



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: July 5, 2016

SUBJECT: Approval to publish a proposed ordinance repealing the current Hobbs Municipal Code Chapter 10 in its entirety; AND repealing Hobbs Municipal Code Section 1.12.100; AND enacting a new Chapter 10 adopting the Uniform Traffic Ordinance 2010 Compilation (through July, 2015) with the exception of Article II and Sections 12-6-4.1(D), 12-6-6.13(B), 12-6-12.2(N), 12-6-12.7, 12-8-13, 12-8-14, 12-8-15, 12-8-16, 12-8-17, 12-8-18, 12-8-19, 12-8-20, 12-8-21, 12-8-22, 12-9-1, 12-9-2, 12-9-3, 12-9-4, 12-9-5, 12-9-6, 12-9-7, 12-9-8, 12-12-18(B), 12-12-18(D)(1)(f), and 12-12-18(D)(1)(g); AND adopting a Penalty Assessment Program.

DEPT. OF ORIGIN: Hobbs Police Department
DATE SUBMITTED: June 28, 2016
SUBMITTED BY: Michael Walker, Cpt. HPD / Efren Cortez, Assistant City Attorney

Summary:

City of Hobbs has previously adopted the Motor Vehicle Code (NMSA 1978, §66-1-1, et seq.). NMSA 1978, §3-17-6(A)(8), allows a municipality to adopt its own traffic code. The traffic code utilized by New Mexico municipalities is the Uniform Traffic Ordinance (UTO). NMSA 1978, §3-17-6(B), allows a municipality that adopts the UTO to exclude certain provision of the UTO if there is no Motor Vehicle Code equivalent. The UTO allows a municipality to adopt a Penalty Assessment Program which allows the municipality to set fixed fines for Penalty Assessment Misdemeanors.

Hobbs Municipal Code Section 1.12.100 sets out the process for payment of traffic fines which the new Chapter 10 will cover in detail.

Fiscal Impact:

No foreseeable fiscal impact.

Reviewed By: 
Finance Department

Attachments:

Copy of the proposed Ordinance

Legal Review:

Approved As To Form: 
City Attorney

Recommendation: The Commission should approve publication

Approved For Submittal By:


Department Director

City Manager

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Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied _____
Other _____ File No. _____

CITY OF HOBBS

ORDINANCE NO. _____

AN ORDINANCE REPEALING CHAPTER 10 OF THE HOBBS MUNICIPAL CODE IN ITS ENTIRETY, REPEALING HOBBS MUNICIPAL CODE SECTION 1.12.100, ADOPTING A NEW CHAPTER 10 TITLED THE "UNIFORM TRAFFIC ORDINANCE," AND ADOPTING A PENALTY ASSESSMENT PROGRAM

WHEREAS, the City of Hobbs has previously adopted the Motor Vehicle Code to govern the traffic laws within the municipal limits of the City of Hobbs, New Mexico, through enactment of Chapter 10 of the Hobbs Municipal Code; and

WHEREAS, NMSA 1978, §3-17-6(A)(8) allows a municipality to adopt its own traffic code to govern the traffic laws within the municipal limits of said municipality; and

WHEREAS, the Uniform Traffic Ordinance is a traffic code frequently used by New Mexico municipalities and affords a municipality the authority to adopt a penalty assessment program; and

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that Chapter 10, Sections 10.04, 10.08, 10.12, and 10.16 of the Hobbs Municipal Code are hereby repealed in their entirety; and

BE IT FURTHER ORDAINED that Section 1.12.100 of the Hobbs Municipal Code is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED that a Penalty Assessment Program is hereby adopted and set out in Section 10.04.050 of the new Chapter 10 outlined herein; and

BE IT FURTHER ORDAINED that a new Chapter 10 adopting the Uniform Traffic Ordinance, is hereby enacted and pursuant to the Uniform Traffic Ordinance Section 12-13-6 shall take effect on the 5th day of September, 2016, and is more specifically described as follows:

TITLE 10
VEHICLES AND TRAFFIC

10.04 UNIFORM TRAFFIC ORDINANCE

10.04.010 Uniform Traffic Ordinance – Adopted.

Pursuant to NMSA 1978, §3-17-6(A)(8), the New Mexico Uniform Traffic Ordinance, 2010 Compilation (current through July, 2015), is adopted by reference except as otherwise provided in this chapter.

10.04.020 Uniform Traffic Ordinance – Provisions not adopted.

Pursuant to NMSA 1978, §3-17-6(B), the following provisions of the Uniform Traffic Ordinance are not adopted: Article II; Section 12-6-4.1(D); Section 12-6-6.13(B); Section 12-6-12.2(N); Section 12-6-12.7; Section 12-8-13; Section 12-8-14; Section 12-8-15; Section 12-8-16; Section 12-8-17; Section 12-8-18; Section 12-8-19; Section 12-8-20; Section 12-8-21; Section 12-8-22; Section 12-9-1; Section 12-9-2; Section 12-9-3; Section 12-9-4; Section 12-9-5; Section 12-9-6; Section 12-9-7; Section 12-9-8; Section 12-12-18(B); Section 12-12-18(D)(1)(f); Section 12-12-18(D)(1)(g).

10.04.030 Uniform Traffic Ordinance – Amendments.

Amendments to the Uniform Traffic Ordinance, as may be from time to time proposed by the New Mexico Municipal League, shall only be adopted by ordinance through an affirmative vote of the City Commission. Upon adoption, amendments shall be available for inspection in the City Clerk's office.

10.04.040 Uniform Traffic Ordinance – Inspection and copying.

The Uniform Traffic Ordinance, so adopted (including all adopted amendments thereto), shall be available for inspection during normal business hours in the City Clerk's office. A printed copy of the Uniform Traffic Ordinance shall be available upon request and payment of a reasonable charge.

10.04.050 Penalty Assessment Program – Adopted

- A. As used in the Uniform Traffic Ordinance, a Penalty Assessment Program is hereby adopted.
- B. A “penalty assessment misdemeanor” means violation of any of the following listed sections of the Uniform Traffic Ordinance for which, except as provided in Subsection E of this Section, the listed penalty assessment is established:

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Obedience to Officers	12-3-2	45.00
Use of Coaster Wagons and Similar Devices	12-3-6	45.00
Obedience to Required Traffic Control Device	12-5-3	45.00
Red Light	12-5-6	45.00
Pedestrian Control Signals	12-5-7	45.00
Flashing Signals	12-5-8	45.00
Lane Control Signals	12-5-9	45.00
Display of Unauthorized Signs, Signals or Markings	12-5-10	45.00
Interference with Official Traffic Control Devices or Railroad Signals	12-5-11	45.00
Traffic Lanes	12-5-14	45.00
Basic (Speeding) Rule	12-6-1.1	45.00
Speed Limits	12-6-1.2	
(1) Up to and including 10 miles per hour above the speed limit		45.00
(2) From 11 and up to and including 15 miles per hour above the speed limit		60.00
(3) From 15 and up to and including 20 miles per hour above the speed limit		95.00
(4) From 21 and up to and including 25 miles per hour above the speed limit		130.00
(5) From 26 and up to and including 30 miles per hour above the speed limit		155.00
(6) From 31 and up to and including 35 miles per hour above the speed limit		180.00
Minimum Speed Regulation	12-6-1.5	45.00
Special Speed Limitations	12-6-1.7	45.00
Improper Passing	12-6-2.1 through 12-6-2.7	45.00

Obedience to Signs Designating One Way Streets and Alleys	12-6-2.9	45.00
Rotary Traffic Islands	12-6-2.10	45.00
Driving on Streets Laned for Traffic	12-6-2.12	45.00
Following Too Closely	12-6-2.13	45.00
Driving on Divided Streets	12-6-2.14	45.00
Controlled Access Violation	12-6-2.15 through 12-6-2.16	45.00
Failure to Yield	12-6-4.1 through 12-6-4.2	45.00
Vehicles Entering Stop or Yield Intersections	12-6-4.3	45.00
Improper Turning	12-6-5.1 through 12-6-5.6	45.00
Starting Parked Vehicle	12-6-5.7	45.00
Turning and Stopping Movements and Required Signals	12-6-5.8	45.00
Signals by Hand and Arm or Signal Device	12-6-5.9 through 12-6-5.10	45.00
Parking Violations	12-6-6.1 through 12-6-6.14	25.00
Emerging from Alley, Building, Driveway or Private Road	12-6-7.1	45.00
Stop When Traffic Obstructed	12-6-7.2	45.00
Stopping for School Bus	12-6-7.3	150.00
Operation of Vehicle on Approach of Emergency Vehicle	12-6-7.4A	80.00
Railroad Grade Crossing Violations	12-6-7.5 through 12-6-7.8	45.00
Stopping, Standing or Parking in Passenger Curb Loading Zone	12-6-8.3	25.00
Stopping, Standing or Parking in Freight Curb Loading Zone	12-6-8.4	25.00
Stopping, Standing and Parking of Busses and Taxicabs	12-6-9.3	25.00
Restricted Use of Bus and Taxicab Stands	12-6-9.4	25.00
Operation Without Oversize-Overweight Permit	12-6-11.1	80.00
No Slow-Moving Vehicle Emblem or Flashing Amber Light	12-6-11.2	25.00
Operators and Chauffeurs Must Be Licensed	12-6-12.5 A, B, C	70.00
Unattended Motor Vehicle	12-6-12.8	45.00
Limitations on Backing	12-6-12.9	45.00
Obstruction to Driver's View or Driving Mechanism	12-6-12.10	45.00

Restriction on Use of Television in Motor Vehicles	12-6-12.11	45.00
Coasting Prohibited	12-6-12.12	45.00
Following Fire Apparatus Prohibited	12-6-12.13	115.00
Crossing Fire Hose Prohibited	12-6-12.14	115.00
Driving Through Safety Zones Prohibited	12-6-12.15	45.00
Vehicles Shall Be Driven Only on Streets, Private Roads, and Driveways	12-6-12.16	45.00
Driving on Sidewalk and Private Property	12-6-12.17	45.00
Prohibited Activities While Driving	12-6-12.18	80.00
Processions	12-6-12.20	45.00
Offenses by Persons Owning or Controlling Vehicles	12-6-12.22	70.00
Permitting Unauthorized Persons to Drive	12-6-12.23	70.00
Unlawful Riding	12-6-13.2	45.00
Unhitched Trailer on Street	12-6-13.3	45.00
Littering	12-6-13.5	300.00
Trains and Buses Not to Obstruct Streets	12-6-13.6	45.00
Boarding or Alighting from Vehicles	12-6-13.7	45.00
Improper Opening of Doors	12-6-13.8	25.00
Occupied Moving House Trailer	12-6-13.9	25.00
Animals on Street	12-6-13.10	25.00
Driving on Steep Grades	12-6-13.11	45.00
Child Restraint	12-6-13.12	45.00
Seat Belts	12-6-13.13	45.00
Open Container (1st Offense)	12-6-13.14	45.00
Pedestrian Obedience to Traffic Control Devices and Regulations	12-6-14.2 through 12-6-14.7	45.00
Drivers to Exercise Due Care	12-6-14.8	45.00
Electric Personal Assistive Mobility Devices	12-6-16	10.00
Prohibited Use of Electronic Device While Driving (First Offense)	12-6-18	80.00
Prohibited Use of Electronic Device While Driving (Second and Subsequent Offense)	12-6-18	130.00
Operating Motorcycles on Streets Laned for Traffic	12-7-2	45.00

Clinging to Other Vehicles	12-7-3	45.00
Riding on Motorcycles	12-7-4	45.00
Eye Protective Devices or Windshields	12-7-5	45.00
Mandatory Use of Protective Helmets	12-7-6	300.00
Footrests and Handlebars	12-7-7	45.00
Motorcycle Maneuverability	12-7-8	45.00
Off-Highway Motor Vehicles - Registration; Plate Requirement	12-7-9.1	20.00
Operation of Off-Highway Motor Vehicles on Streets or Highways	12-7-9.2 A, B, C, D	210.00
Operation of Off-Highway Motor Vehicles on Streets or Highways	12-7-9.2 E	60.00
Driving of Off-Highway Motor Vehicles Adjacent to Streets	12-7-9.3	20.00
Operation of Off-Highway Motor Vehicles on Private Lands	12-7-9.4	20.00
Off-Highway Motor Vehicle Safety Permit; Requirements, Issuance	12-7-9.8	60.00
Operating and Equipment - Safety Requirements	12-7-9.9 A (1, 12)	210.00
Operating and Equipment - Safety Requirements	12-7-9.9 A (3, 4, 5, 6, 9) B, C, D	110.00
Operating and Equipment - Safety Requirements	12-7-9.9A (7)	60.00
Operating and Equipment - Safety Requirements	12-7-9.9A (8, 11) E	20.00
Mopeds - Standards	12-7-10	45.00
Operation of Bicycles	12-8-3 through 12-8-12	25.00
Handicap Parking	12-9-9	500.00
Improper Equipment	12-10-1.1 through 12-10-1.51, excluding 12-10-1.12.1	45.00
Sun Screening Material on Windshields and Windows	12-10-1.12.1	75.00
Restrictions Upon Use of Streets by Certain Vehicles	12-10-3.1	45.00
Minimum Vehicle Size	12-10-3.2	45.00
Projecting Loads on Passenger Vehicles	12-10-3.3	45.00
Special Projecting Load Limits	12-10-3.4	45.00
Trailers and Towed Vehicles	12-10-3.5	45.00
Width of Vehicles	12-10-3.6	45.00
Height and Length of Vehicles and Loads	12-10-3.7	45.00

- C. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to an accident resulting in injury or death to a person.
- D. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.
- E. The penalty assessment for speeding in violation of Section 12-6-1.2(A)(4), regarding speeding in a construction or safety zone posted as a double fine zone, shall be twice the penalty assessment for speeding for the equivalent miles per hour over the speed limit set out under the adopted Penalty Assessment Program contained herein.
- F. Nothing contained in this chapter is intended to diminish the Municipal Judge's authority to designate the specified offenses under the traffic ordinance to which fines may be accepted by the traffic violations bureau under Section 12-11-2 of the Uniform Traffic Ordinance.

10.04.060 Uniform Traffic Ordinance – Fees

- A. As outlined in Section 12-12-1.3 of the Uniform Traffic Ordinance, and Section 1.16.020 of the Hobbs Municipal Code, any person convicted of violating any provision of the traffic ordinance shall be assessed the following fees in addition to the individual prescribed penalty for each violation:
 - 1. A Corrections fee of twenty dollars (\$20.00);
 - 2. A Judicial Education fee of three dollars (\$3.00);
 - 3. A Court Automation fee of six dollars (\$6.00).
- B. In addition to the fees outlined herein, any person convicted of violating any provision of the traffic ordinance shall be assessed a "penalty assessment fee" of ten dollars (\$10.00) which, upon collection, shall be deposited in a special fund in the municipal treasury for use by the municipality only for municipal jailer training; for the construction planning, construction, operation and maintenance of the municipal jail; for paying the costs of housing the municipality's prisoners in other detention facilities in the state; or complying with match or contribution requirements for the receipt of federal funds relating to jails. However, if the municipality has a balance in this special fund that is over the amount projected

to be needed for the next fiscal year for the purposes set forth in this subsection, the municipality may transfer the unneeded balance to its general fund.

C. In addition to the fees outlined herein, and as outlined in Section 12-6-12.2(O) of Uniform Traffic Ordinance and Section 1.16.060 of the Hobbs Municipal Code, any person convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of 12-6-12.1(A), (B), (C), or (D) shall be assessed, in addition to any other fee or fine, the following fees:

1. a fee of eighty-five dollars (\$85.00) to defray the costs of chemical and other tests utilized to determine the influence of alcohol or drugs;
2. a fee of seventy-five dollars (\$75.00) to fund comprehensive community programs for the prevention of driving while under the influence of intoxicating liquor or drugs or for other traffic safety purposes .

The municipality shall maintain these fees in separate funds and transfer the fees collected in this subsection to the administrative office of the courts for credit to the crime laboratory fund and the traffic safety fund. No reference to the State DWI provision (NMSA 1978, §66-8-102) in Section 1.16.060 of the Hobbs Municipal Code shall operate to conflict with or override this provision.

D. As used in the Uniform Traffic 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 the penalty assessment in lieu of trial.

E. All fees outlined herein shall be distributed as prescribed by law and outlined in the Uniform Traffic Ordinance, the Hobbs Municipal Code, and State Statutes.

10.04.070 Penalty Assessment Misdemeanors – Option and 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.

B. Payment of any penalty assessment must be made to the Hobbs Municipal Court either online, via mail, or in person at 301 N. Turner, Hobbs, New Mexico 88240. Payment of any penalty assessment must be made within thirty (30) days from the date of arrest. Payments of penalty assessments are timely if postmarked within thirty days from the date of arrest. The traffic violations bureau may 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.

10.04.080 Penalty Assessment Misdemeanors – Failure to Pay / Failure to Appear

- A. If a penalty assessment misdemeanor is not paid within thirty (30) days of arrest, the violator shall 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 the Court shall impose the penalties provided in the traffic ordinance.
- B. In addition to the underlying penalty assessment misdemeanor and applicable fees, the violator may be charged with a misdemeanor when that individual has elected to pay a penalty assessment and fails to do so within thirty (30) days from the date of arrest.
- C. The Municipal Court shall notify the state division of motor vehicles when a violator fails to pay a penalty assessment imposed by the Court within thirty (30) days. The division of motor vehicles may suspend the instruction permit, driver's license or provisional license of the violator without preliminary hearing upon a showing by its records that the violator failed to pay the penalty assessment.
- D. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of accepting a penalty assessment, it is a misdemeanor for any person to violate his written promise to appear in court, given to an officer upon issuance of a uniform traffic citation, regardless of the disposition of the charge for which the citation was issued.

10.04.090 Uniform Traffic Ordinance – Time of Taking Effect

Upon passage of the same, the Uniform Traffic Ordinance as outlined herein shall take effect on September 05, 2016, as allowed by the Uniform Traffic Ordinance Section 12-13-6. This ordinance does not have a retroactive effect and does not apply to any traffic accident, to any cause of action arising out of a traffic accident or judgment arising therefrom, or to any violation of the traffic ordinance of this municipality, occurring prior to the effect date of this ordinance, September 05, 2016.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2016.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk