2.13	25.00
DRIVING ON DIVIDED STREETS	12-6-2.14	25.00
VEHICLE APPROACHING OR ENTERING INTERSECTION	12-6-4.1	25.00
VEHICLES TURNING LEFT AT INTERSECTION	12-6-4.2	25.00
VEHICLE ENTERING STOP OR YIELD INTERSECTION	12-6-4.3	25.00

LIMITATIONS ON TURNING AROUND	12-6-5.5	10.00
STARTING PARKED VEHICLE	12-6-5.7	10.00
TURNING & STOPPING MOVEMENTS AND REQUIRED SIGNALS	12-6-5.8	25.00
STOPPING, STANDING & PARKING	12-6-6	25.00
SPECIAL STOPS REQUIRED	12-6-7	25.00
STOPPING FOR SCHOOL BUS	12-6-7.3	100.00
OPERATORS & CHAUFFERS MUST BE LICENSED	12-6-12.5	25.00
LIMITATIONS ON BACKING	12-6-12.9	25.00
RESTRICTION ON USE OF VIDEO IN MOTOR VEHICLE	12-6-12.11	25.00
COASTING PROHIBITED	12-6-12.12	25.00
DESTRUCTIVE OR INJURIOUS MATERIAL ON ROADWAY	12-6-13.5	100.00
ANIMALS ON STREET	12-6-13.10	25.00
DRIVING ON MOUNTAIN STREETS	12-6-13.11	25.00
CHILD NOT IN RESTRAINT DEVISE OR SAFETLY BELT	12-6-13.12	25.00
MANDATORY USE OF SEAT BELTS	12-6-13.13	25.00
POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES IN OPEN CONTAINERS- FIRST OFFENSE	12-6-13.14	25.00
LITTERING	12-6-13.15	50.00
PEDESTRIAN VIOLATION	12-6-14	25.00
PEDESTRIANS RIGHT-OF-WAY IN CROSSWALKS	12-6-14.2	25.00
PEDESTRIANS TO USE RIGHT HALF OF SIDEWALK	12-6-14.3	25.00

CROSSING AT OTHER THAN CROSSWALKS	12-6-14.4	25.00
PEDESTRIAN ON STREETS	12-6-14.5	25.00
DRIVERS TO EXERCISE DUE CARE	12-6-14.8	25.00
PARKING IN DESIGNATED DISABLED PARKING SPACES	12-9-9	250-500.00
PROHIBITED ACTS	12-10-1.1	25.00
WHEN LIGHTED LAMPS ARE REQUIRED	12-10-1.3	25.00
HEADLAMPS ON VEHICLES	12-10-1.5	25.00
DIMMING OF LIGHTS	12-10-1.6	10.00
TAIL LAMPS	12-10-1.7	25.00
VEHICLES TO BE EQUIPPED WITH REFLECTORS	12-10-1.8	25.00
MUFFLERS, PREVENTION OF NOISE	12-10-1.10	10.00
LAMP OR FLAG ON PROJECTING LOAD	12-10-1.11	10.00
WINDSHIELD MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS; WINDOWS MUST BE TRANSPARENT; EXECPTIONS	12-10-1.12	25.00
SUN SCREENING MATERIAL ON WINDSHIELDS AND WINDOWS; REQUIREMENTS; VIOLATIONS PENALTY	12-10-1.12A	25.00
DISPLAY OF CURRENT VALID REGISTRATION PLATE	12-10-4	25.00
EVIDENCE OF REGRISTRATION TO BE SIGNED AND EXHIBITED ON DEMAND	12-10-5	10.00
VEHICLE SUBJECT TO REGISTRATION		50.00
DRIVING WHILE LICENSE ADMINISTRATIVELY SUSPENDED		25.00

- B. The term “penalty assessment misdemeanor” does not include any violations 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 late 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 ninety days.
- D. The penalty assessment for speeding in violation of Section 12-6-1.2 (4) of the Uniform Traffic Ordinance is twice the penalty assessment established in Subsection A of Section 2 of this ordinance 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 following fees for each penalty assessment misdemeanor: a twenty dollar (\$20) Corrections Fee; a six dollar (\$6) Court Automations Fee; and a three dollar (\$3) Judicial Education Fee.

SECTION 3. 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 offence stated in the notice, and payment of the prescribed penalty assessment is a complete satisfaction of violation.
- B. Payment of any penalty assessment must be made by mail to the Municipal Court, Traffic Violations Bureau, City of Truth or Consequences, 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 arrest. The Traffic Violations Bureau shall issue a receipt when a penalty assessment is paid by currency, but checks rendered by the violator upon which payment is received is sufficient receipt.
- C.
- D. No record of any penalty assessment payment is admissible as evidence in any court in any civil action.

SECTION 4. FAILURE TO PAY PENALTY ASSESSMENT

- A. If a penalty assessment is not paid within 30 days from the date of arrest, the violator shall be prosecuted for the violation charge on the penalty assessment notice in a manner as if the penalty assessment notice has not been issued. Upon conviction in such prosecution, the court shall impose penalties as provided by the New Mexico Uniform Traffic Ordinance (Section 12-12-1.1), or other law relating to motor vehicles for the particular offense charged, and the scheduled penalty assessments shall not apply.
- B. In addition to the prosecution provided in Section 4A, it is a misdemeanor for any person who has elected to pay a penalty assessment to failure to do so within 30 Days from the date of arrest.

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

SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause, phrase or any portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions thereof.

SECTION 6. ORDINANCES REPEALED

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 2. 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 3. This Ordinance shall take effect on the 14th day of October, 2019.

PASSED, APPROVED AND ADOPTED this 9th day of October, 2019.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

Sandra Whitehead, Mayor

ATTEST:

Renee L. Cantin, City Clerk