

NOTICE OF ORDINANCE

NOTICE IS HEREBY GIVEN that on the 17th day of April, 2023, the governing body of the City of Hobbs adopted an ordinance amending Chapter 1 of the Hobbs Municipal Code establishing non-traffic penalty assessments. A summary of the ordinance is contained in its title and is described as follows:

CITY OF HOBBS

ORDINANCE NO. 1151

AN ORDINANCE AMENDING CHAPTER 1 OF THE HOBBS MUNICIPAL CODE ESTABLISHING NON-TRAFFIC PENALTY ASSESSMENTS

WHEREAS, NMSA 1978, §3-17-1 allows a municipality to adopt ordinances not inconsistent with the laws of New Mexico for the purpose of providing for the safety, preserving the health, promoting the prosperity and improving the morals, order, comfort and convenience of the municipality and its inhabitants; and

WHEREAS, the Constitution of New Mexico Art. X, §6(D) grants powers to home rule municipalities, such as the City of Hobbs, to enact civil laws governing civil relationships incident to the exercise of an independent municipal power; and

WHEREAS, pursuant to the Hobbs Municipal Code Chapter 1.16, a violation of the Hobbs Municipal Code is generally punishable by fine of not more than five hundred dollars (\$500) or imprisonment for not more than ninety (90) days or both; and

WHEREAS, staff for the City of Hobbs have identified various sections of the Hobbs Municipal Code that if violated, should not warrant incarceration for any amount of time, and should not constitute a “criminal conviction”; and

WHEREAS, the Legislature for the State of New Mexico has likewise recognized that certain violations of statutes should not warrant incarceration or constitute a criminal conviction as exemplified by the adoption of NMSA 1978, §31-19A-1, in 2019; and

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that Chapter 1, is hereby amended as more specifically described as follows:

TITLE 1

GENERAL PROVISIONS

1.14 – NON-TRAFFIC PENALTY ASSESSMENTS

1.14.010 – Not a conviction

Payment of a fine pursuant to a non-traffic penalty assessment citation shall not be considered a criminal conviction.

1.14.020 – Process for issuance of citation

- A. Whenever a person is issued a non-traffic penalty assessment under the Hobbs Municipal Code, the officer shall advise the person of the option either to accept the penalty assessment and pay it to the court or to appear in court.
- B. The officer, using a uniform non-traffic citation, shall complete the information section, prepare the penalty assessment and prepare a notice to appear in court specifying the time and place to appear.
- C. The citation shall state the address to which the penalty assessment is to be paid if the person accepts the penalty assessment and does not elect to appear in court.
- D. The officer shall have the person sign the citation as a promise either to pay the penalty assessment as prescribed or to appear in court as specified, give a copy of the citation to the person and release the person from custody.
- E. An officer shall not accept custody of payment of any penalty assessment.

1.14.030 – Warning notice permissible

The officer may issue a warning notice, but shall fill in the information section of the citation and give a copy to the person after requiring a signature on the warning notice as an acknowledgment of receipt.

1.14.040 – Signature required

In order to secure release, the person shall give a written promise to appear in court or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice. In cases involving enforcement by officers other than a certified officer with the Hobbs Police Department, inability or refusal of the person to sign the non-traffic citation shall require the officer to file the unsigned citation with the Hobbs Municipal Court and request a summons be mailed to the person alleged to be in violation of the ordinance in question.

1.14.050 – Jurisdiction and time

- A. The Hobbs Municipal Court shall have jurisdiction for any case arising from a non-traffic penalty assessment under the Hobbs Municipal Code.
- B. A non-traffic penalty assessment citation issued by any officer shall be submitted to the Hobbs Municipal Court within five business days of issuance. If the citation is not submitted within three business days, it may be dismissed with prejudice.

1.14.060 – Failure to appear

- A. A non-traffic citation with a written promise to appear in court or to pay the penalty assessment is a summons. If a person fails to appear or to pay the penalty assessment by the appearance date as outlined on any non-traffic citation or summons, a warrant for failure to appear may be issued.
- B. A written promise to appear in court may be complied with by appearance of counsel.

1.14.070 – Effect and disposition

- A. When a person issued a non-traffic penalty assessment elects to appear in court rather than to pay the non-traffic penalty assessment to the court, no fine imposed upon a later adjudication shall exceed the penalty assessment established for the particular non-traffic penalty assessment.
- B. A person who elects to appear in court shall pay the costs required by law to be collected by the Hobbs Municipal Court.
- C. Payment of any non-traffic 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 non-traffic penalty assessment must be made within thirty (30) days from the date of citation. Payments of non-traffic penalty assessments are timely if postmarked within thirty (30) days from the date of citation. The Hobbs Municipal Court may issue a receipt when a non-traffic penalty assessment is paid by currency, but checks tendered by the violator upon which payment is received are sufficient receipt.

1.14.080 – Enforcement authority.

For purposes of this section, “officer” shall include all authorized personnel of the City of Hobbs tasked with enforcement of ordinances contained in the Hobbs Municipal Code.

PASSED, ADOPTED AND APPROVED this 17th day of April, 2023.

/s/ Sam D. Cobb
SAM D. COBB, Mayor

ATTEST:

/s/ Jan Fletcher
JAN FLETCHER, City Clerk

A full copy of the ordinance is available to interested persons during regular business hours in the Office of the City Clerk, City Hall, 200 East Broadway, Hobbs, New Mexico. The ordinance is also available for viewing online at www.hobbsnm.org.

/s/Jan Fletcher
Jan Fletcher, City Clerk