Hobbs City Commission

Regular Meeting
City Hall, City Commission Chamber
200 E. Broadway, 1st Floor Annex, Hobbs, New Mexico

Monday, October 6, 2025 - 6:00 PM

Sam D. Cobb, Mayor

R. Finn Smith Commissioner - District 1	Christopher R. Mills Commissioner - District 2	Larron B. Fields Commissioner - District 3
Joseph D. Calderón Commissioner - District 4	Dwayne Penick Commissioner - District 5	Don R. Gerth Commissioner - District 6

AGENDA

City Commission Meetings are
Broadcast Live on KHBX FM 90.7 Radio and
View Online at www.hobbsnm.org

CALL TO ORDER AND ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes of the September 15, 2025, Regular Commission Meeting (*Jan Fletcher, City Clerk*)

PROCLAMATIONS AND AWARDS OF MERIT

2. Proclamation Proclaiming the Week of October 5 - 11, 2025, as "FIRE PREVENTION WEEK" in the City of Hobbs (*Sam Cobb, Mayor*)

3. Recognition of the City of Hobbs CORE Adult Adaptive Programming - Recipient of the 2025 Adult Program of the Year Award by the New Mexico Recreation and Parks Association *(Doug McDaniel, Recreation Director)*

PUBLIC COMMENTS (Citizens who wish to speak must sign the Public Comment Registration Form located in the Commission Chamber prior to the beginning of the meeting.)

CONSENT AGENDA (The consent agenda is approved by a single motion. Any member of the Commission may request an item to be transferred to the regular agenda from the consent agenda without discussion or vote.)

4. Resolution No. 7679 - Authorizing the Deletion of One (1) Submersible Pump from the City's Public Inventory (*Tim Woomer, Utilities Director*)

5. Resolution No. 7680 - Authorizing the Deletion of Three (3) Copiers from the City's Public Inventory (*Christa Belyeu, Information Technology Director*)

6. Resolution No. 7681 - Approving a Right-of-Way Occupation License Agreement on Public Right-of-Way Located on Alston St. and Fowler St. with the Palmer Drug Abuse Program (*Todd Randall, Assistant City Manager*)

7. Resolution No. 7682 - Ratifying And Approving the Assignment and Assumption of a Ground Lease for Approximately 6.83 Acres Located at 5625 N. Lovington Highway, Hobbs Industrial Air Park, from Covenant Health Hobbs to Stag Amazon, LLC, and Authorizing the Mayor to Execute all Documents Necessary to Effectuate the Assignment. (*Todd Randall, Assistant City Manager*)

8. Resolution No. 7683 - Confirming Satisfaction of Development Requirements and Authorizing Release of Right to Repurchase Property at the Hobbs Industrial Air Park (*Todd Randall, Assistant City Manager*)

9. Resolution No. 7684 - Supporting the Responsible Reuse of Produced Water (*Sam Cobb, Mayor*)

DISCUSSION

10. Presentation of National Cleanup Month Recap *(Evelyn Nunez, Event Coordinator)*

ACTION ITEMS (Ordinances, Resolutions, Public Hearings)

11. PUBLICATION: Proposed Ordinance Amending the Uniform Traffic Ordinance as Set Forth in Chapter 10.04 of the Hobbs Municipal Code (*Amber Leija, Assistant City Attorney*)

12. PUBLICATION: Proposed Ordinance Amending Chapter 1 of the Hobbs Municipal Code — Establishing Civil Infraction Violations and Enforcement Procedures (*Amber Leija, Assistant City Attorney*)

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

13. Next Meeting Dates:

City Commission Regular Meetings

- Monday, October 20, 2025, at 6:00 p.m.
- Monday, November 3, 2025, at 6:00 p.m

ADJOURNMENT

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the above meeting, please contact the City Clerk's Office at (575) 397-9200 at least 72 hours prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the City Clerk's Office if a summary or other type of accessible format is needed.

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: Minutes of the September 15, 2025, Regular Commission Meeting

DEPT OF ORIGIN: City Clerk
DATE SUBMITTED: 9/29/2025
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

Minutes of the regular Commission meeting held on September 15, 2025.

Fiscal Impact:

N/A

Attachments:

September 15, 2025 - Minutes

Recommendation:

Motion to approve the minutes.

Approved By:

Jan Fletcher, City Clerk
Manny Gomez, City Manager

Minutes of the regular meeting of the Hobbs City Commission held on Monday, September 15, 2025, in the City Commission Chamber, 200 East Broadway, 1st Floor Annex, Hobbs, New Mexico. This meeting was also broadcast via Livestream on the City's website at www.hobbsnm.org.

Call to Order and Roll Call

Mayor Pro Tem Joseph D. Calderón called the meeting to order at 6:00 p.m. and welcomed everyone to the meeting. The City Clerk called the roll and the following answered present:

Mayor Pro Tem Calderón
Commissioner Chris Mills *(arrived at 6:03 p.m.)*
Commissioner Larron B. Fields
Commissioner Dwayne Penick
Commissioner Don Gerth

Absent: Mayor Sam D. Cobb
Commissioner R. Fin Smith

Also present: Manny Gomez, City Manager
Todd Randall, Assistant City Manager
Medjine Desrosiers-Douyon, Deputy City Attorney
Mark Doporto, Fire Chief
Ryan Herrera, Deputy Fire Chief
August Fons, Police Chief
Ricky Guerrero, Police Captain
Marina Barrientes, Police Captain
Anthony Henry, City Engineer
Chad Littlejohn, Marketing Coordinator
Evelyn Nunez, Event Coordinator
Bobby Arther, Municipal Judge
Bryan Wagner, Parks and Open Spaces Director
Nichole Lawless, Library Director
Tim Woomer, Utilities Director
Toby Spears, Finance Director
Nicholas Goulet, Human Resources Director
Selena Estrada, Risk Management
Christa Belyeu, I.T. Director
Jan Fletcher, City Clerk
Rose Galavez, Deputy City Clerk
Alyxandra Salas, Assistant Deputy City Clerk
12 citizens

Invocation and Pledge of Allegiance

Commissioner Penick delivered the invocation and Commissioner Gerth led the Pledge of Allegiance.

Approval of Minutes

Commissioner Penick moved the minutes of the regular meeting of September 2, 2025, be approved as written. Commissioner Gerth seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried.

Proclamations and Awards of Merit

Mayor Pro Tem Calderón proclaimed Tuesday, September 16, 2025, as "NATIONAL IT PROFESSIONALS DAY" in the City of Hobbs. He acknowledged the vital contributions of the City's Information Technology Department, recognizing its essential role in maintaining the digital infrastructure that powers municipal operations, public services, and community engagement. Mayor Pro Tem Calderón presented the proclamation to Ms. Christa Belyeu, I. T. Director, and members of the I. T. Department.

Mayor Pro Tem Calderón proclaimed September 26, 2025, as "HUMAN RESOURCES DAY" in the City of Hobbs, recognizing the essential role Human Resources professionals play in the success of every organization. He emphasized that HR professionals are critical to recruiting and retaining top talent, fostering inclusive and respectful workplaces, managing employee relations, and ensuring compliance with evolving labor laws. Mayor Pro Tem Calderón presented the proclamation to Mr. Nicholas Goulet, Human Resources Director.

Mr. Manny Gomez, City Manager, recognized the following employees for their Milestone Service Awards for the month of September, 2025:

- 5 years - Luis Espinoza, Hobbs Police Department
- 5 years - Meghan Van Ham, Hobbs Police Department
- 10 years - Carri Downing, Hobbs Fire Department
- 10 years - David Torres, Hobbs Police Department

Mr. Gomez thanked the Commission for recognizing the employees. He reviewed highlights about the work of each employee. He expressed gratitude to each employee for their hard work and also thanked the employees' families for their contributions to the organization.

Public Comments

Senator Larry Scott expressed his appreciation to the Commission for their prompt action regarding the school security services for the Hobbs Municipal Schools. He noted he had recently advocated for improved collaboration between local and county law enforcement, and emphasized that the proposed Memorandum of Understanding

(MOU) on the agenda for approval tonight would achieve that goal. Senator Scott encouraged the Commission to support and vote in favor of the resolution.

Consent Agenda

Mayor Pro Tem Calderón explained the process for the consent agenda which is reserved for items which are routine when the agenda is lengthy. He stated any member of the Commission may request an item to be transferred to the regular agenda from the consent agenda without discussion or vote.

Commissioner Fields moved for approval of the following Consent Agenda item(s):

Resolution No. 7674 - Authorizing the Mayor to Execute a Grant Agreement Amendment No. 2 with the State of New Mexico Department of Transportation for CN: LP20037

Commissioner Mills seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. Copies of the resolutions and supporting documentation are attached and made a part of these minutes.

Discussion

None.

Action Items

PUBLIC HEARING: Resolution No. 7675 - Regarding the Transfer of Location of Restaurant "A" Liquor License No. RES-000180 Owned by Kui Liu, LLC, d/b/a Kobe Japanese Steakhouse & Sushi Bar from 915 East Bender Blvd. to 1015 Joe Harvey Blvd. in Hobbs, New Mexico

Ms. Medjine Desrosiers-Douyon, Deputy City Attorney, introduced Mr. Kevin Liu, representing Kui Liu, LLC, the owner of Tokyo Japanese Steakhouse & Sushi Bar. She stated that this public hearing concerns the application for the transfer of a Restaurant “A” liquor license for the sale of beer and wine from the current location at 915 East Bender Blvd to the proposed new location at 1015 Joe Harvey Blvd. Ms. Desrosiers-Douyon affirmed that proper public notice of the hearing was duly published in the Hobbs News-Sun on August 14, 2025, and again on August 28, 2025. Additionally, the applicant was properly notified of this hearing via both email and certified mail. She asked if there were any interested parties for or against the application of the Restaurant “A” liquor license. No other members of the audience expressed interest in speaking.

Ms. Jan Fletcher, City Clerk, administered the witness oath to Mr. Kevin Lui.

Ms. Desrosiers-Douyon asked a series of questions regarding the liquor license application submitted by Tokyo Japanese Steakhouse & Sushi Bar Restaurant. In response to Ms. Desrosiers-Douyon's questions, Mr. Lui stated he is the owner of Tokyo Japanese Steakhouse & Sushi Bar, and he has received preliminary approval from the New Mexico Regulation and Licensing Department for transfer of the license location. Mr. Lui stated the proposed location is at 1015 Joe Harvey Blvd in Hobbs and is not located within 300 feet of a church, school, or military installation. Mr. Lui stated he did receive a letter from the City and is aware there is no zoning in Hobbs. Mr. Lui stated he is not aware of any facts or concerns that would affect the public health, safety, or morals of Hobbs if this license were to be approved.

There being no further discussion, Commissioner Penick moved to approve Resolution No. 7675 transfer of the license location. Commissioner Gerth seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. A copy of the resolution and supporting documentation are attached.

Resolution No. 7676 - Authorizing the City of Hobbs to Submit a Grant Application to the State of New Mexico, Department of Transportation, for the Hobbs Express Public Transportation Program for FY 26-27 Under Section 5311 of the Federal Transit Act

Ms. Jan Fletcher, City Clerk and Hobbs Transportation Director, stated the City of Hobbs operates the Hobbs Express under a Section 5311 Grant through the Federal Transit Act (FTA), administered by the New Mexico Department of Transportation (NMDOT), Transit and Rail Division. This public transportation program is a vital service for the Hobbs community, particularly benefiting elderly, disabled, and transit-dependent individuals. The program has been in continuous operation under the City's management since 1989. Each year, the City applies for available grant funding to help offset the cost of providing these essential services. For FY 2026–2027, the City is requesting funding to maintain public transportation services at their current level. This is a formulary grant through the Federal Transit Administration.

The total grant request is $1,687,600, with the federal share at $951,965 and the local share at $735,635. Upon approval of the grant application, a formal project agreement will be presented to the City Commission for consideration. To date, Hobbs Express has transported approximately 900,000 riders since its inception. In the current fiscal year (FY 2024–2025), ridership stands at about 47,000, with projections to exceed 50,000 by the end of September. This continued high usage clearly demonstrates the ongoing need for the program. Additionally, eight community agencies have submitted letters of support for the program, supporting the value and impact of Hobbs Express within the community.

There being no discussion, Commissioner Gerth moved to approve Resolution No. 7676 as presented. Commissioner Fields seconded the motion and roll call vote was

recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. A copy of the resolution and supporting documentation are attached.

Consideration of Award of Bid 1621-25; Rehabilitation of the 600,000-Gallon Concrete Water Storage Tank Located at the HIAP Booster Pump Station (BPS)

Mr. Tim Woomer, Utilities Director, provided an overview of the upcoming rehabilitation project for the 600,000-gallon concrete water storage tank located at the HIAP Booster Pump Station. This project involves the complete rehabilitation of the tank, which is one of five booster pump stations that supply water to the HIAP water tower. The scope of work includes repair, cleaning, repainting, lining, and disinfection of all interior and exterior surfaces. It also includes any additional miscellaneous repairs or incidental items encountered during the project. Work is expected to begin no earlier than November 1, 2025. Two qualified bids were received for the project:

- Viking Industrial Painting, LLC, La Vista, NE – $430,100.00
- TMI Coatings, LLC, St. Paul, MN – $847,200.00

Following a thorough review by the department's design engineer, Tank Industry Consultants, along with City staff, the recommendation is to award the contract to Viking Industrial Painting, LLC, for their low bid of $430,100.00, not including New Mexico Gross Receipts Tax (GRT).

There being no discussion, Commissioner Penick moved to award Bid 1621-25 to Viking Industrial Painting, LLC, as recommended. Commissioner Fields seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. A copy of the supporting documentation is attached.

Consideration of Award of Bid 1622-25; Rehabilitation of the 2,000,000-Gallon Concrete Water Storage Tank Located at the Jefferson Booster Pump Station (BPS)

Mr. Tim Woomer, Utilities Director, stated this project includes the complete rehabilitation of the 2,000,000-gallon concrete water storage tank located at the Jefferson Booster Pump Station. Specifically, the repair, repainting, lining, and cleaning/disinfection of the Jefferson water storage tank on all the interior surfaces and the complete repair, cleaning and repainting of the exterior surfaces. This will include any other miscellaneous repairs and incidental items encountered. Work is anticipated to start no earlier than November 1, 2025. Two qualified bids were received for the project:

- Viking Industrial Painting, LLC, La Vista, NE – $778,880.00
- TMI Coatings, LLC, St. Paul, MN – $1,386,000.00

Following a thorough review by the department's design engineer, Tank Industry Consultants, along with City staff, the recommendation is to award the contract to Viking Industrial Painting, LLC for their low bid of $778,880.00.

There being no discussion, Commissioner Gerth moved to award Bid 1622-25 to Viking Industrial Painting, LLC, as recommended. presented. Commissioner Mills seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. A copy of the supporting documentation is attached.

Resolution No. 7677 - Authorizing the Expenditure of Funds to be Used for the Purchase of Playground Equipment and Improvements to Taylor Elementary School Park

Ms. Medjine Desrosiers-Douyon, Deputy City Attorney, explained the resolution which authorizes City staff to allocate funds for new playground equipment and improvements at Taylor Elementary School Park located at 1520 North Breckon Drive. The estimated budget for the upgraded design and improvements is $161,245.00. This project represents a valuable collaboration between the City of Hobbs and Hobbs Municipal Schools, aimed at enhancing a safe, fun, and welcoming space for local families. The funding for this initiative will come from the discretionary funds of Commissioner Larron Fields and will be classified as a capital improvement expenditure for public property. Ms. Desrosiers-Douyon emphasized that by investing in this park, we are not just adding equipment; we are creating a space where children can learn, grow, and play, and where our community can continue to come together.

Commissioner Fields stated he has dedicated the majority of his life to investing in young people, calling it one of the most rewarding and worthwhile investments anyone can make. He expressed that supporting youth is one of the greatest joys of his life. He emphasized the importance of continually seeking opportunities to uplift and support young people, underscoring the need to build a safe and welcoming community that everyone, especially our youth can enjoy.

Mr. Gene Strickland, Superintendent of Hobbs Municipal Schools, stated Hobbs leads the way when it comes to public spaces, and our schools are a natural extension of that commitment. He noted the community regularly uses these spaces in the afternoons and evenings, and emphasized that such efforts enhance the quality of life for our young people and their families.

There being no further discussion, Commissioner Fields moved to approve Resolution No. 7677 as presented. Commissioner Gerth seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. A copy of the resolution and supporting documentation are attached.

Resolution No. 7678 - Memorandum of Understanding (MOU) between Hobbs Municipal Schools, Hobbs Police Department and Lea County Sheriff's Office

Mr. August Fons, Police Chief, stated this Memorandum of Understanding (MOU) represents a collaborative agreement between Hobbs Municipal Schools, the Hobbs Police Department, and the Lea County Sheriff's Office. He stated the MOU begins by clearly defining the role of School Resource Officers (SROs) within the school system as individuals who promote a safe learning environment through law enforcement, mentoring, education, relationship building, and close collaboration with school staff. Chief Fons emphasized this is a continuation of a strong partnership with Hobbs Municipal Schools. The agreement outlines key elements such as the assignment, responsibilities, and chain of command for SROs. Most importantly, it clarifies the distinction between law enforcement's responsibility to address criminal matters and the school district's role in handling disciplinary issues within the school setting.

In response to Commissioner Fields' inquiry regarding the absence of representation from the Lea County Sheriff's Office, Chief Fons stated while he could not say with absolute certainty, it is his understanding the matter is expected to be presented to the Lea County Commission at its next meeting.

Mr. Gene Strickland, Superintendent of Hobbs Municipal Schools, stated that discussions around this issue have been ongoing for several months. He emphasized the importance of presenting the MOU to all three governing bodies within a short timeframe to demonstrate the unified and committed effort behind it. Mr. Strickland noted that following tonight's approval and the Hobbs Board of Education meeting scheduled for tomorrow evening, the Sheriff's Office could potentially consider the MOU as early as Wednesday night.

In response to Commissioner Penick's inquiry regarding the number of officers that would be available, Mr. Strickland explained the intent was not to delve into the tactical aspects of school security. Instead, the focus is on maintaining a consistent presence and demonstrating a continued commitment from all parties to ensure that uniformed officers are regularly present on school grounds.

In response to Commissioner Fields' inquiry, Mr. Strickland confirmed that the agreement ensures a uniformed presence on all Hobbs Municipal School campuses.

Additionally, in response to Commissioner Fields' further inquiry, Mr. Strickland noted there are approximately 3,200 individuals on campus each day.

Commissioner Fields stated having such a large number of individuals on school campuses is a serious concern. He stressed that safety is a top priority and the number of officers available to be on site will play a key role in maintaining a secure environment.

In response to Mayor Pro Tem Calderón's inquiry, Chief Fons stated that it has been possibly 25 to 30 years that SROs have been in place. He emphasized the presence of SROs has always been considered a critical component of community safety and support.

In response to Commissioner Penick's inquiry, Chief Fons stated while there will be designated peak hours, officers will be present during both the morning and afternoon to ensure coverage throughout the school day.

Mr. Strickland added while a full-time uniformed presence on every campus would be ideal, it is not always feasible. From the school district's perspective, the goal is for the presence of uniformed officers to be rooted in relationship-building. He emphasized when young people form meaningful relationships with adults, especially those in uniform, they are less likely to engage in delinquent behavior, both as juveniles and later as adults. He noted the benefits of having a uniformed presence on campus extend well beyond safety and security. Mr. Strickland also highlighted this has been a collaborative effort. While the Sheriff's Office is only now being brought into the conversation, he explained that the groundwork for that involvement has already been laid, and the focus is now on moving forward productively. He expressed pride in the collaboration demonstrated by all parties involved.

Mayor Pro Tem Calderón expressed while he never wants to see any harm come to children, he feels, at times, safer in the detention center than in the schools, a reflection of his deep concern for school safety. He emphasized his appreciation that this agreement is moving forward, noting it has been a long time coming. He added the collaboration among agencies is a positive and much-needed step in the right direction.

There being no further discussion, Commissioner Penick moved to approve Resolution No. 7678 as presented. Commissioner Gerth seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. A copy of the resolution and supporting documentation are attached.

FINAL ADOPTION: Ordinance No. 1164 - Authorizing the Sale and Conveyance of Certain City-Owned Land Located within the Hobbs Industrial Airpark to Stag Amazon, LLC

Mr. Todd Randall, Assistant City Manager, stated the City of Hobbs is the owner of a 6.83-acre property located adjacent to Industrial Street. He explained that the building on the property was formerly known as the Levi-Strauss building. In 2006, the structure itself was sold to Lea Regional Hospital, which, at that time, exercised its option to purchase the land. The estimated value of the land at that time was $147,000. Last year, the City executed a grant lease amendment allowing Covenant Health Hobbs to sublease the property to Stag Amazon, LLC. At that time, the

appraised value of the fee simple interest in the land was approximately $446,000. A more recent appraisal has placed the value at $565,000.

Mr. Randall stated City staff negotiated a sale price of $730,000 for the land. The ordinance under consideration represents an assignment from Covenant Health Hobbs to Stag Amazon, LLC, who now intends to execute their option to purchase the property. A ground lease remains in place as a contingency should the sale not be completed. This ordinance requires a 45-day period, if approved by the Commission, before the transaction can officially close.

Proper publication having been made, and there being no discussion or public comment from the audience, Commissioner Gerth moved to approve Ordinance No. 1164 as presented. Commissioner Mills seconded the motion and roll call vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried. Copies of the ordinance and supporting documentation are attached.

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

Mr. Gomez reminded the public that the Water Conservation Program officially concludes today, September 15, 2025. He expressed his sincere gratitude to all who participated in preserving the community's most precious resource; water. He also extended appreciation to the Utilities Department for their foresight and leadership in implementing the program. A final report detailing the total gallons of water saved is forthcoming, as data continues to be compiled.

Mr. Gomez also thanked the community for their active participation in the ongoing Community Clean-Up events. He announced the final clean-up will be held on Saturday, September 20, 2025, beginning at 9:00 a.m. at the Water Tower on Adobe Drive, near Harbor Freight at 1822 North Turner Street. He offered special thanks to Ms. Evelyn Nunez, Event Coordinator, for her dedication and leadership in organizing these events.

In addition, Mr. Gomez reminded the public of the upcoming Pet Adoption Event scheduled for Wednesday, September 17, 2025, from 4:00 p.m. to 7:00 p.m. He noted that all adoption fees will be waived during the event, which is being held in memory of Ms. Rebecca Wilmeth, an Animal Protection Officer who tragically lost her life last year. Mr. Gomez thanked City staff for honoring Ms. Wilmeth and her family, and acknowledged the City's ongoing and meaningful partnership with the Lea County Humane Society. He encouraged the public to attend, volunteer, and take part in this valuable community effort.

Finally, Mr. Gomez shared that both Mayor Pro Tem Calderón and Mayor Cobb were recently recognized by the Hobbs Hispano Chamber of Commerce. Mayor Cobb was honored for his many years of dedicated service and contributions to the Chamber. Mayor Pro Tem Calderón received the inaugural "Heart" Award in recognition of his

longstanding commitment to the community. Mr. Gomez emphasized that Mayor Pro Tem Calderón is the first to receive this award and it is well deserved. Having worked closely with him for many years, Mr. Gomez expressed his deep appreciation for Mayor Pro Tem Calderón's compassion, leadership, and unwavering service to the City of Hobbs.

Commissioner Gerth stated a clean-up event took place this past Saturday at Humble Park, and he reported a strong turnout with over 53 volunteers participating. He noted the event was a great success resulting in a full trailer of collected debris and waste.

Commissioner Fields thanked the Engineering Department for their swift action in getting the project on Midwest underway. He also expressed his appreciation to the Code Enforcement team for their prompt response to calls in the area.

Commissioner Penick commented on the arrival of the new street sweeper truck, noting it will be a valuable asset in keeping the City's streets clean. He also shared that two additional trucks have recently been approved and will be arriving soon.

Commissioner Penick expressed his appreciation for the collaborative efforts surrounding the School Resource Officers on school campuses. He went on to highlight the success of the recent community clean-up event, describing it as a great turnout. He encouraged citizens to continue participating in efforts that help keep the community clean. Additionally, he promoted the upcoming pet adoption event and urged residents to spread the word by sharing information about such events on social media. Commissioner Penick concluded by commending City staff for their hard work in organizing these events and ensuring everything runs smoothly.

Mayor Pro Tem Calderón expressed his gratitude to Chief Fons and Mr. Strickland, once again thanking them for their continued dedication to the schools and their efforts in ensuring the safety of the children in Hobbs.

ADJOURNMENT

There being no further business or comments, Mayor Pro Tem Calderón moved that the meeting adjourn. Commissioner Gerth seconded the motion and the vote was recorded as follows: Mills yes, Fields yes, Penick yes, Gerth yes, Calderón yes. The motion carried and the meeting adjourned at 6:55 p.m.

_____
SAM COBB, Mayor

ATTEST:

_____
JAN FLETCHER, City Clerk

Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, the City of Hobbs Fire Department is committed to ensuring the safety and security of all those living in and visiting the City of Hobbs; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, roughly three out of five fire deaths happen in homes with either no smoke alarms or with no working smoke alarms; and

WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, City of Hobbs first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim October 5 - 11, 2025, as

"Fire Prevention Week"

This year's Fire Prevention Week theme is "Charge into Fire Safety: Lithium-Ion Batteries in Your Home". This theme focuses on educating the public on how to safely buy, use, charge, and dispose of lithium-ion batteries, which are used in many electronic devices but can pose fire risks if not handled correctly.

IN WITNESS THEREOF, I have hereunto set my hand this 6th day of October 2025, and cause the seal of the City of Hobbs to be affixed hereto.

SAM D. COBB, MAYOR

ATTEST:

JAN FLETCHER, CITY CLERK

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: Resolution No. 7679 - Authorizing the Deletion of One (1) Submersible Pump from the City's Public Inventory

DEPT OF ORIGIN: Utilities
DATE SUBMITTED: 9/9/2025
SUBMITTED BY: Bill Griffin, WWRF Superintendent

Summary:

The City of Hobbs seeks to dispose of a submersible internal-recycle pump that is too costly to repair, and was replaced with a spare pump. The City desires to delete from its public inventory and dispose of the item of personal property set forth on Exhibit "A" attached hereto and incorporated herein by reference, and the governing body hereby makes the official, specific finding that this item of property on the attached deletion sheet: (1) is obsolete and of no value; (2) is worn-out, unusable, or obsolete to the extent that the item is no longer economical or safe for continued use by the City of Hobbs: and (3) that this item should be deleted from the City's public inventory.

Fiscal Impact:

Asset will be disposed of and removed from the City of Hobbs fixed asset listing.

Attachments:

Resolution - Fixed Asset Disposal
FLYGT SUB PUMP DELETE SN 9620022 (Exhibit A)
Capital Asset Worksheet Asset # 2867

Recommendation:

Motion to approve the resolution.

Approved By:

Tim Woomer, Utilities Director	09/10/2025
Toby Spears, Finance Director	09/25/2025
Medjine Desrosiers-Douyon, Deputy City Attorney	09/29/2025
Manny Gomez, City Manager	09/29/2025

CITY OF HOBBS

RESOLUTION NO. _____

A RESOLUTION RELATING TO THE DISPOSITION OF OBSOLETE, WORN-OUT AND UNUSABLE PERSONAL PROPERTY

BE IT RESOLVED by the governing body of the City of Hobbs, New Mexico, that:

A. The City desires to delete from its public inventory and dispose of the items of personal property set forth on Exhibit "A" (disposal/removal items), attached hereto and incorporated herein by reference, and the governing body hereby makes the official, specific finding that each item of property on the attached list:

(1) is obsolete and of no value; and

(2) is worn-out, unusable, or obsolete to the extent that the item is no longer economical or safe for continued use by the City of Hobbs; and

(3) that all such times should be deleted from the City's public inventory and destroyed.

B. A copy of this official finding and proposed disposition of the property sought to be disposed of shall be made a permanent part of the official minutes of the governing body.

PASSED, ADOPTED AND APPROVED this 6th day of October, 2025.

_____
SAM D. COBB, Mayor

ATTEST:

_____
JAN FLETCHER, City Clerk

Exhibit A

CITY OF HOBBS
INVENTORY TRANSFER/DELETION FORM

Section 1

TODAYS' DATE: 09/9/2025 DATE OF TRANSACTION: 9/09/2025

SERIAL/VIN #: 9620022 ASSET CONTROL #: 2867 (old 900788)
(Inventory Tag #)

MAKE/MODEL: FLYGT/3201.091-6084

ITEM DESCRIPTION: 30 HP SUBMERSIBLE PUMP

Section 2 TRANSFER

FROM:

DEPT. NAME: _____

DEPT. ACCOUNT #: _____

CURRENT LOCATION: _____

TRANSFER AMOUNT: $ _____
(Original Purchase Price)

* _____
DEPARTMENT APPROVAL DATE

TO:

DEPT. NAME: _____

DEPT. ACCOUNT #: _____

CURRENT LOCATION: _____

TRANSFER AMOUNT: $ _____
(Original Purchase Price)

* _____
DEPARTMENT APPROVAL DATE

Section 3 DELETION

DELETION AMOUNT: $ 34,023.27
(Original Purchase Price)

REASON FOR DELETION: OBSOLETE AND BEYOND REPAIR. RECYCLED FOR METAL SCRAP DUE TO CONTACT WITH SEWER SLUDGE.

Tim Wooner 09-09-2025
DEPARTMENT APPROVAL SIGNATURE DATE

PLEASE COMPLETE SECTION 1 AND SECTION 2 FOR TRANSFERS

PLEASE COMPLETE SECTION 1 AND SECTION 3 FOR DELETIONS

***PLEASE NOTE THAT A SIGNATURE IS NEEDED FROM BOTH DEPARTMENTS IN A TRANSFER**

~~PLEASE COMPLETE THIS FORM CAREFULLY AND IN ITS ENTIRETY WITH THE INFORMATION REQUESTED~~

REVISED 07/17

CITY OF HOBBS

CAPITAL ASSET WORKSHEET

ASSET # 2867			MASTER ASSET			DESCRIPTION	SUBMERSIBLE		
CLASS	EQ	EQUIPMENT	FUND SOURCE						
SUBCL	689	UTILITIES - OTH	ACQUIS METH	PU	PURCHASED	MAINT CONT	N	INSURED	N
COMMODITY						VENDOR DESC	Vendor Name Mi	CARRIER	
DEPT	4062	WASTEWATER PLAN	ACQUIS DATE		05/16/1996	TYPE	P	INSURED VAL	0.00
LOC CODE	4062	WASTEWATER PLAN	ACQUIS COST		41,178.90	EXPIRE DATE		EXPIRE DATE	
LOC MEMO	WWTP IMPROVE		ACRES		0.000	ANNUAL COST	0.00	POLICY CST	0.00
ROOM			QTY	1		MEMO		MEMO	
STORAGE LOC	WASTEWATER PLANT		UNIT PRICE		41,178.90				
			PURCH MEMO						
STATUS	R	RETIRED							
CONDITION			SOY BOOK		100.00	DEPRECIATE	Y		
CUSTODIAN	FIXED ASSET CUSTODIAN		CURRENT BOOK		0.00	DEPREC PRIN	0.00		
TITLEHOLDER			EST SALVAGE		100.00	FIRST YR/PR	1996/11	LAST YR/PR	2011/10
			REPL COST		41,178.90	EST LIFE	15		
TAG #	900788		LAST INVENT			PERIODS TAKEN	180		
SERIAL #			IMPROVE MEMO			ACCUM DEPREC	0.00		
MANUFACTURER									
MODEL			RETIRE DATE		12/13/2014				
MODEL YEAR	1996		DISP CODE	AU	AUCTIONED				
LICENSE #	OLD#: 900788		DISP PRICE		100.00				
			SALE PRICE		0.00				

VEND #	PO #	DOCUMENT #	INVOICE #	INV DATE	INV AMT

GL Accounts

TYPE	ORG	OBJ	PROJ	PERCENT
Asset	920	16012		100.00
Contra	920	16015		100.00
Depreciation Expense	920	48000		100.00
Accumulated Depreciation	920	16112		100.00

PO Accounts

ORG	OBJ	PROJ	AMOUNT

CAPITAL ASSET WORKSHEET

** END OF REPORT - Generated by TOBY SPEARS **

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: Resolution No. 7680 - Authorizing the Deletion of Three (3) Copiers from the City's Public Inventory

DEPT OF ORIGIN: Information Technology
DATE SUBMITTED: 9/12/2025
SUBMITTED BY: Christa Belyeu, Information Technology Director

Summary:

The IT Department is requesting to delete from its public inventory and dispose of three (3) copiers, one (1) located at HPD Records, one (1) located at Hobbs Express and one (1) located at the CORE. These copiers have reached end of life and will be destroyed and deleted from fixed assets. Audie's will pick up and destroy all three (3) units.

Fiscal Impact:

- Ricoh MPC4504EX - SN C738M142153- Purchased 3/20/2018 - Purchase price $8.885.36
  - Accumulated Depreciation $8.885.36 - Book Value $0
- Ricoh MP-3554 - SN G165RC30041 - Purchased 03/21/2016 - Purchase price $7,800.00
  - Accumulated Depreciation $7,800.00 - Book Value $0
- Ricoh MPC4504EX - SN C738M440238 - Purchased 05/03/2018 - Purchase price $8,885.36
  - Accumulated Depreciation $8,885.36 - Book Value $0

Attachments:

Resolution - removal of Copiers 10062025
Records Copier 7278
HobbsExpress Copier 6960
CORE Copier 7279

Recommendation:

Motion to approve the resolution.

Approved By:

Christa Belyeu, Information Technology Director	09/12/2025
Toby Spears, Finance Director	09/25/2025
Medjine Desrosiers-Douyon, Deputy City Attorney	09/25/2025
Manny Gomez, City Manager	09/26/2025

CITY OF HOBBS

RESOLUTION NO. **7680**

A RESOLUTION RELATING TO THE DELETION AND REMOVAL OF THREE COPIERS FROM THE CITY'S PUBLIC INVENTORY

WHEREAS, the City of Hobbs desires to delete from its public inventory and dispose of three (3) Copiers, Ricoh MPC4504EX, Serial Number C738M142153; Ricoh MP-3354, Serial Number G165RC30041; Ricoh MPC4504EX, Serial Number C738M440238, currently on the City of Hobbs Information Technology Department inventory; and

WHEREAS, the Copiers are no longer functional and will be picked up and destroyed by Audie's Copiers; and

WHEREAS, the value of the three (3) Copiers total $25,570.72 - the Ricoh MP-3354, purchased on March 21, 2016, was $7,800.00, with current accumulated depreciation of $7,800.00 making the book value $0, the two (2) Ricoh MPC4504EX, one purchased on March 20, 2018, and one purchased on May 3, 2018 were $17,770.72 ($8,885.36 each), with current accumulated depreciation of $17,770.72 ($8,885.36 each) making the book value $0; and

WHEREAS, the City of Hobbs Information Technology Department will perform data security, will remove and physically destroy all hard drives.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Hobbs, New Mexico, that:

A. The City desires to delete from its public inventory and dispose of the items of personal property, attached hereto and incorporated herein by reference and the governing body hereby makes the official, specific finding that each item of property on the attached list:

1. is obsolete; and

2. is worn-out, unusable, or obsolete to the extent that the item is no longer economical or safe for continued use by the City of Hobbs; and

3. that all such items should be deleted from the City's public inventory and destroyed.

B. A copy of this official finding and proposed disposition of the property sought to be disposed of shall be made a permanent part of the official minutes of the governing body.

PASSED, ADOPTED, AND APPROVED this 6th day of October, 2025.

_____
SAM D. COBB, Mayor

ATTEST:

_____
JAN FLETCHER, City Clerk

CITY OF HOBBS

CAPITAL ASSET WORKSHEET

ASSET # 7278			MASTER ASSET			DESCRIPTION	RICOH COPIER @ PD RECORDS		
CLASS	EQ	EQUIPMENT	FUND SOURCE						
SUBCL	607	PRINTERS AND CO	ACQUIS METH	PU	PURCHASED	MAINT CONT	Y	INSURED	N
COMMODITY						VENDOR DESC	Vendor Name Mi	CARRIER	
DEPT	0204	POLICE SUPPORT	ACQUIS DATE		03/29/2018	TYPE	G	INSURED VAL	0.00
LOC CODE	0204	POLICE SUPPORT	ACQUIS COST		8,885.36	EXPIRE DATE		EXPIRE DATE	
LOC MEMO			ACRES		0.000	ANNUAL COST	0.00	POLICY CST	0.00
ROOM			QTY	1		MEMO		MEMO	
STORAGE LOC			UNIT PRICE		8,885.36				
			PURCH MEMO						
STATUS	A	ACTIVE							
CONDITION	GD	GOOD	SOY BOOK		0.00	DEPRECIATE	Y		
CUSTODIAN	FIXED ASSET CUSTODIAN		CURRENT BOOK		0.00	DEPREC PRIN	8,885.36		
TITLEHOLDER			EST SALVAGE		0.00	FIRST YR/PR	2018/09	LAST YR/PR	2023/08
			REPL COST		8,885.36	EST LIFE	5		
TAG #			LAST INVENT			PERIODS TAKEN	60		
SERIAL #	C738M142153		IMPROVE MEMO			ACCUM DEPREC	8,885.36		
MANUFACTURER									
MODEL	MPC4504EX		RETIRE DATE						
MODEL YEAR			DISP CODE						
LICENSE #			DISP PRICE		0.00				
			SALE PRICE		0.00				

VEND #	PO #	DOCUMENT #	INVOICE #	INV DATE	INV AMT

GL Accounts

TYPE	ORG	OBJ	PROJ	PERCENT
Asset	910	16012		100.00
Contra	910	16015		100.00
Depreciation Expense	910	48000		100.00
Accumulated Depreciation	910	16112		100.00

PO Accounts

ORG	OBJ	PROJ	AMOUNT

CAPITAL ASSET WORKSHEET

** END OF REPORT - Generated by CHRISTA BELYEU **

CITY OF HOBBS

CAPITAL ASSET WORKSHEET

ASSET # 6960			MASTER ASSET		DESCRIPTION	RICOH MP-3554 COPIER -HOBBS EXPRESS	
CLASS	EQ	EQUIPMENT	FUND SOURCE				
SUBCL	607	PRINTERS AND CO	ACQUIS METH		MAINT CONT	Y	INSURED N
COMMODITY					VENDOR DESC	Vendor Name Mi	CARRIER
DEPT	0145	COMPUTER OPERAT	ACQUIS DATE	03/21/2016	TYPE	G	INSURED VAL 0.00
LOC CODE	4027	PUBLIC TRANSPOR	ACQUIS COST	7,800.00	EXPIRE DATE		EXPIRE DATE
LOC MEMO			ACRES		ANNUAL COST	0.00	POLICY CST 0.00
ROOM	HALL		QTY	1	MEMO		MEMO
STORAGE LOC			UNIT PRICE	7,800.00			
			PURCH MEMO				
STATUS	A	ACTIVE					
CONDITION			SOY BOOK	0.00	DEPRECIATE	Y	
CUSTODIAN	FIXED ASSET CUSTODIAN		CURRENT BOOK	0.00	DEPREC PRIN	7,800.00	
TITLEHOLDER			EST SALVAGE	0.00	FIRST YR/PR	2016/09	LAST YR/PR 2021/08
			REPL COST	7,800.00	EST LIFE	5	
TAG #			LAST INVENT	09/20/2016	PERIODS TAKEN	60	
SERIAL #	G165RC30041		IMPROVE MEMO		ACCUM DEPREC	7,800.00	
MANUFACTURER	RICOH NOT FOUND						
MODEL	MP-3554 SR3140		RETIRE DATE				
MODEL YEAR			DISP CODE				
LICENSE #			DISP PRICE	0.00			
			SALE PRICE	0.00			

VEND #	PO #	DOCUMENT #	INVOICE #	INV DATE	INV AMT
10221	21603221	156645	9500	02/29/2016	7,800.00

GL Accounts

TYPE	ORG	OBJ	PROJ	PERCENT
Asset	910	16012		100.00
Contra	910	16015		100.00
Depreciation Expense	910	48000		100.00
Accumulated Depreciation	910	16112		100.00

PO Accounts

ORG	OBJ	PROJ	AMOUNT

CAPITAL ASSET WORKSHEET

** END OF REPORT - Generated by CHRISTA BELYEU **

CITY OF HOBBS

CAPITAL ASSET WORKSHEET

ASSET # 7279		MASTER ASSET		DESCRIPTION	RICOH COPIER @ CORE		
CLASS	EQ EQUIPMENT	FUND SOURCE					
SUBCL	607 PRINTERS AND CO	ACQUIS METH	PU PURCHASED	MAINT CONT	Y	INSURED	N
COMMODITY				VENDOR DESC	Vendor Name Mi	CARRIER	
DEPT	4016 CORE	ACQUIS DATE	06/21/2018	TYPE	G	INSURED VAL	0.00
LOC CODE	4016 RECREATION	ACQUIS COST	8,885.36	EXPIRE DATE		EXPIRE DATE	
LOC MEMO		ACRES	0.000	ANNUAL COST	0.00	POLICY CST	0.00
ROOM		QTY	1	MEMO		MEMO	
STORAGE LOC		UNIT PRICE	8,885.36				
		PURCH MEMO					
STATUS	A ACTIVE						
CONDITION	GD GOOD	SOY BOOK	0.00	DEPRECIATE	Y		
CUSTODIAN	FIXED ASSET CUSTODIAN	CURRENT BOOK	0.00	DEPREC PRIN	8,885.36		
TITLEHOLDER		EST SALVAGE	0.00	FIRST YR/PR	2018/12	LAST YR/PR	2023/11
		REPL COST	8,885.36	EST LIFE	5		
TAG #		LAST INVENT		PERIODS TAKEN	60		
SERIAL #	C738M440238	IMPROVE MEMO		ACCUM DEPREC	8,885.36		
MANUFACTURER							
MODEL	MPC4504EX	RETIRE DATE					
MODEL YEAR		DISP CODE					
LICENSE #		DISP PRICE	0.00				
		SALE PRICE	0.00				

VEND #	PO #	DOCUMENT #	INVOICE #	INV DATE	INV AMT

GL Accounts

TYPE	ORG	OBJ	PROJ	PERCENT
Asset	910	16012		100.00
Contra	910	16015		100.00
Depreciation Expense	910	48000		100.00
Accumulated Depreciation	910	16112		100.00

PO Accounts

ORG	OBJ	PROJ	AMOUNT

CAPITAL ASSET WORKSHEET

** END OF REPORT - Generated by CHRISTA BELYEU **

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: Resolution No. 7681 - Approving a Right-of-Way Occupation License Agreement on Public Right-of-Way Located on Alston St. and Fowler St. with the Palmer Drug Abuse Program

DEPT OF ORIGIN: Engineering
DATE SUBMITTED: 9/25/2025
SUBMITTED BY: Anthony Henry, City Engineer

Summary:

The City of Hobbs has received a request from the Palmer Drug Abuse Program (PDAP), property owner of 500 N. Dalmont, for approval of a Right-of-Way (ROW) Occupancy License to allow a fence encroachment along Alston and Fowler Streets. Due to the oversized 80-foot ROW, the proposed fence would extend into the public ROW.

City staff recommended approval of the license subject to conditions intended to preserve pedestrian safety and corridor consistency, including: (1) prohibition of vehicle gates along the sidewalk frontage; (2) construction of a widened 7-foot sidewalk to reduce the tunnel effect and provide a buffer from traffic; and (3) flexibility for the additional two feet to be constructed with concrete, gravel, turf, or other material, with maintenance responsibility for the additional walkable space assigned to the property owner.

At its August 19, 2025 meeting, the Planning Board voted 4-0 to recommend approval of the request with staff's conditions and to recommend waiver of the annual encroachment fee.

Fiscal Impact:

No fiscal impact. The annual encroachment fee is recommended for waiver.

Attachments:

RESO - PDAP ROW License
500 N. Dalmont (PDAP) ROW Occ Lic

Recommendation:

Consideration and Approval of a Right-of-Way Occupancy License on Public Right-of-Way with the Palmer Drug Abuse Program as recommended by the City of Hobbs Planning Board.

Approved By:

Anthony Henry, City Engineer	09/25/2025
Toby Spears, Finance Director	09/25/2025

Medjine Desrosiers-Douyon, Deputy City Attorney	09/25/2025
Manny Gomez, City Manager	09/26/2025

CITY OF HOBBS

RESOLUTION NO. **7681**

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A ROW OCCUPANCY LICENSE AGREEMENT FOR A FENCE AT 500 N. DALMONT WITH THE PALMER DRUG ABUSE PROGRAM

WHEREAS, the City of Hobbs has received a request from the Palmer Drug Abuse Program, the property owner of 500 N. Dalmont, to allow a fence encroachment within the public Right-of-Way along Alston and Fowler Streets; and

WHEREAS, City staff recommended approval of a Right-of-Way Occupancy License subject to the following conditions:

- Prohibition of vehicle gates along the sidewalk frontage;
- Construction of a widened 7-foot sidewalk to improve pedestrian safety, reducing the tunnel effect, and provide an additional buffer from traffic; and
- Flexibility for the additional two feet of walkable space to be constructed with concrete, gravel, turf, or other material, with maintenance assigned to the property owner; and

WHEREAS, the City of Hobbs Planning Board reviewed the request at the August 19, 2025 regular Planning Board meeting and voted 4-0 to approve the encroachment request with City staff's recommendations and recommend waiver of the annual encroachment fee.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BOARD OF THE CITY OF HOBBS, NEW MEXICO, that

1. The City of Hobbs hereby approves the ROW License Agreement, which is attached hereto and made a part of this Agreement as Exhibit #1 and the Mayor is hereby authorized to execute the License Agreement.

2. The annual encroachment fee associated with the License is hereby waived.

3. The City officials and staff are directed to do any and all acts necessary to carry out the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 6th day of October, 2025.

_____
SAM D. COBB, Mayor

ATTEST:

_____.
JAN FLETCHER, CITY CLERK

License Number: 250520-002
Date of Issuance: September 29, 2025

ROW Occupation License

THIS ROW OCCUPATION LICENSE, hereinafter called "LICENSE", made and entered into this 6th day of October 2025 by and between the City of Hobbs, a municipal corporation in the State of New Mexico, ("Grantor") and to the Palmer Drug Abuse Program, ("Grantee").

RECITALS:

A. The City holds public trust tenancy of right of ways within the municipal boundaries.

B. The Grantee desires to place private facilities within the public's right of way(s) at location(s) described below:

LOCATION DESCRIPTION:

North portion of Alston St. from Dalmont St. to Fowler St. and the West portion of Fowler St. located between Alston St. then north to the midblock alleyway in Hobbs, New Mexico.

SEE ATTACHED LOCATION MAP

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the following is agreed:

TERMS AND CONDITIONS:

1. **License Term, Commencement Date And Possession.**

A. The term of this License shall be ten (10) years (hereinafter "License Term') commencing on the "Commencement Date," as hereinafter defined, and terminating on the tenth (10th) anniversary of the Commencement Date. The Commencement Date shall be the date of issuance. Occupation of the Licensed right of way(s) shall be on the Commencement Date.

B. The Licensee shall have the option to extend this License Agreement for one additional ten-year term (the "Extended Term") upon the same terms and conditions herein provided, except for the Rent, which shall be adjusted to reflect the latest Fee Schedule as adopted by the City of Hobbs Commission. The extended term shall be subject to and compliant with MC 12.01.

C. Licensee shall and may peaceably and quietly have, hold and enjoy the Licensed right of way for the term of the License, as long as Licensee is in compliance with the terms of this License and MC 12.01.

D. Prior to the placement of any private facilities within the Licensed right of way, Licensee shall apply for and obtain a ROW Work Permit as per MC 12.01.

E. The municipality shall locate the facilities as they are being emplaced and shall perform for the grantee (1) one-call services during the term of this license.

2. **ROW Occupancy License Payments.**

Beginning on the Commencement Date, the Licensee shall pay the City a fixed annual Occupancy Fee ("Fee"). The amount of the annual license payment shall be $0.00 per year for each year of the License Term. The annual Occupancy Fee and the onetime application fee has been waived by the City of Hobbs Commission via Resolution # ____ on October 6, 2025.

3. **Permitted Use.**

A. Licensee shall have use of the Licensed right of way granted in this License for the purpose of construction, maintenance, and continued presence of a fence.

B. Occupations other than those Licensed above are prohibited under this License.

4. **Licensee's Warranties**

Licensee shall maintain the Licensed right of way(s) and any facilities thereon in good condition. Reasonable maintenance and repairs to facilities on the Licensed right of way will be performed by Licensee at its sole cost.

5. **Insurance**

The Licensee shall maintain general public liability and casualty insurance insuring against such claims, and shall annually furnish to the City a certificate or other evidence and proof of maintenance of such comprehensive public liability insurance, including a copy of the policy, with the City named as an additional insured to the extent of Licensee's indemnity obligations hereunder, such insurance shall have minimum limits of at least the sum of One Million Dollars ($1,000,000) for general liability and casualty coverage arising out of a single occurrence. Such insurance shall be with a company licensed and authorized to do business in the State of New Mexico and to provide general liability and casualty coverage of the type required herein, which policy shall include fire and extended coverage liability. The Licensee shall provide the City with notice of any change thereof, and shall furnish to the City evidence of acquirement of a substitute therefore, and payment of the premium thereof.

6. **Emplacement And Ownership Of Facilities**

During the Term or Extended Term of this License, title to all improvements emplaced upon the Licensed right of way(s) by Licensee is and shall be vested in Licensee. Licensee's planned improvements on the Licensed right of way(s) are described above in Section 4, Permitted Use. All such improvements and equipment are not owned by the City. If at any time during the Term or the Extended Term of this License, all Fee's then due and owing has been fully paid and Licensee is not in default under this License, Licensee may remove these improvements from the Licensed right of way(s).

7. **Default And Cancellation**

The violation by Licensee of any of the terms, conditions or covenants of this License or the nonpayment by Licensee of any fee due under this License shall be considered a default and may cause this License to be cancelled and terminated at the City's sole discretion, following at least one hundred twenty (120) days advance written notice of such default from City to the Licensee; provided, however, said cancellation shall not be made if, within the one hundred twenty (120) day notice period, Licensee cures or remedies said default or otherwise complies with any demand contained within such written notice which cures or remedies the default.

8. **Notice**

All notices given pursuant to or in connection with this License shall be made in writing and posted by certified mail; postage prepaid, to the City of Hobbs, ATTN: City Engineer with an address of 200 E. Broadway St., Hobbs, New Mexico 88240, with a copy to the City Planner; and to the Licensee at Palmer Drug Abuse Program, with an address of 500 N. Dalmont St. Hobbs, New Mexico 88240 or to such other address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

9. **Attorney's Fees and Costs**

If either party is found by a court to have breached this License, the other party may recover reasonable attorney's fees and cost of litigation. Prior to the institution of any litigation, the parties have the contractual duty to in good faith attempt to resolve any controversy hereunder at the least possible expense.

10. **Counterparts**

This License may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on all of the parties.

11. **Compliance with Statutes**

The City states that it has complied with the requirements of New Mexico Statutes and the Hobbs Municipal Code and has authorization to License the right of way.

12. **Governing Laws**

This Agreement shall be governed by the laws of the State of New Mexico. Jurisdiction and venue relating to any litigation or dispute arising out of this Agreement shall be in the

District Court of Lea County, New Mexico, only. If any part of this contract shall be deemed in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts hereof shall remain valid and enforceable.

13. **Indemnification**

Licensee shall save and hold harmless, indemnify and defend the City of Hobbs, its elected officials, employees and agents, in their official and individual capacities, of and from any and all liabilities, claims, losses, or damages arising out of or alleged to arise out of or indirectly connected with the negligent operations of Licensee under this License, or arising out of the negligence of any agent, contractor or subcontractor of Licensee.

14. **Environmental**

A. Licensee shall release, defend, indemnify and hold harmless City from and against any and all Claims: (a) to the extent such Claims arise out of or relate to the negligence or willful misconduct of Licensee its employees, contractors, agents or invitees; and/or (b) arising from or related to Hazardous Materials or Hazardous Materials Contamination, including any release or threatened release of Hazardous Materials, the use, generation, handling, storage, management, treatment or disposal of Hazardous Materials, or compliance with any Environmental Laws related to Hazardous Materials, to the extent such Claims arise directly out of Licensee's occupancy or use of the Licensed right of way(s) and Licensee's use of Hazardous Materials in the ordinary course of Licensee's activities on the Licensed right of way(s) during the License Term; and/or (c) arising directly from Licensee's failure to comply with any Environmental Laws applicable to Licensee's use or occupancy of the Licensed right of way(s) during the License Term.

B. At the completion of the Term, Licensee, at its own cost, shall cause to be conducted a Phase I Environmental Assessment of the Licensed right of way(s), and as necessary, a Phase II environmental assessment of the Licensed right of way(s), and a copy of all written reports issued in connection with such assessments shall be given to the City within a reasonable time after finalization of said assessments.

C. If required by the Environmental Assessments, or any applicable laws and/or regulations, Licensee will, at its own expense, cleanup and/or remediate any and all contamination attributable to Licensee as defined by the environmental site assessments referenced above. Any required cleanup and/or remediation shall be done in accordance with the indemnity provisions contained within this agreement. Any cleanup and/or remediation will be conducted by Licensee to an industrial standard in accordance with all New Mexico Environment Department rules and regulations.

15. **Amendment**

This License shall not be altered, changed or amended except by written instrument executed by the City and Licensee.

16. **Waiver**

No waiver of any breach or default by Licensee of any of the terms, conditions or covenants of this License shall be held to be a waiver of any subsequent breach. No waiver shall be valid or binding unless the same is in Writing and signed by City.

17. **Termination**

This agreement shall be terminated on the termination date of the License Term or Extended Term, or by either party giving 120 day written notification. Grantor's termination of License shall entitle the Licensee to a refund of the pro-rata License fee, if any, paid within the period of the termination.

18. **Permits**

The use terms of this License for the Licensed right of way(s) have been written according to the needs of the Licensee. Licensee is responsible at its expense to apply for other City permits, including if necessary a City Building Permit, City Business Registration or ROW Work Permits. Licensee is also responsible at its expense to apply for other necessary permits from the State of New Mexico.

19. **Representations and Certifications Made As A Part Of This License**

A. The City represents and warrants to the Licensee that the following shall be true and correct, as of the date hereof and as of the date of commencement:

1) The City shall manage the public's right of ways as per MC 12.01 as may be amended from time to time.

2) There are no public improvements which are contemplated within the Licensed right of way(s) that have not been disclosed to the Licensee.

3) To the best knowledge of the City as of the date hereof, the following statement is made regarding the Licensed right of way(s):

a) There has been no release of any Hazardous Materials in, on or about the Licensed right of way(s). The City has not received notice from any governmental authority of the release or presence of any Hazardous Materials.

B. The Licensee represents and warrants to the City that the following shall be true and correct, as of the date hereof and as of the date of commencement:

1) The License Agreement is designed for the purpose of construction, maintenance, and continued presence of a fence.

20. **Entire Agreement**

This License represents the entire agreement and there are no other agreements or understandings oral or otherwise that are binding the parties concerning this License.

IN WITNESS WHEREOF, City and Licensee have executed this License as of the date first written above.

City of Hobbs

Sam D. Cobb, Mayor

Palmer Drug Abuse Program

By: Stewart Sroufe

Its:

(SEAL)

ATTEST:

Jan Fletcher, City Clerk

APPROVED AS TO FORM:

Medjine Desrosier-Douyon,
Deputy City Attorney

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: Resolution No. 7682 - Ratifying And Approving the Assignment and Assumption of a Ground Lease for Approximately 6.83 Acres Located at 5625 N. Lovington Highway, Hobbs Industrial Air Park, from Covenant Health Hobbs to Stag Amazon, LLC, and Authorizing the Mayor to Execute all Documents Necessary to Effectuate the Assignment.

DEPT OF ORIGIN: Planning
DATE SUBMITTED: 9/25/2025
SUBMITTED BY: Todd Randall, Assistant City Manager

Summary:

The City of Hobbs entered into a Ground Lease on December 4, 2006, with Lea Regional Hospital, LLC (later Covenant Health Hobbs), as amended in 2024 by Ordinance No. 1161. The Ground Lease covers approximately 6.83 acres at 5625 N. Lovington Highway, is effective through December 3, 2081, and includes an option to purchase at market value. Covenant Health Hobbs now seeks to assign its leasehold interest and purchase option to Stag Amazon, LLC, which currently operates the warehouse facility on the property.

The attached Resolution ratifies and approves the Assignment and Assumption of Ground Lease to Stag Amazon, LLC. This action does not create a new lease or alter any lease terms; it simply recognizes Stag as the successor tenant. Approval ensures the lease record is clean and enforceable, releases Covenant from obligations after the effective date, and confirms Stag as the lessee responsible for all future obligations under the Ground Lease.

Fiscal Impact:

No fiscal impact.

Attachments:

RESOLUTION NO - Ground Lease Assignment
ASSIGNMENT AND ASSUMPTION OF GROUND LEASE 9-25-25
Ord No. 1161 - First Amendment to Ground Lease OCR

Recommendation:

Motion to approve the resolution.

Approved By:

Todd Randall, Assistant City Manager	09/25/2025
Toby Spears, Finance Director	09/25/2025
Medjine Desrosiers-Douyon, Deputy City Attorney	09/25/2025
Manny Gomez, City Manager	09/26/2025

CITY OF HOBBS

RESOLUTION NO. **7682**

A RESOLUTION OF THE CITY OF HOBBS, NEW MEXICO, RATIFYING AND APPROVING THE ASSIGNMENT AND ASSUMPTION OF GROUND LEASE FOR APPROXIMATELY 6.83 ACRES LOCATED AT 5625 N. LOVINGTON HIGHWAY, HOBBS INDUSTRIAL AIRPARK, FROM COVENANT HEALTH HOBBS TO STAG AMAZON, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE THE ASSIGNMENT

WHEREAS, the City of Hobbs ("City") is the owner of certain real property consisting of approximately 6.83 acres located at 5625 N. Lovington Highway within the Hobbs Industrial Airpark (the "Premises"); and

WHEREAS, the City entered into a Ground Lease dated December 4, 2006, with Lea Regional Hospital, LLC (predecessor to Covenant Health Hobbs), as amended by the First Amendment to Ground Lease dated September 16, 2024 (collectively, the "Ground Lease"), which lease was duly authorized by Ordinance No. 957 (2006) and Ordinance No. 1161 (2024); and

WHEREAS, the Ground Lease remains in full force and effect until December 3, 2081, and provides the lessee with an option to purchase the Premises at market value; and

WHEREAS, Covenant Health Hobbs ("Assignor") desires to assign its entire leasehold interest, including the option to purchase, to Stag Amazon, LLC ("Assignee"), and Stag desires to assume the same; and

WHEREAS, the City's consent to assignment is required under the Ground Lease, and the City Commission finds that such consent is appropriate and in the best interests of the City; and

WHEREAS, this assignment does not create a new lease or dispose of municipal property, but merely recognizes the successor tenant under the existing Ground Lease previously authorized by ordinance.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Hobbs, New Mexico, that:

1. The City hereby consents to, ratifies, and approves the Assignment and Assumption of Ground Lease from Covenant Health Hobbs to Stag Amazon, LLC.

2. The Ground Lease, as amended, remains in full force and effect, with all rights and obligations thereunder binding upon Stag Amazon, LLC as successor lessee.

3. Covenant Health Hobbs shall be released from obligations arising after the effective date of the Assignment, but remains responsible for any prior defaults.

4. The Mayor is authorized to execute the Assignment and Assumption of Ground Lease and any other documents necessary to effectuate the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 6th day of October, 2025.

_____
SAM D. COBB, Mayor

ATTEST:

_____
JAN FLETCHER, City Clerk

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

This Assignment and Assumption of Ground Lease ("Assignment") is made and entered into as of the ___ day of _____, 2025, by and among COVENANT HEALTH HOBBS, a Texas nonprofit corporation ("Assignor"), STAG AMAZON, LLC, a Texas limited liability company ("Assignee"), and the CITY OF HOBBS, a New Mexico municipal corporation ("Landlord").

RECITALS

A. Landlord and Lea Regional Hospital, LLC (predecessor to Assignor) entered into that certain Ground Lease dated December 4, 2006, as amended by the First Amendment to Ground Lease dated September 16, 2024 (collectively, the "Ground Lease"), for approximately 6.83 acres located at 5625 N. Lovington Highway, Hobbs, New Mexico (the "Premises").

B. The Ground Lease was duly authorized by Ordinance No. 957 (2006) and amended by Ordinance No. 1161 (2024), and remains in full force and effect through December 3, 2081.

C. Assignor desires to assign to Assignee all of its right, title, and interest in and to the Ground Lease, and Assignee desires to assume the same, subject to Landlord's consent.

D. Landlord consents to this Assignment and confirms that the Ground Lease remains in full force and effect.

AGREEMENT

1. **Assignment:** Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's right, title, and interest in and to the Ground Lease and the Premises, including without limitation the option to purchase contained in the Ground Lease.

2. **Assumption:** Assignee hereby accepts such assignment and assumes all obligations, covenants, and liabilities of Assignor under the Ground Lease arising from and after the Effective Date of this Assignment.

3. **Release of Assignor:** Landlord acknowledges that upon execution of this Assignment, Assignor shall be released from all obligations under the Ground Lease accruing from and after the Effective Date, but remains responsible for any defaults existing prior to such date.

4. **Consent of Landlord:** Landlord hereby consents to this Assignment and confirms that:

5. The Ground Lease is valid and in full force and effect;

6. There are no known defaults by Assignor as of the Effective Date;

7. The option to purchase at market value is assignable and is hereby assigned to Assignee.

8. **Ratification:** Except as expressly provided herein, all terms and conditions of the Ground Lease remain unchanged and in full force and effect, and are hereby ratified by Landlord and Assignee.

9. **Binding Effect:** This Assignment shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

10. **Governing Law:** This Assignment shall be governed by and construed in accordance with the laws of the State of New Mexico, with venue in Lea County District Court.

ASSIGNOR:
COVENANT HEALTH HOBBS,
a Texas nonprofit corporation

By: _____

Name: _____

Title: _____

ASSIGNEE:
STAG AMAZON, LLC,
a Texas limited liability company

By: _____

Name: _____

Title: _____

LANDLORD:
CITY OF HOBBS,
a New Mexico municipal corporation

By: _____
Sam D. Cobb, Mayor

ATTEST:

_____
Jan Fletcher, City Clerk

APPROVED AS TO FORM:

_____
Medjine Desrosiers-Douyon, Deputy City Attorney

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CITY OF HOBBS

ORDINANCE NO. **1161**

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO GROUND LEASE AGREEMENT WITH COVENANT HOSPITAL HOBBS AT 5625 N LOVINGTON HWY.

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a 6.83 acre tract of land situated in the Hobbs Industrial Air Park;

WHEREAS, the City of Hobbs is currently leasing the property to Covenant Hospital Hobbs;

WHEREAS, Covenant Hospital Hobbs requests to sublease the Property to Amanzon.com Services, LLC; and

WHEREAS, unless a referendum election is held, the Ordinance authorizing the First Ground Lease Amendment of this property shall be effective forty-five (45) days after its adoption.

WHEREAS, inclusive in this Ordinance are the following:

1. TERM OF LEASE. No change to the term of lease, which began December 4, 2006 and the expiration date of such term is December 3, 2081.

2. ESTIMATED VALUE OF PROPERTY. $446,272.00

3. LEASE PAYMENTS. Covenant Hospital Hobbs will pay annual rental to the City of Hobbs in the amount of $1,000 for the first year, while building improvements are made, $44,627.22 for the second year, and thereafter the payment shall increase 3% annually and be paid on December 15th of each year.

4. NAME OF LESSEE. Covenant Hospital Hobbs

5. NAME OF SUBLESSEE. Amazon.com Service, LLC

6. PURPOSE OF LEASE. The Lessee will sublease the entire Leasehold Property to Amazon.com Services, LLC for an Amazon warehouse.

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NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is authorized and directed to execute on behalf of the City of Hobbs, a First Amendment to Ground Lease Agreement with Covenant Hospital Hobbs, for proposed Amazon Warehouse at 5625 N Lovington Hwy, Hobbs, New Mexico 88240. A copy of said First Amendment to Ground Lease Agreement is attached hereto and incorporated herein by reference.

PASSED, ADOPTED AND APPROVED this 16th day of September, 2024.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

CITY OF HOBBS SEAL HOBBS, NEW MEXICO

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FIRST AMENDMENT TO GROUND LEASE

THIS FIRST AMENDMENT TO GROUND LEASE (this "**Amendment**") is made as of _____, 2024 ("**Effective Date**") between CITY OF HOBBS, a New Mexico municipal corporation ("**Ground Lessor**") and COVENANT HOSPITAL HOBBS, a Texas nonprofit corporation ("**Ground Lessee**").

RECITALS

A. Ground Lessor and Ground Lessee (as successor-in-interest to Lea Regional Hospital, L.L.C.) are parties to that certain Ground Lease dated December 4, 2006 (the "**Ground Lease**"), respecting the Leasehold Property located at 5625 N. Industrial Drive, Hobbs, NM 88240, as more particularly described in the Ground Lease. A true and correct copy of the Ground Lease is attached to this Amendment as **Exhibit A**.

B. Ground Lessee desires to lease the entire Leasehold Property to Amazon.com Services LLC ("**Tenant**") pursuant to that certain Lease Agreement dated _____, 2024 ("**Amazon Lease**").

C. In connection with the Amazon Lease, Ground Lessor and Ground Lessee desire to amend the Ground Lease to, among other things, (i) approve the proposed permitted use of Tenant, and (ii) revise the rent paid by Ground Lessee to Ground Lessor pursuant to the Ground Lease.

AMENDMENT

1. Recitals; Defined Terms. The recitals above are incorporated as if set forth below. Capitalized terms used herein but not otherwise defined shall have the definitions given in the Ground Lease.

2. Permitted Use. Tenant intends to use the Leasehold Property for an Amazon warehouse as more particularly described in the Amazon Lease. Notwithstanding anything to the contrary in the Ground Lease, including, without limitation, Section 4 of the Ground Lease, the Permitted Uses (as defined in the Amazon Lease) are hereby approved by the Ground Lessor.

3. Amendments.

a) Section 1.B of the Ground Lease is deleted in its entirety and replaced with the following:

B. [Intentionally Deleted]

b) Section 2(A), (B), and (C) of the Ground Lease are hereby deleted in their entirety and replaced with the following:

*A. Commencing on December 15, 2024, Ground Lessee shall pay Ground Lessor the annual rent as set forth below (the "**Rent**"):*

Year 1 (December 15, 2024)	*$1,000.00 per year*
Year 2 (December 15, 2025)	*$44,627.22 per year*
Year 3 (December 15, 2026)	*$45,519.76 per year*

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B. *Thereafter, starting on December 15, 2027 and continuing regularly each year thereafter without notice from the City throughout the Lease Term, the Rent shall increase 3% annually and be paid on December 15 of each year.*

C. *[Intentionally Deleted.]*

4. Ground Lessor Consent. In accordance with Section 9 of the Ground Lease, Ground Lessor hereby consents to the lease of the Leasehold Property by Ground Lessee to Tenant pursuant to the terms and conditions of the Amazon Lease.

5. Notice. Section 15 of the Ground Lease is amended to include the following updated notice address for Ground Lessee:

Ground Lessee:

Covenant Health
Attn: Real Estate
3615 19th Street
Lubbock, Texas 79410

With a copy to:

Alston, Courtnage & Bassetti LLP
Attn: Adam Coady
600 University Street, Suite 2310
Seattle, WA 98101

6. Effect of Amendment; Complete Agreement. Except as expressly set forth herein, all other terms and conditions of the Ground Lease shall continue in full force and effect. In the event of a conflict in the terms of this Amendment and the Ground Lease, the terms of this Amendment shall control. The Ground Lease, as amended by this Amendment, contains the entire agreement between the parties and supersedes any and all prior written and/or oral agreements.

7. Authority and Liability. Each party warrants to the other that this Amendment has been duly authorized, executed and delivered by it, and it has the requisite power and authority to enter into this Ground Lease and perform its obligations hereunder. Each party covenants to provide the other with evidence of its authority and the authorization of this Amendment upon request.

8. Ground Lessee Representations. Ground Lessee represents and warrants to Ground Lessor that as of the Effective Date, Ground Lessor has performed all obligations required of Ground Lessor under the Ground Lease and that there are no offsets, counterclaims or defenses of Ground Lessee existing against Ground Lessor. Ground Lessee further acknowledges and agrees that no events have occurred that, with the passage of time or the giving of notice, or both, would constitute a basis for an offset, counterclaim, or defense against Ground Lessor, and that the Ground Lease is in full force and effect.

9. Ground Lessor Representations. Ground Lessor represents and warrants to Ground Lessee that as of the Effective Date, Ground Lessee has performed all obligations required of Ground Lessee under the Ground Lease and that there are no offsets, counterclaims or defenses of Ground Lessor existing against Ground Lessee. Ground Lessor further acknowledges and agrees that no events have occurred that, with the passage of time or the giving of notice, or both, would constitute a basis for an offset, counterclaim, or defense against Ground Lessee, and that the Ground Lease is in full force and effect.

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10. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but which when taken together shall constitute one and the same instrument.

11. Partial Invalidity. If any term, covenant or condition of this Amendment or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Amendment, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Amendment shall be valid and be enforced to the fullest extent permitted by law.

[Signatures on following page.]

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year first above written.

GROUND LESSOR:

CITY OF HOBBS,
a New Mexico municipal corporation

By: _____
Name: Sam D. Cobb
Its: Mayor

GROUND LESSEE:

COVENANT HOSPITAL HOBBS,
a Texas nonprofit corporation

DocuSigned by:
By: Michael Siwek
3BFB1CFDD46941C...
Name: Michael Siwek
Its: Executive Director - RESO

By signing below, the Economic Development Corporation of Lea County ("**EDC**") hereby acknowledges and agrees as to the change in Permitted Use as set forth in Section 2 above.

ECONOMIC DEVELOPMENT
CORPORATION OF LEA COUNTY

DocuSigned by:
By: _____
25D0EA208D48417...
Name: Jennifer Grassham
Its: President & CEO

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EXHIBIT A

Ground Lease

[Attached.]

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CITY OF HOBBS

ORDINANCE NO. 957

AN ORDINANCE APPROVING A BUILDING PURCHASE AGREEMENT TO SELL THE INCUBATOR BUILIDNG AND APPROVING A GROUND LEASE TO LEASE A ± 6.83 ACRES REAL PROPERTY OF MUNICIPALLY-OWNED LAND LOCATED IN SECTION 7, T18S, R38E, NMPM IN LEA COUNTY IN THE HOBBS INDUSTRIAL AIR PARK TO THE LEA REGIONAL HOSPITAL, LLC.

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a building and site improvements located at 5625 N. Lovington Highway, formerly known as the Incubator Building and listed on the City of Hobbs Asset List as the "Incubator Site," and hereinafter referred to as the "Building;" and

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a ±6.83 acres tract of land situated in the Hobbs Industrial Air Park (HIAP), and hereinafter referred to as the "Leasehold Property;" and

WHEREAS, the HIAP industrial and commercial areas have been designated by the City of Hobbs Industrial Air Park Master Plan for commercial and industrial development; and

WHEREAS, an appraisal of value has been completed and the land value was determined to be $147,000, the value of the building was determined to be $399,000, and the combined value was determined to be $546,000; and

WHEREAS, this issue was reviewed by the HIAP Board at the August 16, and September 25, 2006 meetings; and

WHEREAS, unless a referendum election is held, this Ordinance authorizing the sale of the Building and the ground lease of the Leasehold Property shall be effective forty-five (45) days after its adoption.

WHEREAS, inclusive in this Ordinance are the following:

A. The Building Purchase Agreement:

1. Terms of Building Purchase Agreement: The City proposes to sell the Building for the negotiated purchase price of $546,000.

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The sale of the City-owned real property improvement must be approved by City Ordinance, pursuant to Section 3-54-1, NMSA 1978, as amended.

The Building Purchase Agreement containing the terms of the purchase is a part of this Ordinance, is attached hereto and is incorporated herein by reference.

2. Appraised Value of Municipally-owned Improvement Asset: The appraised value of the Building was determined to be $399,000.

3. Schedule of Payments: The purchase price of $546,000 is to be made at closing.

4. Purchaser of Building: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs, NM 88240.

5. Purpose of Municipal Sale: Regional Medical Facility and Economic Development - Site acquisition for expansion to Lea Regional Medical Center.

B. The Ground Lease.

1. Terms of Ground Lease: The City proposes to lease the Leasehold Property for a 75 year period with the negotiated annual rent set at $1,000 per year for the first five years of the Lease.

The lease of the City-owned real property must be approved by City Ordinance pursuant to Section 3-54-1 NMSA 1978, as amended.

The Ground Lease containing the terms of the lease and Protective Covenants for the real property is part of this Ordinance, is attached hereto and is incorporated herein by reference.

2. Appraised Value of Municipally-owned Real Property: The appraised value of the real property was determined to be $147,000 for the 6.83 acre tract.

3. Schedule of Payments: The Annual Rent is to be paid in the amount of $1,000 per year with the payment to be made on the Commencement Date or the anniversary thereof.

4. Option to Purchase: The Lessee is granted the Option to Purchase the Leasehold Property at any time during the Term of the Lease with the

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purchase price to be set at market value at the time of the intended purchase.

5. Lessee of Property: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs, NM 88240.

6. Purpose of Municipal Lease: Regional Medical Facility and Economic Development - Site acquisition for expansion to Lea Regional Medical Center.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO:

(I)

That the City of Hobbs hereby approves the Building Purchase Agreement, subject to the conditions and terms contained therein.

(II)

That the City of Hobbs hereby approves the Ground Lease, subject to the conditions and terms contained therein.

(III)

That this Ordinance has been published prior to its adoption and shall be published at least once after adoption, pursuant to Sections 3-17-3, 3-17-5 and 3-54-1 NMSA 1978, as amended.

(IV)

That the effective date of this Ordinance shall be forty-five (45) days after its adoption by the governing body of the City of Hobbs, unless a referendum election is held.

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(V)

That City staff and officials are hereby authorized and directed to do all acts and deeds necessary in the accomplishment of the above.

PASSED, APPROVED AND ADOPTED this 4th day of December, 2006.

CITY OF HOBBS, NEW MEXICO

MONTY D. NEWMAN, Mayor

ATTEST:

JOLINE MALDONADO, Deputy City Clerk

CITY OF HOBBS SEAL NEW MEXICO

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BUILDING PURCHASE AGREEMENT

THIS BUILDING PURCHASE AGREEMENT (hereinafter "Agreement"), entered into this 4th day of December, 2006, between Lea Regional Hospital, LLC, a Delaware limited liability company, 5419 North Lovington Highway, Hobbs, NM 88240 (hereinafter "Purchaser"); and the City of Hobbs, New Mexico, a New Mexico Municipal Corporation (hereinafter "City").

RECITALS:

A. The City is the owner of a certain building and site improvements known as the former EDC Incubator Building located at 3625 N. Lovington Highway, comprising 50,350 square feet, together with all other above ground improvements, structures and fixtures, and as listed on the City of Hobbs Asset List as the "Incubator Site", such property is referred to hereafter as the "Building".

B. The Building is located on a tract of land more particularly described in Exhibit A, attached hereto and made a part hereof, and hereinafter referred to as the "Leasehold Property."

C. Purchaser and the City have negotiated and approved a Ground Lease for the Leasehold Property.

D. The City entered into a certain Lease dated August 23, 1973 (the "1973 Ground Lease") with the Industrial Development Corporation of Lea County, predecessor in interest to the Economic Development Corporation of Lea County (the "EDC") wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

E. The City entered into a certain Lease dated May 2, 1983 (the "1983 Ground Lease") with the EDC wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

F. The interests of the EDC in the 1973 Ground Lease and the 1983 Ground Lease with respect to the Leasehold Property have been, or will be prior to the Closing Date, terminated; and EDC has, or will prior to the Closing Date, disclaim any and all interest it may have in the Building.

G. An appraisal of the site and the building was conducted, with the building being valued at $399,000 and the entire site including the real property at $546,000. The appraisal valued the land at $147,000.

H. This Purchase Agreement proposes that the Purchaser be allowed to purchase the Building in exchange for the sum of $546,000.

I. City, in consideration of the mutual covenants herein contained, agrees to sell and convey, and Purchaser agrees to purchase the Building as described below, together with all improvements and all rights, titles, powers, privileges, licenses, rights-of-way, hereditaments, easements and appurtenances thereunto belonging, located on the Leasehold Property.

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DESCRIPTION OF BUILDING:

The former EDC Incubator Building and Site Improvements located at 3625 N. Lovington Highway, comprising 50,350 square feet, together with all other above ground improvements, structures and fixtures, and as listed on the City of Hobbs Asset List as the "Incubator Site", except that no land or real property is included.

NOW THEREFORE THE FOLLOWING IS AGREED BY THE PARTIES:

1. Purchase Price.

A. The purchase price for the Building shall be Five Hundred Forty Six Thousand Dollars ($546,000.00) plus other valuable considerations. The purchase price shall be paid in cash or equivalent at closing.

B. The Purchase Price includes standard City Industrial Park infrastructure and utility services pursuant to the City Utility Service Policy as adopted January 2003, including existing water and sewer mains and service connections constructed on the Building prior to the date of this Agreement. Any additional infrastructure shall be subject to separate negotiations between the parties hereto.

C. The Purchase Price does not include any new extensions of City utilities or other new infrastructure.

2. Closing Date.

Closing for the sale of the Building shall occur on a mutually agreeable date, at least forty-five (45) days, but not more than one hundred twenty (120) days after the adoption of the ordinance authorizing the sale by the City, unless a referendum election is held pursuant to 3-54-1, NMSA, 1978, as amended (the "Closing Date"). The parties may extend the Closing Date by mutual agreement, not to exceed 365 days following the date of the ordinance.

3. Review of Title.

As soon as reasonably possible following the execution of this Agreement, the City shall furnish Purchaser a commitment for owner's policy of title insurance ("Commitment") for the Building and a leasehold policy of title insurance with respect to the Leasehold Property together with full copies of all exceptions set forth therein, including but not limited to covenants, conditions, restrictions, reservations, easements, rights of way, assessments, liens and other matters of record. Purchaser shall have fifteen (15) days from receipt of the Commitment and copies of said exceptions within which to notify the City of Purchaser's disapproval of any exceptions shown in the Report.

The City shall have until the Closing Date to eliminate any disapproved exception(s) or patent reservations(s) from the policy of title insurance to be issued in favor of Purchaser, and if not eliminated, then the earnest money deposit shall be refunded, unless Purchaser then elects to waive its prior disapproval. Failure of Purchaser to disapprove any exception(s) or patent reservation(s) within the aforementioned time

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limit shall be deemed an approval of such exception or patent reservation. The policy of title insurance shall be a standard coverage policy in the amount of the total purchase price and shall be paid for by Purchaser.

In the event this contingency or any other contingency to this contract has not been eliminated or satisfied within the time limits and pursuant to the provisions herein, and unless Purchaser elects to waive the specific contingency by written notice to the City, this Agreement shall be deemed null and void and neither party shall have any rights or liabilities under this Agreement.

4. Title.

At closing, the City shall execute and deliver a Special Warranty Deed (herein so called) conveying the Building to the Purchaser and/or his assigns, in fee simple, subject to all patent reservations and to all other existing liens, encumbrances and other exceptions of record except those exceptions and reservations which are disapproved by Purchaser and eliminated by the City pursuant to this Agreement.

5. Risk of Loss.

All risk of loss or damage to the Building will pass from the City to Purchaser at closing. In the event that material loss or damage occurs prior to closing, Purchaser may, without liability, refuse to accept the conveyance of title, in which event the earnest money deposit, if any, shall be refunded. Possession of the Building by Purchaser shall occur at closing. Before closing, Purchaser shall be solely responsible to insure Purchaser's interest in the Building if Purchaser so chooses.

6. Default and Remedy.

A. Default by City. If City defaults in the performance of this Agreement, Purchaser may terminate this Agreement and receive a refund of the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek whatever legal remedy may be provided by law.

B. Default by Purchaser. If Purchaser defaults in the performance of this Agreement prior to closing, City may terminate this Agreement and retain the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek such other relief as may be provided by law.

C. Notice and Demand for Performance. In the event that either party fails to perform such party's obligations hereunder (except as excused by the other's default), the party claiming default will give written notice of demand for performance. If the party to whom such notice and demand is given fails to comply with such written demand within ten (10) days after receipt thereof, the non-defaulting party may pursue the remedies provided in this paragraph.

7. Costs and Fees.

Closing costs shall be paid as follows:

A. All closing costs shall be paid by the Purchaser, including title insurance premium costs, title company closing fees, recording fees, additional survey costs, if

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Purchaser requests an ALTA survey, and environmental assessment cost, if an environmental assessment is to be completed prior to closing.

B. The Purchaser and City shall each pay for their respective legal fees.

C. The parties agree that no realtors are involved in the sale of the Building and no real estate commission will be owing in connection with this transaction.

8. Notice.

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by certified mail, postage prepaid, to the City, at City of Hobbs, ATTN: Joe Dearing, 300 N. Turner, Hobbs, NM 88240; and to Purchaser, at Lea Regional Hospital, LLC, 5419 North Lovington Highway, Hobbs, NM 88240, Attention: Chief Executive Officer, Facsimile: 505/492-5505; With a copy to: Triad Hospitals, Inc., 5800 Tennyson Parkway, Plano, Texas 75024, Attention: Vice President-Real Estate Development, Facsimile: 214/473-7162; and With a copy to: Liechty & McGinnis, P.C., 7502 Greenville Avenue, Suite 750 Dallas, Texas 75231, Attention: Emmett W. Berryman, Esq., Facsimile: 214/265-0615, or to such other address as requested by either party. Notice shall be deemed to be received on the earlier of (i) actual receipt or (ii) the fifth day following posting. The mailing may also completed by other acceptable forms of legal mail, as may occur in the future.

9. Attorney's Fees and Costs.

Both parties agree that if either is found by a court to have breached this Agreement, the other party may recover reasonable attorney's fees and cost of litigation.

10. Counterparts.

This Agreement may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on all of the parties.

11. Successors and Assigns.

This Section refers to assignability of this Purchase Agreement, and not to assignability of the Building to be purchased. This Agreement may not be assigned by Purchaser without the prior written consent of the City. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and assigns; provided that upon any assignment of this Agreement by either party, the other party shall not be released from any obligation under, or liability accruing pursuant to this Agreement. Except that Purchaser is permitted, upon City approval, to assign its interest to a Partnership or Corporation in which he is the principal party. Consent shall not unreasonably be withheld by either party.

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12. Compliance with New Mexico State Statutes.

The City states that it has complied with the requirements of Section 3-54-1, NMSA, 1978, as amended, and that it has authorization to sell property pursuant to the Hobbs Municipal Code, as amended.

13. Governing Laws.

This Agreement shall be governed by the laws of the State of New Mexico. Jurisdiction and venue relating to any litigation or dispute arising out of this Agreement shall be in the District Court of Lea County, New Mexico, only. If any part of this Agreement shall be deemed in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts hereof shall remain valid and enforceable.

14. State Permits and Licenses.

Purchaser agrees that City has no direct responsibility for Purchaser to make application and obtain required New Mexico State permits and licenses for building or facility expansion on the Building. Purchaser agrees to indemnify and hold City harmless from and against all liability, claims, demands, damages or costs of any kind arising from or connected with any New Mexico State permit or license application for activities and uses on the Building.

15. Protective Covenants, Permitted Use and Other Site Requirements.

A. Purchaser agrees to comply with the terms and conditions as stated in (i) the EDA Declaration (hereinafter defined) to be recorded prior to the Special Warranty Deed, and (ii) the Protective Covenants and Use Requirements for the Lea Regional Hospital, LLC Property in the form set forth on Exhibit "D" attached hereto (the "City Declaration") to be recorded prior to the Special Warranty Deed and encumbering the Building and the Leasehold Property.

B. According to the requirements of the Economic Development Corporation of Lea County, a New Mexico corporation (EDC), the following covenants shall be contained in the City Declaration and are therefore to be hereby agreed for all activities in the Building and on the Leasehold Property:

> "Purchaser hereby acknowledges and agrees that use of the Property shall be limited to the development, construction, maintenance and operation of a medical office building, hospital or other healthcare facility which provides healthcare services through licensed physicians and support services related thereto, including, without limitation, materials management functions and medical records storage ("Permitted Uses"). Purchaser shall not extend, modify, amend, change, terminate or otherwise in any manner change the use ("use Change") without the prior express written consent of EDC, which consent will not be unreasonably withheld, so long as such use Change (i) is for Permitted Uses and (ii) contains the requirement of EDC's consent to any further use Change."

C. Other healthcare related commercial operations and activities are to be permitted if they are consistent with the type of traffic, noise and other impacts

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associated with the use of the areas surrounding the Property. All proposed uses other than those listed in this Lease must be reviewed and approved by the City in writing. The City may condition such consent upon requiring other conditions before consenting to another use, such as 1) details of the proposed use and operations on the site; 2) conditions affecting the environment; and/or 3) pursuant to any protective covenants or other use regulations and/or obtaining additional information on the proposed use.

D. According to the requirements of the US Department of Commerce Economic Development Administration, the following covenants will be contained in the Declaration of Covenants – Release of Property Management Agreement – Covenant of Use (the "EDA Declaration"), pursuant to Federal Law 13 CFR Subpart D §314.10 to be executed and recorded by City and the US Economic Development Administration concurrently with the Special Warranty Deed, and are therefore to be hereby agreed for all activities on the Leasehold Property. The EDA Declaration is attached hereto and made a part of this Agreement as Exhibit "B".

16. Termination.

This Agreement shall be terminated on the Closing Date for the sale of the Building, unless either party ends the Agreement prior to that date pursuant to Section 9 of this Agreement, except that any provision calling for obligations continuing after the Closing Date shall survive. All of the City's warranties, representations, certifications, and agreements contained herein shall be and remain true at the time of closing.

17. City Permits.

The zoning designation of the Leasehold Property will be Planned Unit Development at such time that the City adopts a Zoning Ordinance. The Protective Covenants have been completed according to the needs of the Purchaser by the City. Purchaser must be responsible to apply for other City permits, including a City Business Registration or License Fee.

18. Conditions For Completing The Purchase.

The following actions must occur and be performed prior to Purchaser satisfactorily closing on the Property:

A. The City Commission must have approved the necessary Ordinance for the Sale of the Property, subject only to the referendum election as specified in 3-54-1 et. seq., NMSA, as amended. In addition, the City HIAP Board should have reviewed and made recommendation on the purchase proposal.

B. Purchaser must have received, reviewed and approved the survey legal description and survey plat prior to Closing Date. Purchaser shall have survey documents for review at least twenty (20) calendar days prior to intended date of Closing. Purchaser shall have until the date of closing to raise any objections with City, or request changes on the survey.

C. There shall be no material adverse change in the condition of the Building as of the Closing Date.

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D. The representations and warranties contained in this Agreement are true and correct as of the date of this Agreement.

E. Purchaser shall have received partial terminations of the 1973 Ground Lease and the 1983 Ground Lease executed by the City and EDC with respect to the Property and sufficient to allow the title company to remove any exception related to the 1973 Ground Lease or the 1983 Ground Lease from the policy of title insurance to be issued to Purchaser at Closing.

F. If any of the conditions set forth in this section are not satisfied to the sole discretion of the Purchaser prior to closing, or waived by the time specified therefor, or, if no time is specified, then by the closing date, then the Purchaser shall receive a refund of the earnest money deposit plus interest earned.

G. At closing, the City will prepare and record those easements to be recorded with the Special Warranty Deed pursuant to Section 20 hereof.

19. Representations and Certifications Made As A Part Of This Agreement.

The City represents and warrants to the Purchaser that the following shall be true and correct, as of the date hereof and as of the date of closing:

A. The City owns title to the Building and Leasehold Property subject only to easements, restrictions and reservations of record as disclosed in the title commitment.

B. There are no public improvements which have been commenced or completed for which special real property tax assessments may be or have been levied against the Building or the Leasehold Property.

C. There are no known existing violations of applicable law with respect to the Building or the Leasehold Property.

D. There is no litigation pending or threatened against the Building and Leasehold Property which might result in a lien on either the Building or the Leasehold Property, or might interfere with the City's ability to sell or convey the Building or lease the Leasehold Property, or which might have a material adverse change upon the Building or the Leasehold Property.

E. The execution and delivery of the Purchase Agreement and closing of the sale by the City will not result in the breach of any agreement, decree or order to which the City is a party or by which the Building is bound.

F. There are no condemnation proceedings pending or threatened with respect to all or any portion of the Building or the Leasehold Property.

G. To the best knowledge of the City as of the date hereof, the following statement is made regarding the Building or the Leasehold Property:

To the City's actual knowledge, there has been no release of any hazardous substances in, on or about the Building or the Leasehold Property. The City has not received notice from any governmental authority of the release or

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presence of any hazardous substances. To the best knowledge of the City, neither the Building nor the Leasehold Property presently is or has ever been used for the storage, manufacture, disposal, handling, transportation or use of any hazardous substances in violation of any law. To the best knowledge of the City, there are no past or present investigations, proceedings, litigation or regulatory hearings with respect to the Building or the Leasehold Property alleging non-compliance with or violation of any federal or state law regarding environmental matters. To the City's actual knowledge, there has not now, nor have there been, any above ground or underground storage tanks located in or under the Building or the Leasehold Property. To the City's actual knowledge, the Leasehold Property has previously been owned by the US Government Land Office, the City of Hobbs, the US Hobbs Army Airfield, and the City of Hobbs, New Mexico. The only known prior uses of the Leasehold Property are 1) open range grazing by local ranches from 1880 through the 1940's time period; 2) use of the area as a vacant portion of for the Hobbs Army Airfield operation during W.W.II; and industrial operations in the EDC Incubator Building since 1973, originally designed and built as a denim jeans manufacturing plant and thereafter for a variety of other light industrial operations.

H. The City is not a party to any contracts relating to the Leasehold Property, except for this Agreement, and the 1973 Ground Lease and the 1983 Ground Lease referred to above.

20. City Easements to be Retained on the Leasehold Property.

The City retains the following utilities and easements on the Leasehold Property, as shown on Exhibit #C. These utility corridors may be defined further as easements and recorded in the Lea County Clerk's Records:

A. A sewer main corridor 35 feet in width on the southeast with a total length of approximately 720 linear feet boundary including several manholes.

B. A water main corridor 25 feet in width on the southwest and northwest boundaries approximately 1,125 feet in total length including fire hydrants.

C. An access corridor on the parking areas with right of access to enter the above easements.

D. The Legal descriptions for those easements are more particularly described in Exhibit "C" which is attached hereto and made a part of this Agreement. At closing, the City will prepare and record those easements to be recorded with the Special Warranty Deed.

E. The City may require additional reasonable easements on the Leasehold Property for City infrastructure and City utilities and for other public utility companies, which easements shall be shown on the Survey. Such restrictions as reflected on the Survey and as referred to in the Commitment or any updated Commitment shall be subject to Purchaser's approval or disapproval in the manner specified herein.

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21. Time of Essence.

Time is declared to be of the essence of this Agreement.

22. Additional Documents.

The parties agree to execute further documents as may be reasonably required to effectuate the purchase and sale of the Building as provided by this Agreement.

23. Entire Document.

This instrument constitutes the entire agreement between the City and the Purchaser, regarding the purchase and sale of the Building, and there are no agreements, understandings, warranties, or representations between the Purchaser and the City except as set forth herein. This Agreement cannot be amended except in writing executed by the Purchaser and the City.

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Done and approved on the date first written above.

SELLER

THE CITY OF HOBBS

Mayor Monty D. Newman

PURCHASER

LEA REGIONAL HOSPITAL, LLC
A Delaware Limited Liability Company

By: Tom Frazier

Title: Senior Vice President

ATTEST:

MOLLIE MALDONADO,
Deputy City Clerk

APPROVED AS TO FORM:

Joan McMahon, City Attorney

SEAL
HOBBS, NEW MEXICO

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EXHIBIT "A"

LEGAL DESCRIPTION – LEASEHOLD PROPERTY

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD FROM WHICH A BRASS CAP IN CONCRETE FOUND FOR THE SOUTHEAST CORNER OF SAID SECTION 7 BEARS N49°49'41"E 80.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE TEXAS/NEW MEXICO RAILROAD AND S40°10'19"E ALONG THE SAID RAILROAD RIGHT OF WAY LINE 2539.19 FEET AND S00°40'41"E ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 1207.74 FEET;

THEN S49°49'41"W 414.94 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST SOUTHERLY CORNER OF THIS TRACT;

THEN N40°10'19"W 351.06 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR AN INTERIOR CORNER OF THIS TRACT;

THEN S49°49'41"W 75.00 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A CORNER OF THIS TRACT;

THEN N40°10'19"W 309.80 FEET TO 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST WESTERLY CORNER OF THIS TRACT;

THEN N49°49'41"E 489.94 FEET TO A 1/2" REBAR FOUND FOR THE MOST NORTHERLY CORNER OF THIS TRACT AND A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD;

THEN S40°10'19"E ALONG SAID WEST LINE OF INDUSTRIAL ROAD 660.86 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 297,451.34 SQUARE FEET AND 6.83 ACRES MORE OR LESS.

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EXHIBIT "B"

EDA DECLARATION

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EXHIBIT "C" (Page 1)

LEGAL DESCRIPTION OF EASEMENTS

DESCRIPTION WATER LINE 1
A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE SOUTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N35°29'36"W 3474.95 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N39°42'04"W 383.14 FEET; THEN S49°28'49"W 88.35 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID 6.83 ACRES TRACT WHICH LIES N37°13'39"W 3858.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 471.49 FEET OR 28.58 RODS

DESCRIPTION WATER LINE 2
A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHWESTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°14'52"W 4141.76 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN S40°10'13"E 159.10 FEET; THEN S51°37'09"W 61.59 FEET; THEN S40°10'13"E 120.95 FEET TO A POINT ON AN EXISTING WATER LINE SITUATED IN SAID 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°52'11"W 3860.34 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 341.64 FEET OR 20.71 RODS

DESCRIPTION WATER LINE 3
A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON AN EXISTING WATER LINE SITUATED IN A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°10'09"E 4060.46 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N49°45'32"E 300.62 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES N31°58'03"W 4092.81 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

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Exhibit "C" (Page 2)

TOTAL LENGTH EQUALS 300.62 FEET OR 18.22 RODS

DESCRIPTION SEWER LINE 1
A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N29°05'42"W 3581.84 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N62°51'08"W 23.52 FEET; THEN S28°43'10"W 5.71 FEET; THEN N67°00'33"W 210.41 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES N31°20'03"W 3767.22 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 239.64 FEET OR 14.52 RODS

DESCRIPTION SEWER LINE 2
A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N28°59'16"W 3547.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN S49°47'08"W 330.64 FEET; THEN S75°04'21"W 93.20 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID 6.83 ACRE TRACT WHICH LIES N35°44'01"W 3530.59 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 423.84 FEET OR 25.69 RODS

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EXHIBIT "D"

CITY DECLARATION

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GROUND LEASE

THIS GROUND LEASE (this "Lease"), is made and entered into this 4th day of December 2006, by and between the CITY OF HOBBS, a municipal corporation in the State of New Mexico, (hereinafter called "City") and LEA REGIONAL HOSPITAL, L.L.C., a Delaware limited liability company, hereafter called "Lessee").

RECITALS:

A. The City is the owner of certain real property, referred to hereafter as the "Leasehold Property", within the City Limits of Hobbs within Lea County, State of New Mexico, as specifically described in Exhibit "1" attached hereto, and as follows:

Leasehold Property Description: A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD FROM WHICH A BRASS CAP IN CONCRETE FOUND FOR THE SOUTHEAST CORNER OF SAID SECTION 7 BEARS N49°49'41"E 80.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE TEXAS/NEW MEXICO RAILROAD AND S40°10'19"E ALONG THE SAID RAILROAD RIGHT OF WAY LINE 2539.19 FEET AND S00°40'41"E ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 1207.74 FEET;

THEN S49°49'41"W 414.94 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST SOUTHERLY CORNER OF THIS TRACT;

THEN N40°10'19"W 351.06 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR AN INTERIOR CORNER OF THIS TRACT;

THEN S49°49'41"W 75.00 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A CORNER OF THIS TRACT;

THEN N40°10'19"W 309.80 FEET TO 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST WESTERLY CORNER OF THIS TRACT;

THEN N49°49'41"E 489.94 FEET TO A 1/2" REBAR FOUND FOR THE MOST NORTHERLY CORNER OF THIS TRACT AND A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD;

THEN S40°10'19"E ALONG SAID WEST LINE OF INDUSTRIAL ROAD 660.86 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 297,451.34 SQUARE FEET AND 6.83 ACRES MORE OR LESS.

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B. City and Lessee desire to enter into a lease of the Leasehold Property for the purpose of allowing Lessee to operate a multi-purpose commercial medical center facility on the site to include buildings, parking, loading, as desired by Lessee.

C. The City entered into a Lease dated August 23, 1973 (the "1973 Ground Lease") with the Industrial Development Corporation of Lea County, predecessor in interest to the Economic Development Corporation of Lea County (the "EDC") wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

D. The City entered into a Lease dated May 2, 1983 (the "1983 Ground Lease") with the EDC wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

E. The interests of the EDC in the 1973 Ground Lease and the 1982 Ground Lease with respect to the Leasehold Property have been, or will be, terminated prior to the Commencement Date of this Lease.

F. Lessee owns, or will own, prior to the Commencement Date, certain improvements on the Leasehold Property and may construct additional improvements upon the Leasehold Property.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, City hereby leases to Lessee, the Leasehold Property, together with all appurtenant easements, rights and privileges, attached hereto and made a part of this Lease, under the terms and conditions of this Lease:

1. **Leasehold Term, Rent Adjustments, Commencement Date And Possession.**

A. The term of this Lease shall be seventy-five (75) years (hereinafter "Lease Term") commencing on the "Commencement Date," as hereinafter defined, and terminating on the Seventy-fifth (75th) anniversary of the Commencement Date. The Commencement Date shall be _____, 2007, based on the final approval by the Hobbs City Commission on December 4, 2006, unless a referendum election is held pursuant to Section 3-54-1 NMSA, as amended. Possession of the Leasehold Property shall be on the Commencement Date.

B. The rent shall be adjusted every fifth year based on the change in the percentage amount equal to the five year overall increase in the US Consumer Price Index (All Urban Consumers - U.S. All Items Index) during the preceding five (5) years. The Rent shall then be adjusted at the start of each and every fifth year thereafter during the Lease Term. As an alternative and if agreed to by the parties hereto, the

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City may provide a written market analysis of comparable commercial property in Hobbs from an independent qualified appraiser hired by the City as a basis for the rent adjustment.

C. Lessee shall and may peaceably and quietly have, hold and enjoy the Leasehold Property for the Lease Term, as long as Lessee is in compliance with the terms of the Lease Agreement, subject to all applicable notice and cure periods.

D. Lessee acknowledges that it has fully inspected the Leasehold Property and Lessee hereby accepts the Leasehold Property, buildings and improvements, if any and each appurtenance thereto as is, in their present state and condition, as suitable for the purpose for which the same are leased and will allow for changes in such condition occurring by reasonable deterioration, normal wear and tear excepted.

E. If Lessee should remain in possession of the Leasehold Property after the expiration or termination of this Lease, without the execution by City and Lessee of a new Lease, the Lessee shall be deemed to be occupying the Leasehold Property as a tenant-at-sufferance, subject to all the covenants and obligations of this Lease, and shall pay as rent an amount equal to the monthly base rent, as adjusted immediately prior to the termination.

F. After the Lease Commencement Date, but prior to the approval of any building permit application for permanent building structures, City may require Lessee to provide at Lessee's expense a Drainage Study prepared by a licensed New Mexico Professional Engineer to the City Engineer of the Leasehold Property with respect to the portion of the Leasehold Property in the 100 Year Special Flood Hazard Zone. If required, the report must address that the Leasehold Property development will not be endangered by the 100 year flood hazard, or that the development of the Leasehold Property will not adversely impact the adjacent properties. The City Engineer must approve the study prior to issuance of any building permits for buildings.

2. **Rent Payments.**

A. Beginning on the Commencement Date, the Lessee shall pay the City a fixed annual rental ("Rent"). The amount of the annual rent payment shall be One Thousand Dollars ($1,000.00) per year for each of the first five (5) years of the Lease Term.

B. The first year rent shall be paid as follows:

Earnest Money Deposit	None Required
Commencement Date	$1,000.00

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C. Thereafter starting in the year 2007 and continuing regularly each year thereafter without notice from the City throughout the Lease Term, annual rent payments shall be paid on the following dates:

Annual Payment	December 15

D. In exchange for payment of the rent, possession of the Leasehold Property will be granted on the Commencement Date of the Lease.

E. The Rent does not include the following, and Lessee shall be solely responsible for the following infrastructure extensions to the Leasehold Property:

1) City utilities infrastructure of water systems providing adequate fire flow volume and pressure for fire suppression; City waste water treatment services; and existing infrastructure in the Hobbs Industrial Air Park (the "HIAP").

2) Water and Sewer Meter Assessments, Service Charges, Hook-up Charges and Monthly Maintenance Fees are not included in the Rent and must be paid separately. There are no water development charges for fire suppression water meters.

3) Telephone service is provided to the Industrial Park by Valor Telecom or LEACO. The Rent does not include the cost, if any, for telephone cable hook-up and service, both to the site and on site and within the building, with these costs to be paid by the Lessee.

4) Electric Power is provided to the Industrial Park by Xcel Energy Company. The Rent does not include the cost, if any, for telephone cable hook-up and service, both to the site and on site and within the building, with these costs to be paid by the Lessee. Lessee shall be responsible for all line extensions to the Leasehold Property and on the site. Lessee will be responsible for cost share of any required extensions to the site; and construction of primary conduit to City right-of-way, transformer pad, and all secondary conduit and wire extensions on the site.

F. Lessee will pay all charges made against said Leasehold Property, including but not limited to, on-going monthly utility fees for water, waste water, natural gas, electricity, telecommunications, or any other utility furnished to the Leasehold Property during the continuance of this Lease, as the same shall become due. Lessee shall be responsible for paying or putting up any bonds or deposits required by any entity furnishing utility services to the Leasehold Property which is the subject matter of this Lease. City shall not be liable in damages or otherwise for failure, stoppage or interruption of any such service, nor shall the same be

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construed as an eviction of Lessee, or work as an abatement of rent, or relieve Lessee from the operation of any covenant or agreement; but in the event of any failure, stoppage or interruption thereof, Lessee shall use reasonable diligence to resume service promptly.

3. Option To Purchase.

A. For valuable consideration, City grants to Lessee the exclusive option to purchase (the "Purchase Option") the Leasehold Property as described above with the purchase price to be set at Fair Market Value (hereinafter defined) following Lessee's exercise of the Purchase Option at any time during the Lease Term, subject to the terms and conditions which follow in this Agreement.

B Terms and conditions regarding this Option and the Leasehold Property purchase are as follows:

1. The "Fair Market Value" of the Leasehold Property will be determined in the following manner: The City, at the City's sole cost and expense shall designate a professional, qualified appraiser who is engaged in the business of appraising commercial real estate located in Lea County, New Mexico and surrounding areas of New Mexico and Texas (an "Appraiser"), and shall notify Lessee of the Appraiser so selected within fifteen (15) days following the City's receipt of the Purchase Notice (hereinafter defined). Any appraisal performed in pursuant to the terms hereof will establish a value of only the 6.83 acre Leasehold Property, and shall not include the value of any assets located on the Leasehold Property owned by Lessee. If Lessee disputes the value established by the City's Appraiser, Lessee shall have the right to designate an Appraiser and shall notify the City of the Appraiser so selected within fifteen (15) days following receipt of the appraisal from the City's Appraiser, who shall perform an appraisal pursuant to the terms and conditions hereof, at Lessee's sole cost and expense. In the event that the two Appraisers cannot agree on a determination of the Fair Market Value of the Leasehold Property within ten (10) days following delivery of the appraisal by Lessee's Appraiser, the Fair Market Value shall be determined by taking the average of the two appraisals, unless the difference between the two appraisals is greater than twenty percent (20%) of the higher appraised value, in which case either party may elect to have the two (2) Appraisers select a third (3rd) Appraiser who is similarly qualified within ten (10) days after the expiration of such ten (10) day period. The cost of the third (3rd) Appraiser, if necessary, will be split evenly between the parties. In the event a third (3rd) Appraiser is selected, the Fair Market Value shall be that value determined by the majority of Appraisers, or if a majority cannot agree, then that determined by averaging the two (2) highest appraisals. The

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Appraisers shall notify each party of their determination in writing. Both Lessor and Lessee shall be bound by the determination of the Appraisers in accordance with the provisions of this Section 4.B.1 and the determination shall be enforceable against each party. All appraisers selected for the above appraisal process shall be credentialed as professional members of M.A.I., engaged in the business of appraising commercial real estate located in Lea County, New Mexico and surrounding areas of New Mexico and Texas.

2. All closing costs for the purchase of the Leasehold Property will be paid by Lessee, in addition to the any other costs necessary to complete the real property transaction.

3. Lessee agrees to comply with terms and conditions contained in that certain Protective Covenants and Use Requirements for the Lea Regional Hospital, LLC Property (the "City Declaration") and are therefore agreed for all activities on the Leasehold Property which shall be filed on or prior to the Commencement Date in the Real Property Records of Lea County and encumber the Leasehold Property. Those covenants shall be referred to in the Deed (hereinafter defined).

4. Lessee must be responsible to provide the current survey of the Leasehold Property prepared by a surveyor licensed in the State of New Mexico prior to closing, and the survey must be approved by the City.

5. Upon establishment of the purchase price pursuant to Section 4.B.1 above, a binding Purchase Agreement will be prepared by the City and negotiated with the Lessee to complete the purchase. The Purchase Agreement shall contain the Permitted Uses and Requirements, Additional Site and Building Requirements and Enforcement of Building Design Standards which are contained in the Protective Covenants on the Leasehold Property and other conditions which may be specified by the City and the Lessee. The purchase must comply with all relevant New Mexico Statutes in effect at the time of the purchase.

6. If Lessee wishes to exercise the option to purchase the Leasehold Property, Lessee must notify the City in writing at least one hundred eighty (180) days prior to the date of the intended purchase (the "Purchase Notice").

7. If Lessee exercises its option to purchase, City will execute and deliver a Special Warranty Deed (the "Deed") conveying in fee simple title to the Leasehold Property to Lessee with good and indefeasible title to the Leasehold Property, free of liens and encumbrances, subject only to all patent reservations and to all other existing exceptions of record except

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those exceptions and reservations which are disapproved by Lessee and eliminated by the City pursuant to terms of the agreement for final terms of closing and purchase.

4. **Permitted Uses and Requirements** .

A. According to the requirements of the EDC, the following covenants shall be contained in the City Declaration to be executed and recorded by City concurrently with the execution of this Lease on or prior to the Commencement Date, and are therefore to be hereby agreed for all activities on the Leasehold Property:

"Lessee hereby acknowledges and agrees that use of the Leasehold Property shall be limited to the development, construction, maintenance and operation of a medical office building, hospital or other healthcare facility which provides healthcare services through licensed physicians and support services related thereto, including, without limitation, materials management functions and medical records storage ("Permitted Uses"). Lessee shall not extend, modify, amend, change, terminate or otherwise in any manner change the Lease ("Lease Change") without the prior express written consent of EDC, which consent will not be unreasonably withheld, so long as such Lease Change (i) is for Permitted Uses and (ii) contains the requirement of EDC's consent to any further Lease Change.

B. Other healthcare related commercial operations and activities including may be considered if they are consistent with the type of traffic, noise and other impacts associated with the use of the areas surrounding the Leasehold Property. All proposed uses other than those listed in this Lease must be reviewed and approved by the City in writing. The City may condition such consent upon requiring other conditions before consenting to another use, such as 1) details of the proposed use and operations on the site; 2) conditions affecting the environment; and/or 3) pursuant to any protective covenants or other use regulations and/or obtaining additional information on the proposed use.

5. **Additional Use Provisions and Requirements**.

A. According to the requirements of the US Department of Commerce Economic Development Administration ("EDA"), the following covenants will be contained in the Declaration of Covenants - Release of Property Management Agreement - Covenant of Use (the "EDA Declaration"), pursuant to Federal Law 13 CFR Subpart D §314.10 to be executed and recorded by City and the US Economic Development Administration concurrently with the execution of this Lease, and are therefore to be hereby agreed for all activities on the Leasehold Property.

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6. **Lessee's Warranties.**

A. Lessee shall maintain the Leasehold Property and any improvements, fixtures or equipment on the Leasehold Property in a manner which is reasonably satisfactory to City. Reasonable maintenance and repairs to structures on the Leasehold Property will be performed by Lessee at its sole cost.

B. For any new construction or development on the Leasehold Property following the approval of this Lease, Lessee must meet minimum City of Hobbs Design Standards For Construction Regulations for building and infrastructure construction, including water, sewer, gas, streets, drainage, signs, landscaping, use and subdivision regulations and building codes, etc.

C. Where the slope and terrain is such that active soil erosion may occur or result from soil disturbance, erosion control practices must be carried out by Lessee, as determined necessary by City to control any excessive storm-water run-off and prevent erosion.

D. No hazardous waste or solid waste as defined by the New Mexico Environment Department shall be permitted to be disposed of on the Leasehold Property.

E. At the end of the Lease Term and any Extended Term, or at the date of any relinquishment, sublease or assignment, Lessee shall furnish to City a Phase I Site Environmental Assessment Report on the Leasehold Property, prepared by a licensed New Mexico Professional Engineer or Geologist. The environmental assessment shall include but not be limited to research of previous activities that may present potential hazards, examination of potential groundwater contamination, and other related activities. The environmental assessment will not include soil boring and soil analysis, unless a written request is received from City requesting soil boring and soil analysis to be conducted as further study. The cost of the Phase I Environmental Assessment will be the responsibility of the Lessee. If any pollutants or soil contaminants are found to be present on the Leasehold Property, Lessee shall be responsible for removal and clean-up of these pollutants and contaminants, prior to the end of the Lease Term or the Extended Term. If any soil boring is required by the City, the City shall pay for these costs. The City will not extend the term of the lease until a clean Phase I Environmental Assessment is received. If Lessee refuses to provide such Environmental Assessment Report, the City has the right to complete the Environmental Assessment and assess reasonable costs to Lessee.

7. **Insurance.**

Lessee shall maintain general public liability and casualty insurance insuring against such claims, and shall annually furnish to the City a certificate or other evidence and proof of

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maintenance of such comprehensive public liability insurance, including a copy of the policy, with the City named as an additional insured, which insurance shall have minimum limits of at least the sum of One Million and No/100 Dollars ($1,000,000.00) for general liability and casualty coverage arising out of a single occurrence. Such insurance shall be with a company licensed and authorized to do business in the State of New Mexico and to provide general liability and casualty coverage of the type required herein, which policy shall include fire and extended coverage liability. Lessee shall provide the City with notice of any change thereof, and shall furnish to the City evidence of acquirement of a substitute therefor, and payment of the premium thereof.

8. **Construction And Ownership Of Improvements.**

A. During the Lease Term or the Extended Term of this Lease, title to all improvements constructed upon the Leasehold Property by Lessee is and shall be vested in Lessee. Lessee's existing improvements on the Leasehold Property are described in Exhibit "1" attached hereto and made a part of this Lease, and these improvements are not owned by the City. If at any time during the Lease Term, all Rent then due and owing has been fully paid and Lessee is not in default under this Lease, Lessee may remove these improvements from the Leasehold Property.

B. At the expiration or termination of this Lease, Lessee shall have the right to remove or dispose of all buildings and other improvements remaining on the Leasehold Property. All buildings and/or improvements remaining on the Leasehold Property after the termination date will become the property of the City. The City shall not pay any compensation to the Lessee for any buildings or improvements remaining on the Leasehold Property after the termination date.

9. **Assignment And Sublease.**

A. Lessee may not assign or sublease the Leasehold Property granted by this Lease or the improvements on the Leasehold Property without the prior written consent of the City, which consent shall not be unreasonably withheld. The City may condition its consent of a sublease or assignment of the entire property upon an adjustment of the Rent, and may require other conditions before consenting to an assignment or sublease, such as 1) those conditions noted above; 2) review and approval of financial and other background information on the proposed sub-Lessee; and/or 3) the sale of Lessee's entire assets in the Hobbs Industrial Air Park to the same user as assignee; provided, that with respect to any sublease of the Leasehold Property by Lessee to a third party developer for the purposes of constructing, maintaining and operating a medical office building in accordance the City Declaration, the EDA Declaration and the terms of this Lease (an "MOB Developer"), the City may not condition its consent to such sublease only on subpart 2) above and may not condition its consent on an adjustment in Rent or a sale of Lessee's entire assets in the Hobbs Industrial Air Park, notwithstanding

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any provision to the contrary contained herein. The annual rent for any additional user of the Leasehold Property will be negotiated with the City, prior to any use by another user. Such additional Rent, conditions or covenants shall not be unreasonable but shall be in accord with the proper administration of the Leasehold Property granted by this Lease. The City Commission is the final authority to grant final approval to any assignment subject to the purposes of the Lease.

B. Notwithstanding the prohibition against assignment and subleasing contained in Section 10(A) above, Lessee shall be permitted to assign its rights under this Lease, without the consent of City, to (i) any subsidiary or other entity owned at least fifty-one percent (51%), directly or indirectly, by Triad Hospitals, Inc. ("Triad"), (ii) to any person, firm or corporation who is the purchaser of all or substantially all of the assets of Lessee or Triad or is the successor to the assets and business of Lessee or Triad by virtue of a corporate merger or consolidation of, with or into Lessee or Triad, or (iii) the purchaser of all or substantially all of the assets of Lea Regional Medical Center located in Hobbs, New Mexico. Each such assignee shall be liable for the performance and observance of all of the covenants and agreements of Lessee under this Lease arising after such assignment. Lessee and any assignee will be jointly and severally primarily liable for payment and performance under this Lease; provided, in the case of any assignment described in clauses (i), (ii) or (iii) above, Lessee shall be released from all further liability for Rent or any other sums becoming due and payable under this Lease after assignment if the assignee under any such assignment has a net worth comparable to that of Lessee, and has a Standard and Poor's rating of BB or better (or, if such rating system is no longer used by Standard and Poor's, such rating as is then comparable to a BB rating as of the date of this Sublease, or if Standard and Poor's no longer publishes comparable ratings, such other rating as is most closely comparable thereto). Consent shall not unreasonably be withheld by either party.

C. Upon a valid assignment of this Lease, the Lessee shall be relieved of all obligations and liabilities arising from this Lease effective as of the date of the assignment, except for liability and obligations regarding any environmental contamination or damage which occurred on the Leasehold Property during the Lease Term.

D. Lessee can not assign the Lease prior to the Commencement Date.

E. On any assignment or sublease, the access to the Leasehold Property must be through the primary access on Industrial Street (Lovington Highway), unless a separate legal access is provided to the south or west boundary of the Leasehold Property from Lessee's contiguous property.

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10. **Default And Cancellation.**

A. The violation by Lessee of any of the terms, conditions or covenants of this Lease or the nonpayment by Lessee of any rent due under this Lease shall be considered a default and may cause this Lease to be cancelled and terminated at the City's sole discretion, following at least one hundred twenty (120) days advance written notice of such default from City to Lessee; provided, however, said cancellation shall not be made if, within the one hundred twenty (120) day notice period, Lessee cures or remedies said default or otherwise complies with any demand contained within such written notice which cures or remedies the default.

B. If City defaults in the performance of this Lease prior to the Commencement Date, Lessee may terminate this Lease and receive a refund of the earnest money deposit, if any, or may waive default and seek whatever legal remedy may be provided by law.

C. If Lessee defaults in the performance of this Lease prior to the Commencement Date, City may terminate this Lease and retain the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek such other relief as may be provided by law.

11. **Relinquishment.**

At any time, upon one hundred twenty (120) days prior written notice, provided all rents then due and owing have been fully paid and Lessee is not in default under this Lease, Lessee may cancel and relinquish the Leasehold Property to the City whereupon Lessee shall be relieved of any further liabilities and obligations under this Lease. Section 9 of this Lease shall apply with respect to removal of improvements upon such termination. Lessee shall not be entitled to a refund of any rent paid. The parties may mutually agree in writing that this lease may be terminated within one hundred twenty (120) days after said mutual agreement is signed.

12. **Obligations and Other Commitments Made By City.**

The following schedule provides a summary of the commitments made by the City in this Lease:

A. The Leasehold Property Survey has been completed by Lessee and is attached hereto. The City has approved the Survey.

13. **Additional Site and Building Requirements.**

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In addition to the requirements of the City Building Code, and the EDA Declaration, or Zoning Design Standards which may be adopted for the Leasehold Property in the future, the City shall record in the City Declaration to be executed and recorded by City concurrently with the execution of this Lease, and are therefore to be hereby agreed for all activities on the Leasehold Property. These covenants specify requirements for Site and Building Design and Construction Standards, and the enforcement of those standards by the City.

14. **City Utilities and Easements on the Leasehold Property.**

The City retains the following utilities and easements on the Leasehold Property, as shown on Exhibit #1. These utility corridors will be defined further as easements and recorded in the Lea County Clerk's Records:

A. A sewer main corridor 35 feet in width on the southeast with a total length of approximately 720 linear feet boundary including several manholes.

B. A water main corridor 25 feet in width on the southwest and northwest boundaries approximately 1,125 feet in total length including fire hydrants.

C. An access corridor on the parking areas with right of access to enter the above easements.

15. **Notice.**
All notices given pursuant to or in connection with this Lease shall be made in writing and posted by regular mail, postage prepaid, to the following:

City of Hobbs,
ATTN: City Manager,
Hobbs City Hall,
Hobbs, NM 88240; and to Lessee at

Lea Regional Hospital, LLC
Hobbs, NM 88240
Attention: Chief Executive Officer
Facsimile: 505/492-5505

With a copy to: Triad Hospitals, Inc.
5800 Tennyson Parkway
Plano, Texas 75024
Attention: Vice President-Real Estate Development
Facsimile: 214/473-7162

With a copy to: Liechty & McGinnis, P.C.

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7502 Greenville Avenue, Suite 750
Dallas, Texas 75231
Attention: Emmett W. Berryman, Esq.
Facsimile: 214/265-0615

or to such other address as requested by either party. Notice shall be deemed to be received on the earlier of (i) actual receipt or (ii) the fifth day following posting. The mailing may also completed by other acceptable forms of legal mail, as may occur in the future.

16. **Attorney's Fees and Costs.**

If either party is found by a court to have breached this Lease, the other party may recover reasonable attorney's fees and cost of litigation. Prior to the institution of any litigation, the parties have the contractual duty to in good faith attempt to resolve any controversy hereunder at the least possible expense.

17. **Counterparts.**

This Lease may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on all of the parties.

18. **Compliance with Statutes.**

The City states that it has complied with the requirements of State of New Mexico Statutes and the City of Hobbs, New Mexico Municipal Code and has authorization to lease the property.

19. **Governing Laws.**

This Lease shall be subject to the laws of the State of New Mexico.

20. **Indemnification.**

Lessee shall save and hold harmless, indemnify and defend the City of Hobbs, New Mexico, its elected officials, employees and agents, in their official and individual capacities, of and from any and all liabilities, claims, losses, or damages arising out of or alleged to arise out of or indirectly connected with the negligent operations of Lessee under this Lease, or arising out of the presence on the Leasehold Property of any agent, contractor or subcontractor of Lessee.

21. **Amendment.**

This Lease shall not be altered, changed or amended except by written instrument in writing executed by the City and Lessee.

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22. **Waiver.**

No waiver of any breach or default by Lessee of any of the terms, conditions or covenants of this Lease shall be held to be a waiver of any subsequent breach. No waiver shall be valid or binding unless the same is in writing and signed by City.

23. **Survey of Leasehold Property.**

The Lessee has completed a current survey of the Leasehold Property prepared by a surveyor licensed in the State of New Mexico, prior to the commencement of the Lease. The City has approved the Survey which is attached hereto as Exhibit #1 and made a part of this Lease.

24. **Termination.**

This agreement shall be terminated on the termination date of the Lease Term, or by mutual agreement as provided under Section 12 Relinquishment herein.

25. **Permits.**

The use terms of this Lease for the Leasehold Property have been written according to the needs of Lessee. Lessee is responsible at its expense to apply for other City permits, including if necessary a City Building Permit, City Business Registration or License Fee. Lessee is also responsible at its expense to apply for other necessary permits from the State of New Mexico.

26. **Conditions Precedent.**

The City Commission must have approved the Lease as specified in NMSA 1978 Section 3-54-1
et. seq., as amended, prior to Lessee having any liability pursuant to the Lease.

27. **Representations and Certifications Made As A Part Of This Lease.**

A. The City represents and warrants to Lessee that the following shall be true and correct, as of the date hereof and as of the date of commencement:

1) The City is the owner of the Leasehold Property subject only to easements, restrictions and reservations of record as disclosed in the title commitment, and subject to the covenants as stated in this Lease.

2) There are no public improvements which have been commenced or completed for which special leasehold property tax assessments may be or have been levied against the Leasehold Property.

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3) There are no known existing violations of applicable law with respect to the Leasehold Property.

4) There is no litigation pending or threatened against the Leasehold Property which might result in a lien on the Leasehold Property, or might interfere with the City's ability to sell or convey the Leasehold Property, or which might have a material adverse change upon the Leasehold Property.

5) The execution and delivery of the Lease and commencement of the Lease by the City will not result in the breach of any agreement, decree or order to which the City is a party or by which the Leasehold Property is bound.

6). There are no condemnation proceedings pending or threatened with respect to all or any portion of the Leasehold Property.

7) To the best knowledge of the City as of the date hereof, the following statements are made regarding the Leasehold Property:

a) There has been no release of any hazardous substances in, on or about the Leasehold Property. The City has not received notice from any governmental authority of the release or presence of any hazardous substances. To the best knowledge of the City, the Leasehold Property presently is not and has never been used for the storage, manufacture, disposal, handling, transportation or use of any hazardous substances in violation of any law. To the best knowledge of the City, there are no past or present investigations, proceedings, litigation or regulatory hearings with respect to the Leasehold Property alleging non-compliance with or violation of any federal or state law regarding environmental matters. To the City's actual knowledge, there has not now, nor have there been, any above ground or underground storage tanks located in or under the Leasehold Property.

b) The Leasehold Property has previously been owned by the US Government Land Office, the City of Hobbs and the US Army Airfield Division.

c) The only known prior uses of the Leasehold Property have been open range grazing by local ranches from 1880 through the present time period; use as a vacant parcel as part of the Hobbs Army Air Base from about 1940 to 1950 (this particular area was a vacant parcel according to the original plans of the Airfield complex); and approximately 1973, the Leasehold Property was leased by the City to the Industrial Development Corporation of Hobbs and then subleased to Levi-Strauss Corporation and a denim jeans wet process manufacturing process was conducted on the site until about 1985. A large manufacturing building and parking lot were constructed. In 1985, the City of Hobbs received a grant from the

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US Department of Commerce, Economic Development Administration to remodel the building for use of other industrial clients. In 1991, the City received a grant from the US Housing and Urban Development Department to conduct additional improvements to the building. Since 1985, the building has been rented and leased by the EDC for a variety of small industrial and storage operations as an incubator building.

8) The City is not a party to any contracts relating to the Leasehold Property, except for this Agreement and the prior lease to the Industrial Development Corporation (Economic Development Corporation of Lea County).

9) Lessor has the full power and authority to enter into and perform this Lease according to its terms and the individual executing this Lease on behalf of Lessor is authorized to do so.

B. Lessee represents and warrants to the City that the following shall be true and correct, as of the date hereof and as of the date of closing:

1) The Lease Agreement is designed for the for the purpose of the Lessee to operate a multi-purpose commercial medical center facility on the site to include buildings, parking, loading, as desired by Lessee. Other uses may be permitted subject to the City's written approval.

2) Lessee understands that the City considerations herein are based on the assumption that the site use and the commercial activities proposed on the site will not require an excessive quantity of potable water, nor generate excessive amounts of waste water to be treated. In the event that the use and operation would involve a wet process food manufacturing operation or any other wet process industrial operation at a later date, water and waste water utility assessments may be adjusted accordingly at the site/building occupancy approval stage to address increased costs to the City.

3) Exhibit "1" provides information on the proposed site layout, building location, if any, and building design, and company information to justify the request for City consideration of this Lease.

28. Entire Agreement.

This Lease represents the entire agreement and there are no other agreements or understandings oral or otherwise that are binding the parties concerning the Leasehold Property.

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29. Memorandum of Lease.

Each of the City and Lessee shall execute, acknowledge and deliver to the other a written Memorandum of this Lease to be recorded in the appropriate land records of the jurisdiction in which the Leasehold Property is located, in order to give public notice and protect the validity of this Lease. In the event of any discrepancy between the provisions of said recorded Memorandum of this Lease and the provisions of this Lease, the provisions of this Lease shall prevail. Lessee agrees to pay when due and payable any and all charges, recording costs and taxes required in connection with the recordation of this Lease or such Memorandum of Lease.

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IN WITNESS WHEREOF, City and Lessee have executed this Lease as of the date first written above.

CITY OF HOBBS

Mayor Monty D. Newman

(SEAL)

ATTEST:

Jan Fletcher, City Clerk

Approved As To Form:

Joan McMahon, City Attorney

LESSEE – LEA REGIONAL HOSPITAL, LLC
A Delaware limited liability company.

By: Tom Frazier
ITS: Senior Vice President

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STATE OF NEW MEXICO)
)SS.
COUNTY OF LEA)

The foregoing instrument was acknowledged before me on this 4TH day of December, 2006 by Monty D. Newman, as Mayor, acting on behalf of the City of Hobbs, a New Mexico Municipal Corporation, to me personally known, who being by me duly sworn did say that he is the Mayor and signing officer of the City of Hobbs and that said instrument was signed in behalf of said Municipal Corporation, and Monty D. Newman acknowledged said instrument, and acknowledged that he executed the same as his free act and deed and on behalf of the respective Municipal Corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

Notary Public

My Commission Expires:
August 14, 2007

STATE OF TEXAS)
(SS.
COUNTY OF COLLIN)

The foregoing instrument was acknowledged before me on this 12th day of DECEMBER, 2006 by its Senior Vice President, acting on behalf of the Lea Regional Hospital, LLC, a Delaware limited liability company, to me personally known, who being by me duly sworn did say that he/she is the Senior Vice President and signing officer of Lea Regional Hospital, LLC, a Delaware limited liability company, and that said instrument was signed in behalf of said limited liability company, and acknowledged that said instrument, and acknowledged that he/she executed the same as his/her free act and deed and on behalf of the respective limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

Notary Public

My Commission Expires:

JANICE MARIE SMITH
NOTARY PUBLIC
State of Texas
Comm. Exp. 09-15-2007

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EXHIBIT "1"

Plat of Survey as Filed 2/21/2007
under County Clerk's
Reception # 35152, Lea
Lea County Records, Lea County, New Mexico
and made a part hereof

35156

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

FEB 2 1 2007

at 1:51 o'clock P M
and recorded in Book 1498
Page 128
Melinda Hughes, Lea County Clerk
By [illegible] Deputy

SEAL

Return to: City of Hobbs
City Clerk
300 N. Turner
Hobbs, NM 88240

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35154

PERMANENT GRANT OF PUBLIC UTILITY EASEMENT
Hospital Incubator Building Lease Parcel

THIS PERMANENT GRANT OF EASEMENT, entered into on this 14th day of February, 2007 is reserved and excepted unto itself and forever dedicated to the public by THE CITY OF HOBBS, (the "City"), a New Mexico Municipal Corporation.

For valuable consideration, the City reserves and excepts unto itself and forever dedicates to the public an unrestricted permanent grant of public utility easement to allow for access, and long term maintenance of the City's utilities, including but not limited to existing water mains and existing waste water (sewer) mains, owned by the City and located within the following described three (3) twenty foot (20') wide easements for water mains and two (2) thirty five foot (35') wide easements for waste water (sewer) mains being more particularly described as follows:

DESCRIPTION WATER LINE 1
A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE SOUTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N35°29'36"W 3474.95 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N39°42'04"W 383.14 FEET; THEN S49°28'49"W 88.38 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID 6.83 ACRES TRACT WHICH LIES N37°13'39"W 3858.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.
TOTAL LENGTH EQUALS 471.48 FEET OR 28.58 RODS

DESCRIPTION WATER LINE 2
A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHWESTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°14'52"W 4141.76 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN S40°10'13"E 159.10 FEET; THEN S61°37'09"W 61.59 FEET; THEN S40°10'13"E 120.98 FEET TO A POINT ON AN EXISTING WATER LINE SITUATED IN SAID 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°52'11"W 3860.34 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 341.64 FEET OR 20.71 RODS

DESCRIPTION WATER LINE 3
A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON AN EXISTING WATER LINE SITUATED IN A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°10'09"E 4060.46 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N49°45'32"E 300.62 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES N31°58'03"W 4092.81 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 300.62 FEET OR 18.22 RODS

Docusign Envelope ID: FCE558E9-8C8A-4489-84F8-454217E959F2

2.

DESCRIPTION SEWER LINE 1
A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N29°05'42"W 3581.84 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N62°51'08"W 23.82 FEET; THEN S28°43'10"W 5.71 FEET; THEN N67°00'33"W 210.41 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES N31°20'03"W 3767.22 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 239.64 FEET OR 14.52 RODS

DESCRIPTION SEWER LINE 2
A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N28°59'16"W 3547.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN S49°47'08"W 330.64 FEET; THEN S75°04'21"W 93.20 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID 6.83 ACRE TRACT WHICH LIES N35°44'01"W 3530.59 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 423.84 FEET OR 25.69 RODS

As more particularly described on that certain plat dated 2/14/2007, under Reception No. 35453, Lea County Records, Lea County, New Mexico, and made a part of this easement (collectively, the "Easement Property").

This Permanent Grant of Easement entitles the City all things necessary for long term maintenance of said City of Hobbs water mains and waste water (sewer) mains, including but not limited to installation and long term maintenance of a sewer main, including grading, trenching, backfilling, excavating dirt, paving, storage and operation of equipment and all other actions required for the construction and maintenance of the public utilities. No additional permanent structures shall be built in the easement area after the above date.

In exchange for the grant of easement, the City agrees to use and maintain the Easement Property in a good and workmanlike manner. The City agrees to carry out final clean-up and make any necessary repairs within the Easement Property and the adjacent property caused in connection with any construction, maintenance, repair or replacement performed by or on behalf of the City within the Easement Property.

The City, its successors and/or assigns shall have the permanent grant of utility easement for their use as long as it is being used and maintained by the City, its successors or assigns. However, if the easement property described above is not used and maintained by the City, its successors or assigns, then the easement shall terminate and the owners of the Easement Property shall be entitled to file a Certificate of Abandonment with the County Clerk or following the written request of any ground tenant under a ground lease encumbering the Easement Property.

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IN WITNESS WHEREOF, the CITY sets their hand and seal on the date first written above.

CITY OF HOBBS, NEW MEXICO

By _____
MONTY D. NEWMAN, MAYOR

STATE OF NEW MEXICO)
) ss.
COUNTY OF LEA)

The foregoing instrument was acknowledged before me on this 14th day of February, 2007, by Monty D. Newman, as Mayor, of the City of Hobbs, to me personally known, who being by me duly sworn did say that he is the duly elected Mayor and signing officer of the City of Hobbs, and that said instrument was signed on behalf of said City, and Monty D. Newman acknowledged said instrument, and acknowledged that he executed the same as his free act and deed and on behalf of the City.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

OFFICIAL SEAL
Kristie Parish
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 4-16-09

Kristie Parish
Notary Public

35154

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

FEB 21 2007
at 1:57 o'clock P M
and recorded in Book 1498
Page 120
Melinda Hunt Lea County Clerk
By _____ Deputy

COUNTY CLERK SEAL LEA COUNTY, NEW MEXICO

Return to: City of Hobbs
Planning
300 N Turner
Hobbs, NM 88240

Docusign Envelope ID: FCE558E9-8C8A-4489-84F8-454217E959F2

35155

PARTIAL RELINQUISHMENT, DISCLAIMER AND TERMINATION OF LEASEHOLD INTERESTS

THIS PARTIAL RELINQUISHMENT DISCLAIMER AND TERMINATION OF LEASEHOLD INTERESTS (this "Partial Leasehold Termination") is made and executed on February 20, 2007, by the ECONOMIC DEVELOPMENT CORPORATION OF LEA COUNTY, a New Mexico corporation (the "Lessee"), whose address is 2702 N. Grimes Street, Hobbs, New Mexico, 88240, and the CITY OF HOBBS, NEW MEXICO, a New Mexico municipal corporation (the "City"), whose address is 300 N. Turner Street, Hobbs, New Mexico 88240.

That the Lessee has made and executed the following Ground Leases with the City (collectively, the "Ground Leases"):

Lease #1:

Description of Ground Lease:	That certain Lease dated August 23, 1973, by and between the City, as ground lessor, and Industrial Development Corporation of Lea County, a New Mexico corporation ("IDC"), predecessor to the Lessee, as ground lessee.
Ground Landlord:	The City.
Current Term Expiration Date:	August 31, 2023 subject to the ground lessee's right to two (2) additional renewal terms of twenty-five (25) years and twenty-three (23) years respectively in accordance with the terms of the Lease.

Lease #2:

Description of Ground Lease:	That certain Lease Agreement dated May 2, 1983, by and between the City, as ground lessor, and IDC, predecessor to the Lessee, as ground lessee.
Ground Landlord:	The City.
Current Term Expiration Date:	May 1, 2082.

The particular descriptions of the property and property rights of the Lessee sought by the City for public purpose and released and disclaimed herein by the Lessee as to Lessee's leasehold or any other interest are described by accurate surveyed metes and bounds description as follows:

Docusign Envelope ID: FCE558E9-8C8A-4489-84F8-454217E959F2

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD FROM WHICH A BRASS CAP IN CONCRETE FOUND FOR THE SOUTHEAST CORNER OF SAID SECTION 7 BEARS N49°49'41"E 80.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE TEXAS/NEW MEXICO RAILROAD AND S40°10'19"E ALONG THE SAID RAILROAD RIGHT OF WAY LINE 2539.19 FEET AND S00°40'41"E ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 1207.74 FEET;

THEN S49°49'41"W 414.94 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST SOUTHERLY CORNER OF THIS TRACT;

THEN N40°10'19"W 351.06 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR AN INTERIOR CORNER OF THIS TRACT;

THEN S49°49'41"W 75.00 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A CORNER OF THIS TRACT;

THEN N40°10'19"W 309.80 FEET TO 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST WESTERLY CORNER OF THIS TRACT;

THEN N49°49'41"E 489.94 FEET TO A 1/2" REBAR FOUND FOR THE MOST NORTHERLY CORNER OF THIS TRACT AND A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD;

THEN S40°10'19"E ALONG SAID WEST LINE OF INDUSTRIAL ROAD 660.86 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 297,451.34 SQUARE FEET AND 6.83 ACRES MORE OR LESS.

The above described property together with any and all improvements located thereon including without limitation the building commonly known as the "Levi Building" or the "Incubator Building" (collectively, the "Released Property")

Further, in connection with the proposed sale of the improvements located on the Released Property, the LESSEE AND THE CITY EXPRESSLY DECLARE AND AGREE AS FOLLOWS:

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1. Partial Termination of the Ground Leases. The Lessee and the City hereby agree that with respect to the Released Property the Ground Leases and any other ground lease, contract or any other agreements between the Lessee and the City are hereby terminated and are null and void and of no further force and effect from and after the date hereof and neither party thereto has any further obligations or liabilities thereunder. This final release and disclaimer of interest constitutes a termination of the leasehold interest with respect to the Released Property created by the Ground Leases or any other ground lease, contract or other agreement between the City and the Lessee in connection with the Released Property and all associated rights therein.

2. Release. The Lessee does hereby remise, release, and forever discharge the City of and from any and all, and all manner of actions, causes of action, rights, suits, covenants, contracts, agreements, judgments, claims, right to compensation, and demands whatsoever in law or equity arising from and by reason of the City acquiring, appropriating and taking for its public use, control, possession, and ownership the Released Property and any property right, leasehold interests, easements, and licenses related thereto for the purpose of economic development and for the purpose of accomplishing the sale of the Incubator Building to Lea Regional Hospital, LLC, a Delaware limited liability company.

3. Representations and Warranties.

(a) The Lessee represents and warrants that it has the power and right to fully release all claims being released under this Partial Leasehold Termination by the Lessee and that no other entities or persons have any right to bring or assert any such released claims and the Lessee has not assigned or transferred any of such rights or claims to any other person or entity.

(b) The City represents and warrants that it has the power and right to fully release all claims being released under this Partial Leasehold Termination by the City and that no other entities or persons have any right to bring or assert any such released claims and the City has not assigned or transferred any of such rights or claims to any other person or entity.

4. Ratification. The Lessee and the City hereby acknowledge and agree that except for the termination of the Ground Leases with respect to the Released Property as set forth above, the Ground Leases remain in full force and effect and enforceable in accordance with their respective terms.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Docusign Envelope ID: FCE558E9-8C8A-4489-84F8-454217E959F2

Dated this 20th day of February, 2007.

THE LESSEE:

ECONOMIC DEVELOPMENT COROPRATION OF LEA COUNTY, a New Mexico corporation

By: Debra P. Hicks
Name: Debra P. Hicks
Title: Chair

THE CITY

THE CITY OF HOBBS, NEW MEXICO
a New Mexico Municipal Corporation

By:
Name: Monty D. Newman
Title: Mayor

Docusign Envelope ID: FCE558E9-8C8A-4489-84F8-454217E959F2

STATE OF NEW MEXICO §
§ ss.
COUNTY OF LEA §

I, Scotty Holloman, a notary public in and for said county in said state, hereby certify that Debra P. Hicks, whose name as the Chair of Economic Development Corporation of Lea County, a New Mexico corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 15th day of February, 2007.

Scotty Holloman
Notary Public

[Notary Seal]

My commission expires: 1-31-2008

STATE OF NEW MEXICO §
§
COUNTY OF LEA §

The foregoing instrument was acknowledged before me on the 21st day of February, 2007, by Monty D. Newman as Mayor of The City of Hobbs, New Mexico, a New Mexico Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said limited liability company.

Witness my hand and official seal.

Kristie Parish
Notary Public

Kristie Parish
Printed Name of Notary Public

My Commission Expires:
4-16-09

OFFICIAL SEAL
Kristie Parish
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 4-16-09

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

FEB 21 2007 P
at 1:57 o'clock M
and recorded in Book 1498
Page 123
Melinda Hughes, County Clerk
By Deputy

35155

Docusign Envelope ID: FCE558E9-8C8A-4489-84F8-454217E959F2

AFFIDAVIT OF PUBLICATION

State of New Mexico,
County of Lea.

I, KATHI BEARDEN

Publisher

of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, do solemnly swear that the clipping attached hereto was published once a week in the regular and entire issue of said paper, and not a supplement thereof for a period.

of 2

weeks.

Beginning with the issue dated

November 10 2006

and ending with the issue dated

November 11 2006

Kathi Bearden

Publisher

Sworn and subscribed to before

me this 13th day of

November 2006

Notary Public.

My Commission expires
February 07, 2009
(Seal)

OFFICIAL SEAL
DORA MONTZ
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires:

This newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Laws of 1937, and payment of fees for said publication has been made.

LEGAL NOTICE
November 11, 2006

NOTICE IS HEREBY GIVEN that on the 4th day of December, 2006, at its regular meeting at 6:00 p.m., in the City Commission Chambers at City Hall, 300 North Turner, Hobbs, New Mexico, the governing body of the City of Hobbs proposes to adopt an ordinance which reads as follows:

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a building and site improvements located at 5625 N. Lovington Highway, formerly known as the Incubator Building and listed on the City of Hobbs Asset List as the "Incubator Site," and hereinafter referred to as the "Building;" and

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a ±6.63 acres tract of land situated in the Hobbs Industrial Air Park (HIAP), and hereinafter referred to as the "Leasehold Property;" and

WHEREAS, the HIAP industrial and commercial areas have been designated by the City of Hobbs Industrial Air Park Master Plan for commercial and industrial development; and

WHEREAS, an appraisal of value has been completed and the land value was determined to be $147,000, the value of the building was determined to be $399,000, and the combined value was determined to be $546,000; and

WHEREAS, this issue was reviewed by the HIAP Board at the August 16, and September 25, 2006 meetings; and

WHEREAS, unless a referendum election is held, this Ordinance authorizing the sale of the Building and the ground lease of the Leasehold Property shall be effective forty-five (45) days after its adoption.

WHEREAS, inclusive in this Ordinance are the following:

A. The Building Purchase Agreement:

1. Terms of Building Purchase Agreement: The City proposes to sell the Building for the negotiated purchase price of $546,000.

The sale of the City-owned real property improvement must be approved by City Ordinance, pursuant to Section 3-54-1, NMSA 1978, as amended.

The Building Purchase Agreement containing the terms of the purchase is a part of this Ordinance, is attached hereto and is incorporated herein by reference.

2. Appraised Value of Municipally-owned Improvement Asset: The appraised value of the Building was determined to be $399,000.

3. Schedule of Payments: The purchase price of $546,000 is to be made at closing.

4. Purchaser of Building: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs, NM 88240.

5. Purpose of Municipal Sale: Regional Medical Facility and Economic Development - Site acquisition for expansion to Lea Regional Medical Center.

B. The Ground Lease.

1. Terms of Ground Lease: The City proposes to lease the Leasehold Property for a 75 year period with the negotiated annual rent set at $1,000 per year for the first five years of the Lease.

The lease of the City-owned real property must be approved by City Ordinance pursuant to Section 3-54-1 NMSA 1978, as amended.

The Ground Lease containing the terms of the lease and Protective Covenants for the real property is part of this Ordinance, is attached hereto and is incorporated here in by reference.

2. Appraised Value of Municipally-owned Real Property: The appraised value of the real property was determined to be $147,000 for the 6.63 acre tract.

3. Schedule of Payments: The Annual Rent is to be paid in the amount of $1,000 per year with the payment to be made on the Commencement Date or the anniversary thereof.

4. Option to Purchase: The Lessee is granted the Option to Purchase the Leasehold Property at any time during the Term of the Lease with the purchase price to be set at market value at the time of the intended purchase.

5. Lessee of Property: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs,

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CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: December 4, 2006

SUBJECT: AN ORDINANCE APPROVING A BUILDING PURCHASE AGREEMENT TO SELL THE INCUBATOR BUILDING AND APPROVING A LEASE FOR A ±6.83 ACRE REAL PROPERTY OF MUNICIPALLY OWNED LAND LOCATED IN SECTION 7, T18S, R38E, NMPM IN LEA COUNTY IN THE HOBBS INDUSTRIAL AIR PARK TO THE LEA REGIONAL HOSPITAL, LLC.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: November 27, 2006
SUBMITTED BY: Joe Dearing, City Planner

Summary: **Final Reading of the Ordinance to authorize publication of the Ordinance to approve the Purchase Agreement to Sell the Incubator Building & Site Improvements and To Lease the 6.83 acre tract of land to the Lea Regional Hospital LLC.**

The City of Hobbs is proposing to sell the Incubator Building and Site Improvements and to lease the 6.8 acre tract of real property in the Hobbs Industrial Air Park (HIAP) to the Lea Regional Hospital LLC. The Incubator Building with associated site improvements is being sold by the City to the Lea Regional Hospital for the negotiated purchase price of $546,000. The building and 6.8 acre parcel is located north of the existing hospital site on the east boundary of the Hobbs Industrial Air Park, and within the EDC Lease 235 acre area. The incubator site has considerable frontage on Industrial Street and visibility from Lovington Highway. A map of the Site is attached.

An appraisal of value for the site was obtained from local appraiser Mr. David Bradley. The appraised value of the land (6.83 acres) was determined to be $147,000. Since the land value is greater than $25,000, the lease must be approved by an Ordinance. The appraisal valued the building at $399,000; and the entire site including the real property (land) at $546,000. A grant application has been made and the application has stated that the proceeds of the sale would be used as local share match to create a new incubator building complex. A Lease of the 6.8 acre tract from the City to the Hospital is recommended in order for the Hospital to acquire title insurance in closing the purchase of the building.

The annual rent on the lease is proposed at $1,000 for the first five years of the Lease. The rent is then proposed to increase based on the change in the CPI during the first five years. Thereafter, a similar adjustment would be made following each subsequent 5 year period. The purpose of the sale is Economic Development & expansion of the Regional Medical Facility.

The Lease proposes that the Lessee is granted the Option to Purchase the Leasehold Property at any time during the term of the Lease. The purchase price would be based on the market value of the land at the time of the exercise of the option to purchase.

The proposal was discussed by the HIAP Board at the August 16, 2006 and September 25, 2006 meeting. A staff memo summarizing the position of the HIAP Board is attached for information of the City Commission. Minutes of the September 25 meeting were previously transmitted to the Commission.

If the City Commission approves the publication of this Ordinance, then the final passage could occur on December 4. Three additional related issues will be brought before the City Commission at the November 6 meeting: 1) Protective Covenants on the Leasehold Property to coordinate with the Lease; 2) to approve the Assignment of the existing leases (1973 & 1983) from the EDC to the Hospital; and 3) to approve a Release of Property and Use Covenant required by the US Economic Development Administration, since EDA grant funds were used to refurbish the building in 1986.

Options for the City Commission to consider or 1) Approve the Ordinance and sell the building and lease the property to the Lea Regional Hospital, LLC; 2) Vote no and deny the proposal; or 3) Request staff to negotiate a modified proposal with the Hospital.

Fiscal Impact: *Reviewed By:* _____
Finance Department

The City is leasing the parcel at $1,000 per year annual rent. The rent payments will be deposited into Fund #20 Airport Special Revenue Fund. The payment to the City for the land will foster the development of the incubator site.

Attachments: Ordinance; Building Purchase Agreement; Lease with attachments of the Survey Plat; Site Map; Appraisal Information; Memo on HIAP Board concerns & issues; and Letter from the EDC.

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Legal Review:

Approved As To Form: Dan McMahon
City Attorney

Recommendation:

Staff recommends approval of the Ordinance to approve final passage of the Building Purchase Agreement and the Lease with the Lea Regional Hospital LLC.

Approved For Submittal By:

Department Director

City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: Resolution No. 7683 - Confirming Satisfaction of Development Requirements and Authorizing Release of Right to Repurchase Property at the Hobbs Industrial Air Park

DEPT OF ORIGIN: Planning
DATE SUBMITTED: 9/25/2025
SUBMITTED BY: Todd Randall, Assistant City Manager

Summary:

In 2012, the City of Hobbs conditionally waived its right to repurchase approximately 20 acres at the Hobbs Industrial Air Park, subject to Nova Mud, Inc. constructing a private rail spur within three years of acquiring the property. Nova has since completed the required rail spur, fulfilling its obligations under the Waiver and Agreement. Adoption of the attached Resolution will formally confirm compliance and authorize the Mayor and City Clerk to execute and record a Release of Right to Repurchase with the Lea County Clerk, thereby extinguishing the City's interest in the property.

Fiscal Impact:

No fiscal impact.

Attachments:

RESO and Release to repurchase
LOCATION MAP v2
RESO 5867 LUCKY SERVICE WAIVE RIGHT TO REPURHASE PROPERTY

Recommendation:

Approved By:

Todd Randall, Assistant City Manager	09/25/2025
Toby Spears, Finance Director	09/25/2025
Medjine Desrosiers-Douyon, Deputy City Attorney	09/25/2025
Manny Gomez, City Manager	09/26/2025

CITY OF HOBBS

RESOLUTION NO. **7683**

A RESOLUTION CONFIRMING SATISFACTION OF DEVELOPMENT REQUIREMENTS AND AUTHORIZING RELEASE OF RIGHT TO REPURCHASE PROPERTY AT HOBBS INDUSTRIAL AIR PARK

WHEREAS, the City of Hobbs ("City") previously sold and conveyed certain real property at the Hobbs Industrial Air Park (the "Property") to Lucky Services, Inc., subject to development requirements; and

WHEREAS, the City subsequently recorded a Notice of Right to Repurchase on November 29, 2007, in Book 1551, Page 627, Records of Lea County, New Mexico, providing that if the Property was not developed within three years, the City would have the right to repurchase; and

WHEREAS, by Resolution No. 5867 adopted August 6, 2012, the City waived its then-existing right to repurchase from DJD Investments, LLC, conditioned upon Nova Mud, Inc. ("Nova") constructing a private rail spur within three (3) years of acquiring the Property; and

WHEREAS, Nova has constructed the required private rail spur on the Property in accordance with the Waiver and Agreement, thereby satisfying its development obligations; and

WHEREAS, the City Commission finds that all obligations of Nova under the Waiver and Agreement have been fully performed and the City's right to repurchase is terminated;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Hobbs, New Mexico:

- The City hereby confirms that Nova Mud, Inc. has complied with its obligation to construct a private rail spur on the Property.
- The City's right to repurchase, as set forth in the Notice of Right to Repurchase and Waiver and Agreement, is hereby declared satisfied, released, and of no further effect.
- The Mayor and City Clerk are authorized to execute a Release of Right to Repurchase

PASSED, ADOPTED AND APPROVED this 6th day of October, 2025.

_____
SAM D. COBB, Mayor

ATTEST:

_____
JAN FLETCHER, City Clerk

RELEASE OF RIGHT TO REPURCHASE
FOR SURFACE TITLE ONLY:

A tract of land situated in the Southwest Quarter (SW/4) of Section 6 and Northwest Quarter (NW/4) of Section 7, all in Township 18 South, Range 38 East, N.M.P.M., City of Hobbs, Lea County, New Mexico and being more particularly described as follows:

Beginning at the Southwest corner of this tract which lies S00°46'19"E along the West line of said Section 7 a distance of 1278.08 feet and N89°16'46"E, 1598.81 feet from the Northwest corner of said Section 7 and Southwest corner of said Section 6; then N40°13'50"W parallel to and 80 feet East of the centerline of an existing railroad track for a distance of 990.11 feet; then N49°48'44"E a distance of 110 feet; then N40°13'50"W a distance of 510 feet; then N49°47'57"E a distance of 810.39 feet to the point of curvature for a curve concave Northeasterly having a radius of 120.00 feet a central angle of 96°22'46"; then Southeasterly along the arc of said curve 201.86 feet, said arc subtended by a chord which bears S40°11'41"E a distance of 178.88 feet to a point of tangency; then S40°11'41"E a distance of 331.30 feet to the Northeast corner of the Lea County Road Department tract; then S49°48'44"W along the North line of said Road Department tract a distance of 440.00 feet; then S40°11'41"E along the West line of said Road Department tract a distance of 990.00 feet; then S49°47'57"W a distance of 479.45 feet to the point of beginning.

Subject to reservations, restrictions and easements appearing of record.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the City of Hobbs does hereby release, terminate, and forever discharge its right to repurchase the Property, and consents that said right is of no further force or effect.

IN WITNESS WHEREOF, the City of Hobbs has caused this Release to be executed this ___ day of _____, 2025.

CITY OF HOBBS, NEW MEXICO

By: _____
Sam D. Cobb, Mayor

ATTEST:

_____
Jan Fletcher, City Clerk

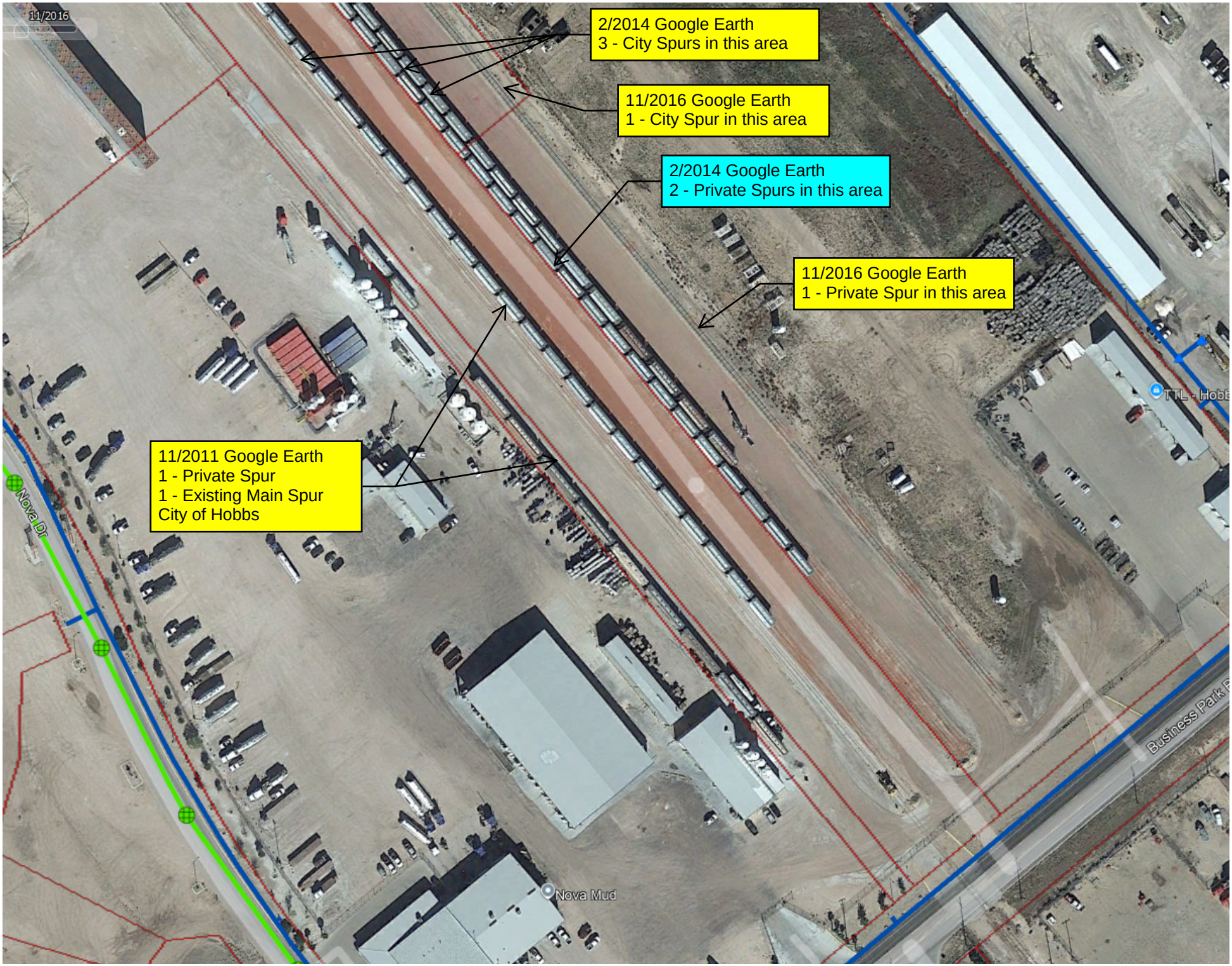
ACKNOWLEDGEMENT

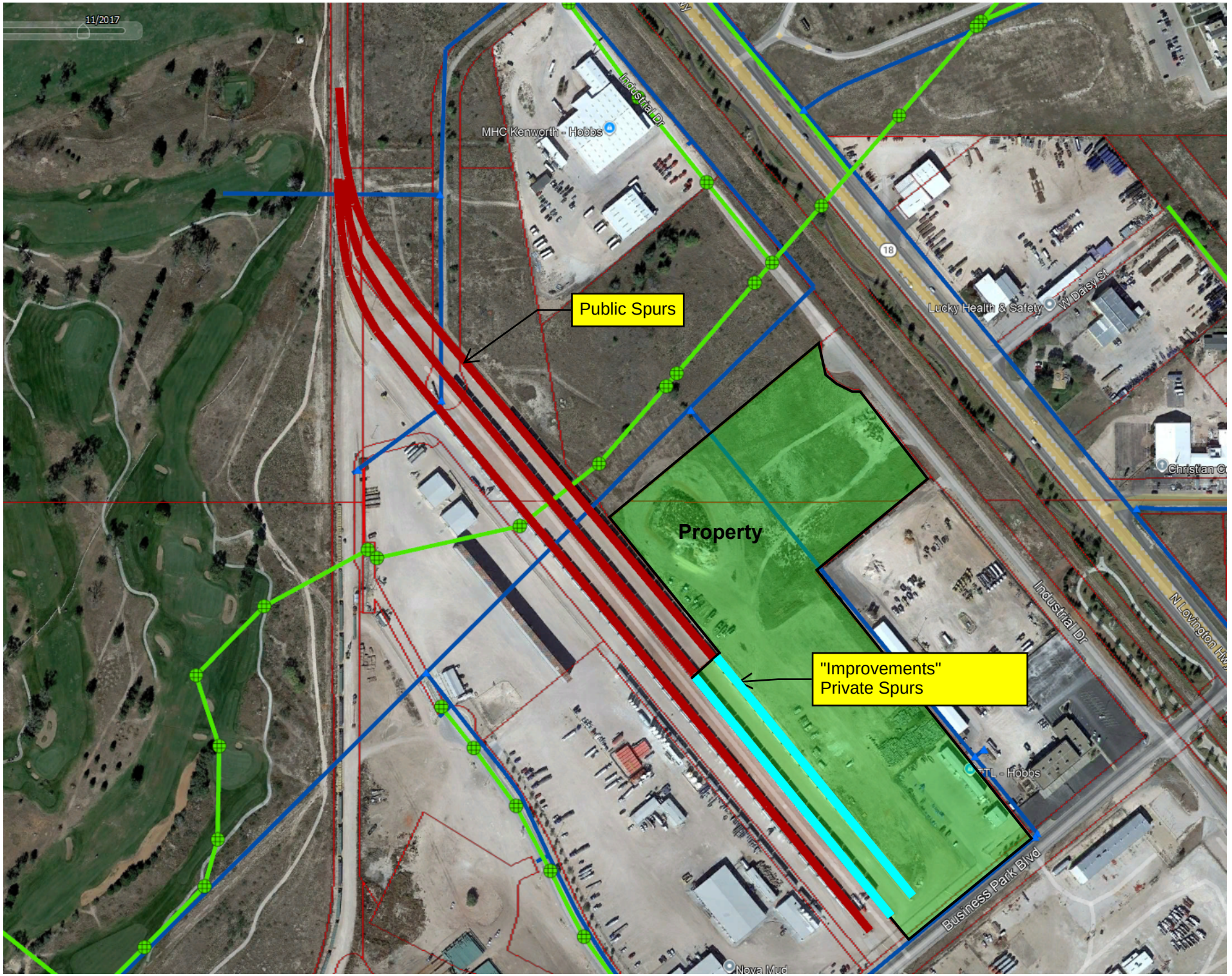
STATE OF NEW MEXICO
COUNTY OF LEA

This instrument was acknowledged before me on this ___ day of _____, 2025, by SAM D. COBB, Mayor of the City of Hobbs, New Mexico, a municipal corporation, on behalf of said corporation.

_____
Notary Public

My Commission Expires: _____


11/2016
2/2014 Google Earth
3 - City Spurs in this area
11/2016 Google Earth
1 - City Spur in this area
2/2014 Google Earth
2 - Private Spurs in this area
11/2016 Google Earth
1 - Private Spur in this area
11/2011 Google Earth
1 - Private Spur
1 - Existing Main Spur
City of Hobbs
Nova Dr
Nova Mud
Business Park


11/2017
MHC Kenworth - Hobbs
Industrial Dr
Public Spurs
Property
"Improvements"
Private Spurs
Lucky Health & Safety
W Daisy St
Industrial Dr
N Lovington Hwy
TL - Hobbs
Business Park Blvd
Nova Mud

CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: August 6, 2012

SUBJECT: Resolution to Waive Right to Repurchase Property at Hobbs Industrial Air Park

DEPT. OF ORIGIN: Legal Department
DATE SUBMITTED: August 1, 2012
SUBMITTED BY: Michael H. Stone, City Attorney

Summary:

On May 21, 2012, the City Commission adopted Resolution # 5827 enforcing a right to repurchase property at Hobbs Industrial Air Park. The property is owned by DJD, LLC and was not developed according to the purchase requirement. DJD has requested the City to waive the repurchase right and allow the property to be sold to Nova Mud. Nova has substantial property and investment in the area and has developed its property substantially.

The City has negotiated a satisfactory agreement with DJD and Nova to allow the sale from DJD to Nova to occur. To satisfy the development and investment requirement associated with HIAP property, Nova will construct a rail spur on the property. The additional rail spur will help with the current rail traffic and provide additional economic development to the area. This agreement will also settle legal controversy between DJD and the City.

Fiscal Impact:

The City will not be repurchasing the property for $301,000.00 as directed by Resolution #5827. The City forwarded check # 36388 to DJD for $301,000.00 on 5/23/12 pursuant to Resolution # 5827. The check has not been negotiated. It shall be voided and the general fund credited $301,000.00.

Reviewed By: _____
Finance Department

Attachments:

Resolution
Waiver and Agreement
Notice of Waiver of Right to Repurchase

Legal Review:

Approved As To Form: Michael H. Stone
City Attorney

Recommendation: The Commission to approve the proposed Resolution.

Approved For Submittal By:
Michael H. Stone
Department Director

City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 5867

A RESOLUTION TO WAIVE RIGHT TO
REPURCHASE PROPERTY AT HOBBS
INDUSTRIAL AIR PARK

WHEREAS, the City of Hobbs adopted Resolution # 5827 on May 21, 2012 enforcing a right to repurchase property at Hobbs Industrial Air Park; and

WHEREAS, the property is currently owned by DJD, LLC who has requested the City to waive its right to repurchase the property; and

WHEREAS, the City has negotiated with DJD and Nova Mud to allow DJD to sell the property to Nova, settling legal controversy between the City and DJD; and

WHEREAS, Nova and the City has entered into a written agreement that will satisfy the investment and development requirement associated with the HIAP property;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the City waive its right to repurchase the DJD property and enter into a written agreement with Nova Mud to satisfy the development and investment requirement associated with the HIAP property

PASSED, ADOPTED AND APPROVED this 6th day of August, 2012.

SAM D. COBB, Mayor

ATTEST:

for JAN FLETCHER, City Clerk

46658

NOTICE OF WAIVER OF RIGHT TO REPURCHASE

WHEREAS the City of Hobbs ("City") has sold the tract of land described on Exhibit "A" attached hereto ("Property") to Lucky Services, Inc. ("Lucky"); and

WHEREAS as a condition of the sale, the City has the right to repurchase Property under the terms and conditions as contained in the Purchase Agreement by and between City and Lucky; and

WHEREAS the parties executed a Notice of Right to Repurchase which is filed of record on or about November 29, 2007, in Book 1551 Page 627-628, in the Real Property Records, Lea County, New Mexico; and

WHEREAS Lucky sold its interest and responsibilities in the Property to DJD Investments, LLC ("DJD"); and

WHEREAS City notified DJD of its intent to exercise its right to repurchase the Property; and

WHEREAS DJD requested that the City not exercise its repurchase right and to actually waive said rights to enable DJD to sell the Property to a third party; and

WHEREAS City and DJD including its principals, David Pyeatt, Johnny Cope and Dwayne Taylor, have settled all legal controversies in this matter and desire to place this Notice of Waiver of Right to Repurchase of record.

NOW THEREFORE notice is hereby given that City waives its right to repurchase said property and consents to the sale to the third party. DJD, its principals and City acknowledge that all legal controversies have been resolved in this matter.

Dated this 7 day of August, 2012

The City of Hobbs

By: _____
Mayor Sam D. Cobb

DJD Investments, LLC

By: _____
David Pyeatt

By: _____
Johnny Cope

By: _____
Dwayne Taylor

This is a true and correct copy of the original filed in the office of the County Clerk
Elliott & Waldron Title & Abstract Co., Inc.
By _____

NOTICE OF WAIVER OF RIGHT TO REPURCHASE

WHEREAS the City of Hobbs ("City") has sold the tract of land described on Exhibit "A" attached hereto ("Property") to Lucky Services, Inc. ("Lucky"); and

WHEREAS as a condition of the sale, the City has the right to repurchase Property under the terms and conditions as contained in the Purchase Agreement by and between City and Lucky; and

WHEREAS the parties executed a Notice of Right to Repurchase which is filed of record on or about November 29, 2007, in Book 1551 Page 627-628, in the Real Property Records, Lea County, New Mexico; and

WHEREAS Lucky sold its interest and responsibilities in the Property to DJD Investments, LLC ("DJD"); and

WHEREAS City notified DJD of its intent to exercise its right to repurchase the Property; and

WHEREAS DJD requested that the City not exercise its repurchase right and to actually waive said rights to enable DJD to sell the Property to a third party; and

WHEREAS City and DJD including its principals, David Pyeatt, Johnny Cope and Dwayne Taylor, have settled all legal controversies in this matter and desire to place this Notice of Waiver of Right to Repurchase of record.

NOW THEREFORE notice is hereby given that City waives its right to repurchase said property and consents to the sale to the third party. DJD, its principals and City acknowledge that all legal controversies have been resolved in this matter.

Dated this 10th day of August, 2012

The City of Hobbs

By: _____
Mayor Sam D. Cobb

DJD Investments, LLC

By: _____
David Pyeatt

By: _____
Johnny Cope

By: _____
Dwayne Taylor

STATE OF NEW MEXICO }
}ss
COUNTY OF LEA }

This instrument was acknowledged before me on August 7th, 2012 by Sam D. Cobb whose title is Mayor of the City of Hobbs, New Mexico, a Municipal Corporation on behalf of said corporation

Notary Public

OFFICIAL SEAL
Holly A. Wood
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 3/29/15

My Commission Expires:

STATE OF NEW MEXICO }
}ss
COUNTY OF LEA }

This instrument was acknowledged before me on August 7th, 2012 by David Pyeatt, Johnny Cope and Dwayne Taylor, Managers/Members on behalf of DJD Investments, LLC.

Notary Public

My Commission Expires:

OFFICIAL SEAL
Holly A. Wood
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 3/29/15

Exhibit "A"

FOR SURFACE TITLE ONLY:
A tract of land situated in the Southwest Quarter (SW/4) of Section 6 and Northwest Quarter (NW/4) of Section 7, all in Township 18 South, Range 38 East, N.M.P.M., City of Hobbs, Lea County, New Mexico and being more particularly described as follows:
Beginning at the Southwest corner of this tract which lies S00°46'19"E along the West line of said Section 7 a distance of 1278.08 feet and N89°16'46"E, 1598.81 feet from the Northwest corner of said Section 7 and Southwest corner of said Section 6; then N40°13'50"W parallel to and 80 feet East of the centerline of an existing railroad track for a distance of 990.11 feet; then N49°48'44"E a distance of 110 feet; then N40°13'50"W a distance of 510 feet; then N49°47'57"E a distance of 810.39 feet to the point of curvature for a curve concave Northeasterly having a radius of 120.00 feet a central angle of 96°22'46"; then Southeasterly along the arc of said curve 201.86 feet, said arc subtended by a chord which bears S40°11'41"E a distance of 178.88 feet to a point of tangency; then S40°11'41"E a distance of 331.30 feet to the Northeast corner of the Lea County Road Department tract; then S49°48'44"W along the North line of said Road Department tract a distance of 440.00 feet; then S40°11'41"E along the West line of said Road Department tract a distance of 990.00 feet; then S49°47'57"W a distance of 479.45 feet to the point of beginning.

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

46658

AUG 08 2012
at 2:36 o'clock P M
and recorded in Book
Page
Pat Chappelle, Lea County Clerk
By Bridget Wofford Deputy

E&W
12-1171WF

46659

WARRANTY DEED

DJD Investments, LLC, a New Mexico limited liability company

for consideration paid grants to

Nova Mud, Inc., a New Mexico corporation

whose address is 419 W. Cain Hobbs, NM 88240
the following described real estate in LEA county, New Mexico

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

with warranty covenants.

WITNESS its hand and seal on 8/ 8 /12

DJD Investments, LLC,
A New Mexico limited liability company

BY: _____
David Pyeatt, Manager

BY: _____
Johnny Cope, Manager

BY: _____
Dwayne Taylor, Manager

STATE OF NEW MEXICO)
)ss
COUNTY OF LEA)

This instrument was acknowledged before me on 8/ 7 /12, by David Pyeatt, Johnny Cope and Dwayne Taylor, Managers on behalf of DJD Investments, LLC, a New Mexico limited liability company

_____
Notary Public

My commission expires : _____

OFFICIAL SEAL
Holly A. Wood
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 3/29/13

RETURN TO: GRANTEE

This is a true and correct copy of the original filed in the office of the County Clerk
Elliott & Waldron Title & Abstract Co., Inc.
By _____

EXHIBIT "A"

FOR SURFACE TITLE ONLY:
A tract of land situated in the Southwest Quarter (SW/4) of Section 6 and Northwest Quarter (NW/4) of Section 7, all in Township 18 South, Range 38 East, N.M.P.M., City of Hobbs, Lea County, New Mexico and being more particularly described as follows:
Beginning at the Southwest corner of this tract which lies S00°46'19"E along the West line of said Section 7 a distance of 1278.08 feet and N89°16'46"E, 1598.81 feet from the Northwest corner of said Section 7 and Southwest corner of said Section 6; then N40°13'50"W parallel to and 80 feet East of the centerline of an existing railroad track for a distance of 990.11 feet; then N49°48'44"E a distance of 110 feet; then N40°13'50"W a distance of 510 feet; then N49°47'57"E a distance of 810.39 feet to the point of curvature for a curve concave Northeasterly having a radius of 120.00 feet a central angle of 96°22'46"; then Southeasterly along the arc of said curve 201.86 feet, said arc subtended by a chord which bears S40°11'41"E a distance of 178.88 feet to a point of tangency; then S40°11'41"E a distance of 331.30 feet to the Northeast corner of the Lea County Road Department tract; then S49°48'44"W along the North line of said Road Department tract a distance of 440.00 feet; then S40°11'41"E along the West line of said Road Department tract a distance of 990.00 feet; then S49°47'57"W a distance of 479.45 feet to the point of beginning.
Subject to reservations, restrictions and easements appearing of record

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

AUG 08 2012

at 2:31 o'clock P M
and recorded in Book
Page
Pat Chappelle, Lea County Clerk
By Deputy

46659

Waiver and Agreement

WHEREAS the City of Hobbs, New Mexico ("City") sold and conveyed that certain tract of land described on Schedule I attached hereto being located at the Hobbs Industrial Airpark ("Property") to Lucky Services, Inc. , a New Mexico corporation ("Lucky") and;

WHEREAS Lucky subsequently sold and conveyed the Property to DJD Investments, LLC, a New Mexico limited liability company ("DJD") and;

WHEREAS at the time the City sold the Property to Lucky, a covenant was placed on the Property requiring the Property be improved within three years from the date Lucky acquired the Property or the City would have the right to repurchase the Property as reflected in that certain Notice of Right to Repurchase filed 11-29-07 in Book 1551, Page 627, Lea County Records, Lea County, New Mexico ("Right to Repurchase") and;

WHEREAS as of the date hereof, DJD has not improved the Property and;

WHEREAS DJD has entered into a contract to sell the Property to Nova Mud, Inc., a New Mexico corporation "(Nova") subject to the City waiving it's Right to Repurchase and consent to the sale and;

WHEREAS DJD and Nova requests that the City waive it's Right to Repurchase and consent to the sale from DJD to Nova and;

WHEREAS the City has approved waiving it's Right to Repurchase and consent to the sale subject to certain conditions.

NOW THEREFORE the City does hereby waive it's Right to Repurchase and consent to the Sale. As consideration for the City waiving said rights, Nova agrees as follows;

A) To minimize the burden on the existing main railway spur owned by the City located at HIAP ("City Spur"), Nova shall construct an additional private railroad spur ("Private Spur") at it's sole expense within three (3) years from the date of recording the deed of conveyance into Nova of the Property. The Private Spur will satisfy Nova's financial investment requirement as to the economic development of the HIAP property. In the event Nova fails to build the Private Spur within the time required, the City shall have the right to purchase the Property at the same price as the City originally sold the Property to Lucky. Said Private Spur shall be constructed on the Property and connect to the City's Spur. At no cost, City agrees to grant Nova an easement across the land that is owned by the City which is located between the Property and the City Spur. The location of the connection to the City Spur shall be agreed upon by Nova and the City. Nova shall construct the Private Spur in a quality manner consistent with the City Spur. Nova shall be responsible for all maintenance and repair of the Private Spur.

B) The City hereby discloses and Nova acknowledges that a recent study conducted by an Environmental Consultant retained by the City indicates that no recognized environmental conditions exist on the Property. The City has completed an Environmental Assessment report on the Property which was approved by the US Department of Housing and Urban Development. The report has previously been provided to Nova. Nova shall have the right to conduct further investigation of the environmental condition of the Property and agrees to hold the City harmless as to the environmental condition of the Property that was not caused by the City

C) This Waiver and Agreement or Memorandum hereof shall be recorded with the Lea County Clerk.

The City of Hobbs, New Mexico
a New Mexico Municipal corporation

BY: _____

Nova Mud, Inc.,
a New Mexico corporation

BY: _____
Kenneth W. Bromley, President

STATE OF NEW MEXICO)
)ss
COUNTY OF LEA)

The foregoing instrument acknowledged before me this 7th day of August, 2012 by Sam D. Cobb whose title is Mayor on behalf of the City of Hobbs, New Mexico, a Municipal corporation

My Commission Expires: OFFICIAL SEAL Holly A. Wood NOTARY PUBLIC STATE OF NEW MEXICO

_____
Notary Public

STATE OF NEW MEXICO 3/24/15
)ss
COUNTY OF LEA)

The foregoing instrument acknowledged before me this 1st day of August, 2012 by Kenneth W. Bromley, President on behalf of Nova Mud, Inc., a New Mexico corporation

My Commission Expires: 07-13-14

_____
Notary Public

Schedule I

FOR SURFACE TITLE ONLY:
A tract of land situated in the Southwest Quarter (SW/4) of Section 6 and Northwest Quarter (NW/4) of Section 7, all in Township 18 South, Range 38 East, N.M.P.M., City of Hobbs, Lea County, New Mexico and being more particularly described as follows:
Beginning at the Southwest corner of this tract which lies S00°46'19"E along the West line of said Section 7 a distance of 1278.08 feet and N89°16'46"E, 1598.81 feet from the Northwest corner of said Section 7 and Southwest corner of said Section 6; then N40°13'50"W parallel to and 80 feet East of the centerline of an existing railroad track for a distance of 990.11 feet; then N49°48'44"E a distance of 110 feet; then N40°13'50"W a distance of 510 feet; then N49°47'57"E a distance of 810.39 feet to the point of curvature for a curve concave Northeasterly having a radius of 120.00 feet a central angle of 96°22'46"; then Southeasterly along the arc of said curve 201.86 feet, said arc subtended by a chord which bears S40°11'41"E a distance of 178.88 feet to a point of tangency; then S40°11'41"E a distance of 331.30 feet to the Northeast corner of the Lea County Road Department tract; then S49°48'44"W along the North line of said Road Department tract a distance of 440.00 feet; then S40°11'41"E along the West line of said Road Department tract a distance of 990.00 feet; then S49°47'57"W a distance of 479.45 feet to the point of beginning.

46661

Memorandum of Covenant and Right to Purchase

Notice is hereby given that Nova Mud, Inc. ("Nova") and the City of Hobbs ("City") have entered into an Agreement dated 8-7-12 ("Agreement") covering the land described on the attached Exhibit "A" (the "Property") whereas Nova agrees to make certain improvements to the Property within three (3) years from the date that the deed into Nova is recorded with the Lea County Clerk. In the event Nova fails to make the required improvements by the aforementioned date, the City shall have the right to purchase the Property from Nova for the amount established in the Agreement.

The City's right to purchase the Property is subordinate and inferior to that certain mortgage in favor of First American Bank being recorded with the Lea County Clerk on the same date as the deed into Nova.

Dated this 7 day of August, 2012

The City of Hobbs, New Mexico
a New Mexico Municipal corporation

BY: _____

Nova Mud, Inc.,
a New Mexico corporation

BY: _____
Kenneth W. Bromley, President

STATE OF NEW MEXICO)
)ss
COUNTY OF LEA)

The foregoing instrument acknowledged before me this 7th day of August, 2012 by Sam D. Cobb whose title is Mayor on behalf of the City of Hobbs, New Mexico, a Municipal corporation

My Commission Expires: OFFICIAL SEAL Holly A. Wood NOTARY PUBLIC STATE OF NEW MEXICO My Commission Expires: 3/29/15

_____
Notary Public

STATE OF NEW MEXICO)
)ss
COUNTY OF LEA)

The foregoing instrument acknowledged before me this 8th day of August, 2012 by Kenneth W. Bromley, President on behalf of Nova Mud, Inc., a New Mexico corporation

My Commission Expires: OFFICIAL SEAL Danella Alexander NOTARY PUBLIC STATE OF NEW MEXICO My Commission Expires: 4/13/12

_____
Notary Public

Exhibit "A"

FOR SURFACE TITLE ONLY:

A tract of land situated in the Southwest Quarter (SW/4) of Section 6 and Northwest Quarter (NW/4) of Section 7, all in Township 18 South, Range 38 East, N.M.P.M., City of Hobbs, Lea County, New Mexico and being more particularly described as follows:

Beginning at the Southwest corner of this tract which lies S00°46'19"E along the West line of said Section 7 a distance of 1278.08 feet and N89°16'46"E, 1598.81 feet from the Northwest corner of said Section 7 and Southwest corner of said Section 6; then N40°13'50"W parallel to and 80 feet East of the centerline of an existing railroad track for a distance of 990.11 feet; then N49°48'44"E a distance of 110 feet; then N40°13'50"W a distance of 510 feet; then N49°47'57"E a distance of 810.39 feet to the point of curvature for a curve concave Northeasterly having a radius of 120.00 feet a central angle of 96°22'46"; then Southeasterly along the arc of said curve 201.86 feet, said arc subtended by a chord which bears S40°11'41"E a distance of 178.88 feet to a point of tangency; then S40°11'41"E a distance of 331.30 feet to the Northeast corner of the Lea County Road Department tract; then S49°48'44"W along the North line of said Road Department tract a distance of 440.00 feet; then S40°11'41"E along the West line of said Road Department tract a distance of 990.00 feet; then S49°47'57"W a distance of 479.45 feet to the point of beginning.

46661

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

AUG 08 2012

at 2:31 o'clock P M
and recorded in Book 1789
Page 738
Pat Chappelle, Lea County Clerk
By Brenda Woodard Deputy

COUNTY CLERK SEAL LEA COUNTY, NEW MEXICO

Return to:
City of Hobbs
Mike Stone
200 E. Broadway
Hobbs, NM 88240

CITY OF Hobbs NEW MEXICO

CITY ATTORNEY'S OFFICE

200 East Broadway
Hobbs, New Mexico 88240

575-397-9226
575-391-7876 fax

HAND DELIVERED

May 23, 2012

DJD Investments, LLC
Mr. David Pyeatt
1819 N. Turner STE B
Hobbs, NM 88240

Re: City of Hobbs Resolution 5827

Dear Mr. Pyeatt:

As discussed, please find the following documents for your review as Agent and Organizer of DJD Investments, LLC:

City of Hobbs Resolution 5827;
Letter dated May 21, 2012 from Mayor Sam Cobb to DJD Investments, LLC;
Check # 00036388 payable to DJD Investments, LLC for $301,000.00;
Special Warranty Deed.

At the City Commission meeting Monday evening, the commission determined to enforce the repurchase provision in the Real Estate Purchase Agreement dated April 2, 2007 and as described in the Notice of Right to Repurchase filed of record on November 29, 2007 in the Lea County Clerk's office. I request that you execute the Special Warranty Deed on behalf of DJD Investments, LLC to effectuate the repurchase.

I believe the enclosed documents clearly describe the City's position in this matter. It is my desire to get this matter resolved in a timely fashion. I am happy to answer any questions you may have.

Sincerely yours,

Michael H. Stone
City Attorney

cc: Mayor Sam Cobb
Eric Honeyfield

Hobbs
NEW MEXICO

MAYOR'S OFFICE

200 East Broadway
Hobbs, New Mexico 88240

575-391-7890 bus

May 21, 2012

DJD Investments, LLC
Mr. David Pyeatt / Organizer and Agent
1819 North Turner Ste B
Hobbs, NM 88240

Re: Exercise of Repurchase Provision / HIAP Property

Dear Mr. Pyeatt:

The City of Hobbs entered into a Real Estate Purchase Agreement to sell approximately 20.2 acres of land in the City's industrial park (HIAP) in November, 2007 with Mr. Dwayne Taylor, Lucky Services, Inc. The day after the Lucky Services closing, DJD Investments, LLC closed on the same property.

The Real Estate Purchase Agreement includes a requirement to develop the property within three years of the initial closing date, or November 27, 2010. The purpose of the development provision is to foster economic development and job creation in Hobbs. A Notice of Right to Repurchase was signed by Mr. Eric Honeyfield and Mr. Taylor and recorded on November 29, 2007. The right to repurchase requires the property to be returned to the City at the same price it sold the property.

To this date, the property has not been developed. In fact the only visible change to the property is a "Sale or Lease Build to Suit" sign on the property. The City hereby exercises its right to repurchase the property. I have enclosed a copy of the City Resolution for your review.

The City received $276,000.00 from the sale of the property and Mr. Taylor made a $25,000.00 contribution to assist with the paving of Industrial Drive to the property. Please find enclosed a check made payable to DJD Investments, LLC in the amount of $301,000.00 and a Special Warranty Deed for DJD Investments LLC's execution in favor of the City of Hobbs.

It is the City's desire to get this situation resolved as soon as possible. Thank you for your prompt attention to this matter.

Sincerely yours,

THE CITY OF HOBBS

SAM D. COBB
Mayor

SDC/ab

Check Number: 00036388

City of Hobbs, Hobbs, NM 88240

Invoice Date	Invoice Number	Description		Invoice Amount
05/23/2012	CR 40765	REPURCHASE OF HIAP PROPERTY	GL-024002 42324	$301,000.00

Vendor No.	Vendor Name	Check No	Check Date	Check Amount
14456	DJD INVESTMENTS, LLC	00036388	05/23/2012	301,000.00

TYLER FORM PROCESSING

U.S. Pat. no. 5,095,407

PATENTS 4,210,346; 4,227,720; 4,310,160; 5,197,765; 5,340,159

THIS CHECK IS PRINTED WITH A BLUE BACKGROUND. VOID PANTOGRAPH, MICRO-PRINTING, TOY SERIES AND AN ARTIFICIAL WATERMARK VIEWABLE ON THE BACK

Hobbs NEW MEXICO

City of Hobbs
Hobbs, NM 88240

Vendor Number	Check Date	Check Number	95-183 / 1122
14456	05/23/2012	00036388	

VOID 60 DAYS FROM DATE OF ISSUE

$301,000.00

Pay Three Hundred One Thousand Dollars and 00 cents ******

To The Order Of DJD INVESTMENTS, LLC
PO BOX 610
HOBBS NM 88240

Lea County State Bank
Hobbs, NM

Authorized Signature MP

Authorized Signature MP

tylerworks FORM #: PSBLX

AP

See Reverse Side For Easy Opening Instructions

Hobbs NEW MEXICO

City of Hobbs
200 East Broadway Street
Hobbs, New Mexico 88240

TP-72821 6-2 • 11Z-VG

00036388

DJD INVESTMENTS, LLC
PO BOX 610
HOBBS NM 88240

DJD INVESTMENTS, LLC

1819 N. Turner Suite B
Hobbs, New Mexico 88240

August 11, 2012

City of Hobbs
Mike Stone
200 East Broadway
Hobbs, New Mexico 88240
HAND DELIVERED

RE: DJD Investments, LLC sale to Nova Mud, Inc.
HIAP land

Dear Mike,

In connection with the above captioned, please find enclosed herewith the following items;

- Your ***original*** letter dated May 23, 2012 with attachments regarding the City's desire to repurchase the land which was rescinded
- ***Original***-non-negotiated City of Hobbs Check #00036388 in the amount of $301,000.00
- Copy of the recorded Notice of Waiver of Right to Repurchase executed by and between DJD and the City
- Copy of recorded Warranty Deed executed by DJD conveying the land to Nova Mud, Inc.
- ***Original*** Waiver and Agreement executed by and between the City and Nova Mud, Inc.
- Copy of Memorandum of Covenant and Right to Purchase executed by and between the City and Nova Mud, Inc.

We appreciate your assistance in this transaction.

Sincerely,

David A. Pyeatt
Member on behalf of
DJD Investments, LLC

enc.

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: Resolution No. 7684 - Supporting the Responsible Reuse of Produced Water

DEPT OF ORIGIN: City Clerk
DATE SUBMITTED: 9/30/2025
SUBMITTED BY: Sam Cobb, Mayor

Summary:

Water is the foundation of life in New Mexico, sustaining families, communities, agriculture, businesses, and ecosystems across our state; and in Hobbs we know that without reliable water supplies, our ability to grow food, sustain communities, and build a stable economy is immediately at risk. The City of Hobbs supports the continued study, pilot projects, and responsible development of produced water treatment and reuse as a tool to protect freshwater resources, meet compact obligations, and strengthen local economies. Additionally, the City strongly urges the New Mexico Water Quality Control Commission to hold hearings and public meetings in Hobbs, as there is no other region more directly affected by produced water activity. Holding these hearings and meetings in Hobbs ensures that the voices of local communities are placed at the forefront of decision-making.

Fiscal Impact:

No fiscal impact in adopting the resolution.

Attachments:

Resolution - Support for Responsible Reuse of Produced Water

Recommendation:

Motion to approve the resolution.

Approved By:

Jan Fletcher, City Clerk	09/30/2025
Toby Spears, Finance Director	09/30/2025
Medjine Desrosiers-Douyon, Deputy City Attorney	09/30/2025
Manny Gomez, City Manager	09/30/2025

CITY OF HOBBS

RESOLUTION NO. **7684**

A RESOLUTION SUPPORTING THE
RESPONSIBLE REUSE OF PRODUCED WATER

WHEREAS, water is the foundation of life in New Mexico, sustaining families, communities, agriculture, businesses, and ecosystems across our state; and in Hobbs we know that without reliable water supplies, our ability to grow food, sustain communities, and build a stable economy is immediately at risk; and

WHEREAS, communities in New Mexico have faced persistent drought, declining river flows, receding aquifer levels, and catastrophic wildfires that have destroyed watersheds and highlighted the fragility of our resources, and local governments in regions such as ours are the ones who bear the responsibility of managing these crises when they strike, whether through emergency restrictions, difficult planning decisions, or direct communication with affected constituents; and

WHEREAS, the people of Hobbs understand the urgency of protecting, conserving, and diversifying water resources for current and future generations, and recognize that while conservation remains vital, conservation alone is not enough to solve the magnitude of water challenges facing New Mexico, and in particular Southeast New Mexico, in the years to come; and

WHEREAS, produced water — the water that comes to the surface during oil and gas development — has historically been treated as a waste product and injected back underground, but responsible treatment and reuse of this water presents a significant opportunity to reduce demand on fresh water supplies while creating a new pathway for innovation and economic diversification in our region; and

WHEREAS, responsibly treating and reusing produced water has the potential to reduce pressure on aquifers, preserve river flows, and provide additional resources for industrial processes and compact compliance, all while ensuring that clean, fresh water is prioritized for drinking, agriculture, and ecosystems that depend on it; and

WHEREAS, New Mexico cannot rely on the discovery of new water resources and must instead look to innovative, science-based solutions such as produced water reuse and brackish water treatment to strengthen resilience and ensure sustainable growth, and failure to act will only result in higher costs and greater hardships for future generations; and

WHEREAS, states such as Texas are already advancing projects to clean and reuse produced water, and New Mexico is missing opportunities by transporting produced water across our borders for disposal or beneficial reuse rather than developing facilities here in Southeast New Mexico that could provide services, jobs, and water for the citizens of Hobbs; and

WHEREAS, building treatment and reuse infrastructure in New Mexico can create good-paying jobs, foster new industries, and diversify local economies, particularly in rural and energy-producing regions like ours where every new opportunity for employment and growth has an outsized impact on families, schools, and small businesses; and

WHEREAS, the responsible reuse of produced water must be done in partnership with communities, local governments, research institutions, industry, and conservation groups, with transparency, strong environmental safeguards, and oversight to ensure trust, and the people of our region are prepared to work collaboratively with all parties to ensure these standards are met; and

WHEREAS, the residents of Hobbs deserve to have their voices heard in policy discussions that directly affect them, and hearings of the Water Quality Control Commission related to the reuse of treated produced water should be conducted in the regions where activity and development would take place, so that those most impacted can participate directly in shaping the policies that affect their daily lives; and

WHEREAS, delaying or stifling hearings because of political pressure, media narratives, or public outcry from communities far removed from the areas of activity does a disservice to the people who live with the realities of water scarcity, drought planning, and wildfire recovery, and local governments in regions like ours should not be sidelined in favor of distant voices that are not held accountable for providing water to households, enforcing restrictions, or responding to constituents.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Hobbs, New Mexico:

1. That the City of Hobbs supports the continued study, pilot projects, and responsible development of produced water treatment and reuse as a tool to protect freshwater resources, meet compact obligations, and strengthen local economies.

2. That the City of Hobbs calls on the State of New Mexico and federal agencies to work in genuine partnership with local governments, water districts, landowners, industry, and community stakeholders to ensure that all produced water reuse projects are conducted transparently, with science-based safeguards, rigorous monitoring, and strong environmental protections.

3. That the City of Hobbs affirms that policy should not be dictated by distant interests or narratives from communities where this activity will not occur but must instead be shaped through constructive engagement with the communities that are and will manage the real-world consequences of water scarcity and development.

4. That the City of Hobbs strongly urges the New Mexico Water Quality Control Commission to hold hearings and public meetings in Hobbs, as there is no other region more directly affected by produced water activity. Holding these hearings and meetings in Hobbs ensures that the voices of local communities are placed at the forefront of decision-making.

5. That the City of Hobbs strongly opposes holding hearings in Santa Fe or any other unaffected or marginally affected community on the matter of reusing treated produced water. Holding hearings in Santa Fe or any other unaffected or marginally affected community on the matter of reusing treated produced water would be an afront to the principles of representative democracy and due process and an affront to the people of Southeast New Mexico.

6. That copies of this resolution shall be transmitted to the Governor of New Mexico, the New Mexico Environment Department, the New Mexico Water Quality Control Commission, and the legislative delegation representing the City of Hobbs.

PASSED, APPROVED, AND ADOPTED this 6th day of October, 2025.

_____
SAM D. COBB, Mayor

ATTEST:

_____
JAN FLETCHER, City Clerk

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: PUBLICATION: Proposed Ordinance Amending the Uniform Traffic Ordinance as Set Forth in Chapter 10.04 of the Hobbs Municipal Code

DEPT OF ORIGIN: Legal
DATE SUBMITTED: 9/4/2025
SUBMITTED BY: Amber Leija, Assistant City Attorney

Summary:

The Uniform Traffic Ordinance (*hereinafter* UTO) was adopted by the City of Hobbs on September 5, 2016, via ordinance No. 1095 via ordinance No. 1095. In June 2025, the New Mexico Municipal League sent proposed amendments. The proposed ordinance would update the Hobbs Uniform Traffic Ordinance.

Fiscal Impact:

There is no direct fiscal impact for this ordinance.

Attachments:

City of Hobbs Uniform Traffic Ordinance (revised 10.27.21)
Final Proposed UTO1
Uniform traffic ordinance 2025

Recommendation:

The Commission should consider the adoption of the proposed ordinance and move forward with publication

Approved By:

Medjine Desrosiers-Douyon, Deputy City Attorney	09/25/2025
Toby Spears, Finance Director	09/25/2025
Medjine Desrosiers-Douyon, Deputy City Attorney	09/25/2025
Manny Gomez, City Manager	09/29/2025

New Mexico
Uniform Traffic Ordinance
2010 Compilation

THIS DOCUMENT CONTAINS ALL REVISIONS THROUGH JULY, 2019

New Mexico Municipal League
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Santa Fe, New Mexico 87504
(505) 982-5573 or 1-800-432-2036
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PREFACE TO 2010 COMPILATION

NEW MEXICO UNIFORM TRAFFIC ORDINANCE

This Uniform Traffic Ordinance consists of the 2010 Compilation, which replaces the 2004 Compilation, and amendments through July, 2018. The citations in parentheses are to the 1978 New Mexico Statutes Annotated (or as amended since 1979). These citations at the end of a paragraph indicate comparable provisions in the State law. The exact language in the State Motor Vehicle Code has been used in the Ordinance wherever possible. An asterisk (*) at the end of a paragraph indicates that there are no comparable provisions in the State Code. A reference includes any unreferenced paragraphs that precede it.

The 2010 Compilation has a new page numbering system. Each Article is numbered individually with the Article number first. Consequently, the previous Compilation will not necessarily match the 2010 Compilation's page numbers. The 2010 Compilation contains all amendments since July, 2004 enacted by the Legislature through July, 2018 with the 2018 changes.

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12-1-1 DEFINITION OF WORDS AND PHRASES.

A. The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in Sections 12-1-1 through 12-1-89. (*)

B. When in a specific section of this ordinance a different meaning is given for a term defined for general purposes in this section, the specific section's meaning and application of the term shall control. (66-1-4 NMSA 1978)

12-1-2 ABANDONED VEHICLE. "Abandoned Vehicle" means a vehicle or motor vehicle which has been determined by a New Mexico law enforcement agency:

(1) to have been left unattended on either public on private property for at least thirty days;

(2) not to have been reported stolen;

(3) not to have been claimed by any person asserting ownership; and

(4) not to have shown by normal record checking procedures to be owned by any person. (66-1-4.1 NMSA 1978)

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 sixty inches in width or, if the parking space is designed for van accessibility, ninety-six 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 (66-1-4.1 NMSA 1978).

12-1-3 ADMINISTRATOR. "Administrator" means the chief executive employee of the municipality; including but not limited to the manager, clerk or administrator, or his designated representative. (*)

12-1-4 ALLEY. "Alley" means a street intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic. (*)

12-1-5 AUTHORIZED EMERGENCY VEHICLE. "Authorized Emergency Vehicle" means any vehicle of the fire department, police vehicles, ambulances and such emergency vehicles of municipal departments or public service corporations as are

designated or authorized by the chief of the New Mexico state police or the administrator. (66-1-4.1 NMSA 1978)

12-1-5.1 AUTOCYCLE. "Autocycle" means a three-wheeled motorcycle on which the driver and all passengers ride in a completely enclosed, tandem seating area, that is equipped with:

(1) federal motor vehicle safety standard glazing;
(2) a roll cage;
(3) safety belts for all occupants;
(4) airbag protection;
(5) antilock brakes;
(6) a steering wheel; and
(7) pedals. (66-1-4.1 NMSA 1978)

12-1-6 BICYCLE. "Bicycle" means every device propelled by human power, upon which any person may ride, having two tandem wheels, except scooters and similar devices. (66-1-4.2 NMSA 1978)

12-1-7 BUS. "Bus" means every motor vehicle designed and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. (66-1-4.2 NMSA 1978)

12-1-8 BUSINESS DISTRICT. "Business District" means the territory contiguous to and including a street and within three hundred feet from the street where there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least fifty percent of the frontage on one side or fifty percent of the frontage collectively on both sides of the street. (66-1-4.2 NMSA 1978)

12-1-9 CANCELLATION. "Cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to such license, but cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation. (66-1-4.3 NMSA 1978)

12-1-10 COMBINATION. "Combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers, or semitrailers converted to trailers by means of a converter gear. (66-1-4.3 NMSA 1978)

12-1-10.1 COMMERCIAL MOTOR VEHICLE . "Commercial motor vehicle" means a self-propelled or towed vehicle, other than special mobile equipment, used on public highways in commerce to transport passengers or property when the vehicle: is operated interstate and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of four thousand five hundred thirty-six kilograms, or ten thousand one pounds or more; or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-six thousand one or more pounds; (66-1-4.3 J NMSA 1978)

12-1-11 CONTROLLED ACCESS STREET. "Controlled Access Street" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway. (66-1-4.3 NMSA 1978)

12-1-12 CONVERTER GEAR. "Converter Gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semitrailer but not permanently attached thereto. A converter gear shall not be considered a vehicle, as that term is used in Chapter 66 NMSA 1978, but weight attributable thereto shall be included in declared gross weight. (66-1-4.3 NMSA 1978)

12-1-13 CROSSWALK. "Crosswalk" means:

A. That part of a street at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

B. Any portion of a street at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. (66-1-4.3 NMSA 1978)

12-1-14 CURB LOADING ZONE. "Curb Loading Zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials. (*)

12-1-15 DAYTIME. "Daytime" means from a half hour before sunrise to a half hour after sunset. (*)

12-1-16 DEALER. "Dealer" means any person who sells or solicits or advertises the sale of new or used motor vehicles, house trailers or trailers subject to registration in this state. Dealer shall not include:

A. receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

B. public officers while performing their duties as such officers;

C. persons making casual sales of their own vehicles duly registered and licensed to them by the state of New Mexico;

D. finance companies, banks and other lending institutions covering sales of repossessed vehicles; or

E. licensed brokers under the Manufactured Housing Act who for a fee, commission or valuable consideration engage in brokerage activities related to the

sale, exchange or lease-purchase of pre-owned manufactured homes on a site installed for a consumer. (66-1-4.4 NMSA 1978)

12-1-17 DIRECTOR. "Director" means the secretary of the state taxation and revenue department. (66-1-4.4 NMSA 1978)

12-1-18 DIVIDED STREET. "Divided Street" means any street containing a physical barrier, intervening space or clearly indicated dividing section so construed to impede vehicular traffic and separating vehicular traffic traveling in opposite directions. (*)

12-1-19 DIVISION. "Division" without further specification, "division of motor vehicles" or motor vehicle division means the department. (66-1-4.4 NMSA 1978)

12-1-20 DRIVEAWAY-TOWAWAY OPERATION. "Driveaway-Towaway Operation" means any operation in which any motor vehicle, new or used, constitutes the commodity being transported, when one set or more of wheels of any such motor vehicle is on the street during the course of transportation, whether or not the motor vehicle furnishes the motive power. (66-1-4.4 NMSA 1978)

12-1-21 DRIVER. "Driver" means every person who drives or is in actual physical control of a motor vehicle, including a motor-driven cycle, upon a street or who is exercising control over, or steering, a vehicle being towed by a motor vehicle or who operates or is in actual physical control of an off-highway motor vehicle. (66-1-4.4 K NMSA 1978)

12-1-22 DRIVER'S LICENSE. "Driver's License" means a license or a class of license issued by a State or other jurisdiction to an individual that authorizes the individual to drive a motor vehicle. (66-1-4.4 NMSA 1978)

12-1-23 EXPLOSIVES. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. A further definition of explosives is contained in Section 66-3-861 NMSA 1978. (66-1-4.5 NMSA 1978)

12-1-24 FARM TRACTOR. "Farm Tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows and mowing machines and other implements of husbandry. (66-1-4.6 NMSA 1978)

12-1-25 FIRST OFFENDER. "First Offender" means a person who for the first time under state or federal law or municipal ordinance has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug which renders him incapable of safely driving a motor vehicle regardless of whether the person's sentence was suspended or deferred. (66-1-4.6 NMSA 1978)

12-1-26 FLAMMABLE LIQUID. "Flammable Liquid" means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-up test device. (66-1-4.6 NMSA 1978)

12-1-27 FREIGHT CURB LOADING ZONE. "Freight Curb Loading Zone" means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight. (*)

12-1-28 HOUSE TRAILER. "House Trailer" means a manufactured home. (66-1-4.8 NMSA 1978)

12-1-29 IMPLEMENT OF HUSBANDRY. "Implement of Husbandry" means every vehicle which is designed for agricultural purposes and exclusively used by the owner thereof in the conduct of his agricultural operations. (66-1-4.9 NMSA 1978)

12-1-30 INTERSECTION.

A. "Intersection" means:

(1) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways or two streets which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

(2) Where a street includes two roadways thirty feet or more apart, every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection. In the event the intersecting street also includes two roadways thirty feet or more apart, every crossing of two roadways of such highways shall be regarded as a separate intersection. (66-1-4.9 NMSA 1978)

B. The junction of an alley with a roadway shall not constitute an intersection. (*)

12-1-31 INTERSTATE HIGHWAY. "Interstate Highway" means any public highway which has been designated as an interstate highway by the government of the United States. (*)

12-1-32 LANED ROADWAY. "Laned Roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic. (66-1-4.10 NMSA 1978)

12-1-33 LICENSE OR LICENSE TO OPERATE A MOTOR VEHICLE. "License or License to Operate a Motor Vehicle" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state including:

(1) any temporary license or instruction permit;

(2) the privilege of any person to drive a motor vehicle whether or not the person holds a valid license; and

(3) any nonresident's operating privilege as defined herein. (*)

12-1-34 METAL TIRE. "Metal Tire" means every tire the surface of which in contact with the street is wholly or partly of metal or other hard nonresilient material, except that for the purposes of this ordinance a snow tire with metal studs designed to increase traction on ice or snow shall not be considered a metal tire. (66-1-4.11 NMSA 1978)

12-1-35 MOBILE HOME. "Mobile Home" means a house trailer, other than one held as inventory for sale or resale, that exceeds either a width of eight feet or a length of forty feet, when equipped for the road. (*)

12-1-36 MOPED. "Moped" means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a piston displacement of less than fifty cubic centimeters, which is capable of propelling the vehicle at a maximum speed of not more than thirty miles an hour on level ground at sea level. (66-1-4.11 NMSA 1978)

12-1-37 MOTORCYCLES. “Motorcycle” means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including autocycles and excluding a tractor. (66-1-4.11 NMSA 1978)

12-1-38 MOTOR DRIVEN CYCLE. "Motor Driven Cycle" means every motorcycle, motor scooter and moped having an engine with less than one hundred cubic centimeters displacement. (*)

12-1-39 MOTOR SCOOTER. "Motor Scooter" means a motor-driven cycle as defined in this section. (*)

12-1-40 MOTOR VEHICLE. "Motor Vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails; but for the purposes of the Mandatory Financial Responsibility Act [66-5-201 to 66-5-239 NMSA 1978], “motor vehicle” does not include “special mobile equipment.” (66-1-4.11 NMSA 1978)

12-1-41 NIGHTTIME. "Nighttime" means the hours from a half hour after sunset to a half hour before sunrise. (*)

12-1-42 NONRESIDENT. "Nonresident" means every person who is not a resident of this state. (66-1-4.12 NMSA 1978)

12-1-43 OFFICIAL TIME STANDARD. "Official Time Standard" means whenever certain hours are named in this ordinance they shall mean standard time or daylight-saving time as may be in current use in this municipality. (*)

12-1-44 OFFICIAL TRAFFIC-CONTROL DEVICES. "Official Traffic-Control Devices" means all signs, signals, markings and devices not inconsistent with this ordinance placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic. (66-1-14.13 NMSA 1978)

12-1-45 OPERATOR. "Operator" means driver, as defined in Section 12-1-21. (66-1-4.13 NMSA 1978)

12-1-46 OWNER. "Owner" means a person who holds the legal title of a vehicle and may include a conservator, guardian, personal representative, executor or similar fiduciary or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor. (66-1-4.13 NMSA 1978)

12-1-47 PARK OR PARKING. "Park or Parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading and unloading. (66-1-4.14 NMSA 1978)

12-1-48 PASSENGER CURB LOADING ZONE. "Passenger Curb Loading Zone" means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers. (*)

12-1-49 PEDESTRIAN. "Pedestrian" means any natural person on foot. (66-1-4.14 NMSA)

12-1-50 PERSON. "Person" means every natural person, firm, copartnership, association, corporation, or other legal entity. (66-1-4.14 NMSA 1978)

12-1-51 POLE TRAILER. "Pole Trailer" means any vehicle without motive power, designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, structures, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections. (66-1-4.14 NMSA 1978)

12-1-52 POLICE OR PEACE OFFICER. "Police or Peace Officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of this ordinance. (66-1-4.14 NMSA 1978)

12-1-53 PRIVATE ROAD OR DRIVEWAY. "Private Road or Driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner, but not other persons. (66-1-4.14 NMSA 1978)

12-1-54 PUBLIC HOLIDAYS. "Public Holidays" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, or any other day designated a holiday by the governing body of this municipality. (*)

12-1-55 RAILROAD. "Railroad" means a carrier of persons or property upon cars operated upon stationary rails. (66-1-4.15 NMSA 1978)

12-1-56 RAILROAD SIGN OR SIGNAL. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (66-1-4.15 NMSA 1978)

12-1-57 RAILROAD TRAIN. "Railroad Train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails. (66-1-4.15 NMSA 1978)

12-1-58 RECREATIONAL VEHICLE. "Recreational Vehicle" means a vehicle with a camping body that has its own motive power, is affixed to or is drawn by another vehicle and includes motor homes, travel trailers and truck campers. (66-1-4.15 NMSA 1978)

12-1-59 REGISTRATION NUMBER. "Registration Number" means the number assigned by the motor vehicle division to the owner of a vehicle or motor vehicle required to be registered by the Motor Vehicle Code. (66-1-4.15 NMSA 1978)

12-1-60 REGISTRATION PLATE. "Registration Plate" means the plate, marker, sticker or tag assigned by the motor vehicle division for the identification of the registered vehicle. (66-1-4.15 NMSA 1978)

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12-1-61 RESIDENCE DISTRICT. "Residence District" means the territory contiguous to and including a street not comprising a business district when the property on the street for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business. (66-1-4.15 NMSA 1978)

12-1-62 REVOCATION. "Revocation" means that the driver's license and privilege to drive a motor vehicle on the public streets are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the division after the expiration of at least one year after date of revocation. (66-1-4.15 NMSA 1978)

12-1-63 RIGHT OF WAY. "Right of Way" means the privilege of the immediate use of the roadway. (66-1-4.15 NMSA 1978)

12-1-64 ROAD TRACTOR. "Road Tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon, either independently or as any part of the weight of a vehicle or load so drawn. (66-1-4.15 NMSA 1978)

12-1-65 ROADWAY. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street includes two or more separate roadways, the term "roadway" as used in this

ordinance refers to any such roadway separately but not to all such roadways collectively. (66-1-4.15 NMSA 1978)

12-1-66 SAFETY ZONE. "Safety Zone" means the area or space officially set apart within a street for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. (66-1-4.16 NMSA 1978)

12-1-67 SCHOOL BUS. "School Bus" means any motor vehicle operating under the jurisdiction of the state board of education or private school or parochial school interests which is used to transport children, students or teachers to and from schools or to and from any school activity, but not including any vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the state corporation commission but not used exclusively for the transportation of students;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the state corporation commission but is not used exclusively for transportation of students; or

(3) operated as a per capita feeder as defined in Section 22-16-6 NMSA 1978. (66-1-4.16 NMSA 1978)

12-1-68 SEMITRAILER. "Semitrailer" means any vehicle, without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. (66-1-4.16 NMSA 1978)

12-1-69 SIDEWALK. "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians. (66-1-4.16 NMSA 1978)

12-1-70 SOLID TIRE. "Solid Tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load. (66-1-4.16 NMSA 1978)

12-1-71 STAND OR STANDING. "Stand or Standing" means the halting of vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. (*)

12-1-72 STATE. "State" means a state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada. (66-1-4.16 NMSA 1978)

12-1-73 STATE HIGHWAY. "State Highway" means any public highway which has been designated as a state highway by the legislature, the state transportation commission or the secretary of the state transportation department. (66-1-4.16 NMSA 1978)

12-1-74 **STOP**. "Stop", when required, means complete cessation from movement. (66-1-4.16 NMSA 1978)

12-1-75 **STOP, STOPPING OR STANDING.** "Stop, Stopping or Standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal. (66-1-4.16 NMSA 1978)

12-1-76 **STREET OR HIGHWAY.** "Street or Highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction. (66-1-4.16 NMSA 1978)

12-1-77 **SUBSEQUENT OFFENDER.** "Subsequent Offender" means a person who was previously a first offender and who again, under state law, federal law, or municipal ordinance, has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug which rendered the person incapable of safely driving a motor vehicle regardless of whether the person's sentence is suspended or deferred. (66-1-4.16 NMSA 1978)

12-1-78 **SUSPENSION.** "Suspension" means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn. (66-1-4.16 NMSA 1978)

12-1-79 **TAXICAB.** "Taxicab" means a motor vehicle used in the transportation of persons for hire, having a normal seating capacity of not more than seven persons. (66-1-4.17 NMSA 1978)

12-1-80 **THROUGH STREET.** "Through Street" means every street or portion thereof at the entrance to which vehicular traffic from intersecting streets is required by law to stop before entering or crossing the same when stop signs are erected as provided in this ordinance. (66-1-4.17 NMSA 1978)

12-1-81 **TRAFFIC.** "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together using any street for purposes of travel. (66-1-4.17 NMSA 1978)

12-1-82 **TRAFFIC-CONTROL SIGNAL.** "Traffic-Control Signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed. (66-1-4.17 NMSA 1978)

12-1-83 **TRAILER.** "Trailer" means any vehicle, without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle. (66-1-4.17 NMSA 1978)

12-1-84 TRIAL COURT. "Trial Court" means the magistrate, municipal or district court which tries the case concerning an alleged violation of a provision of the Uniform Traffic Ordinance and the Motor Vehicle Code. (66-1-4.17 NMSA 1978)

12-1-84.1 TRIBE. "Tribe" means an Indian nation, tribe or pueblo that is located wholly or partially in New Mexico. For purposes of violations resulting in suspension or revocation of licenses and for DWI offenses (66-5-25, 26, 30 and 66-8-102), "tribe" is further defined as one that has executed an intergovernmental agreement with the state pursuant to Section 66-5-27.1 NMSA 1978. (66-1-4.17 and 66-5-1.2 NMSA 1978) (*)

12-1-85 TRUCK. "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property. (66-1-4.17 NMSA 1978)

12-1-86 TRUCK TRACTOR. "Truck Tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. (66-1-4.17 NMSA 1978)

12-1-87 VALIDATING STICKER. "Validating Sticker" means the tab or sticker issued by the division to signify, upon a registration plate, renewed registration. (66-1-4.19 NMSA 1978)

12-1-88 VEHICLE. "Vehicle" means every device in, upon, or by which, any person or property is or may be transported or drawn upon a street, including any frame, chassis, body or unitized frame and body of any vehicle or motor vehicle, except devices moved by human power or used exclusively upon stationary rails or tracks. (66-1-4.19 NMSA 1978)

12-1-89 ANY OTHER TERM. "Any Other Term" used in this ordinance is used in its commonly accepted meaning except where such term has been defined elsewhere in this ordinance or defined in Sections 66-1-4.1 through 66-1-4.21 NMSA 1978. (*)

ARTICLE III

APPLICATION OF TRAFFIC REGULATIONS

12-3-1 Obedience to Traffic Ordinance
12-3-2 Obedience to Officers
12-3-3 Authority of Police and Fire Departments
12-3-4 Authorized Emergency Vehicles
12-3-5 Application of Traffic Ordinance to Persons Propelling Push Carts, Riding Animals or Driving Animal-Drawn Vehicles
12-3-6 Use of Coaster Wagons, Roller Skates and Similar Devices Restricted
12-3-7 Public Officers and Employees to Obey Ordinance--Exceptions

12-3-1 OBEDIENCE TO TRAFFIC ORDINANCE. It is unlawful and, unless otherwise declared in this ordinance with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this ordinance. (66-7-3 NMSA 1978)

12-3-2 OBEDIENCE TO OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or fire department officer invested by this ordinance with authority to direct, control, or regulate traffic. (66-7-4 NMSA 1978)

12-3-3 AUTHORITY OF POLICE AND FIRE DEPARTMENTS.

A. It is the duty of police officers, or such officers as may be assigned by the chief of police, to enforce all traffic regulations of this municipality and all applicable state vehicle laws.

B. Police officers, or such officers as may be assigned by the chief of police, are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws and regulations. However, in the event of a fire or other emergency, they may direct as conditions require, notwithstanding provisions of the traffic laws and regulations, in order to expedite traffic or to safeguard pedestrians.

C. Officers of the fire department may direct or assist police in directing traffic at the scene of a fire or in its immediate vicinity. (*)

12-3-4 AUTHORIZED EMERGENCY VEHICLE.

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section subject to the conditions stated. The chief of the New Mexico state police or the appropriate local agency may designate emergency vehicles and revoke the designation. When vehicles are so designated, they are authorized emergency vehicles.

B. The driver of an authorized emergency vehicle may:

(1) park or stand, irrespective of the provisions of this ordinance;

(2) proceed past a red or stop signal or stop sign, but only after slowing down as necessary for safe operation;

(3) exceed the maximum speed limits so long as he does not endanger life or property; and

(4) disregard regulations governing direction of movement or turning in specified directions.

C. The exemptions granted to an authorized emergency vehicle apply only when the driver of the vehicle, while in motion sounds an audible signal by bell, siren or exhaust whistle as reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor does it protect the driver from the consequences of his reckless disregard for the safety of others. (66-7-6 NMSA 1978)

12-3-5 APPLICATION OF TRAFFIC ORDINANCE TO PERSONS PROPELLING PUSH CARTS, RIDING ANIMALS OR DRIVING ANIMAL-DRAWN VEHICLES. Every person riding an animal, driving any animal-drawn vehicle, or propelling a push cart upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application, and except where otherwise specifically provided in this ordinance. (66-7-7 NMSA 1978)

12-3-6 USE OF COASTER WAGONS, ROLLER SKATES, SKATEBOARDS, AND SIMILAR DEVICES RESTRICTED. No person upon roller skates, or riding in or by means of any coaster wagon, skateboard, toy vehicle, or similar device, shall go upon any street except while crossing a street on a crosswalk and when so crossing, the person shall be granted all of the rights and be subject to all of the duties applicable to pedestrians as provided for in this ordinance. (*)

12-3-7 PUBLIC OFFICERS AND EMPLOYEES TO OBEY ORDINANCE--EXCEPTIONS.

A. The provisions of this ordinance, applicable to the drivers of vehicles upon the streets, shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of

the state, except as provided in this section and subject to such specific exceptions as are set forth in this ordinance, with reference to authorized emergency vehicles.

B. Unless specifically made applicable, the provisions of this ordinance shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work. (66-7-5 NMSA 1978)

ARTICLE IV

ACCIDENT AND ACCIDENT REPORTS

12-4-1 Accidents Involving Death or Personal Injury
12-4-2 Accidents Involving Damage to Vehicle
12-4-3 Duty to Give Information and Render Aid
12-4-4 Duty upon Striking Unattended Vehicle
12-4-5 Duty upon Striking Fixtures or Other Property upon a Street
12-4-6 Immediate Notice of Accidents
12-4-7 Written Reports of Accidents
12-4-8 Garages, Dealers and Wreckers of Vehicles to Report
12-4-9 False Reports
12-4-10 Written Accident Reports Confidential--Exceptions

12-4-1 ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY.

A. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then immediately return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 12-4-3. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person failing to stop or comply with the requirements of Section 12-4-3, where the accident does not result in great bodily harm or death, shall be sentenced to a definite term of not more than ninety days in jail, or a fine of not more than three hundred dollars ($300), or both. (66-7-201 NMSA 1978)

12-4-2 ACCIDENTS INVOLVING DAMAGE TO VEHICLE. The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 12-4-3. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor. (66-7-202 NMSA 1978)

12-4-3 DUTY TO GIVE INFORMATION AND RENDER AID. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving and shall upon request exhibit his driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such

person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. (66-7-203 NMSA 1978)

12-4-4 DUTY UPON STRIKING UNATTENDED VEHICLE. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. (66-7-204 NMSA 1978)

12-4-5 DUTY UPON STRIKING FIXTURES OR OTHER PROPERTY UPON A STREET. The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request exhibit his driver's license and shall make report of such accident when and as required in Section 12-4-7. (66-7-205 NMSA 1978)

12-4-6 IMMEDIATE NOTICE OF ACCIDENTS.

A. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of five hundred dollars ($500) or more, shall immediately, by the quickest means of communication, give notice of such accident to the police department if the accident occurs within a municipality; otherwise to the office of the county sheriff or the nearest office of the New Mexico state police. (66-7-206 NMSA 1978)

B. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in subsection A and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver. (66-7-208)

12-4-7 WRITTEN REPORTS OF ACCIDENTS.

A. The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of five hundred dollars ($500) or more shall, within five days after such accident, forward a written report of such accident to the police department and state department of transportation. (66-7-207 NMSA 1978)

B. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while the driver was present.

C. The provisions of this section may be met by submission to the police department of a copy of any accident report required under state law. (*)

D. Whenever the driver is physically incapable of making a written report of an accident as required in this ordinance and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after learning of the accident make such report not made by the driver. (66-7-208 NMSA 1978)

E. The police department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports concerning the accident to the department.

F. Every police officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within twenty-four hours after completing such investigation, forward a written report of such accident to the police department and state department of transportation. (66-7-207 NMSA 1978)

12-4-8 GARAGES, DEALERS AND WRECKERS OF VEHICLES TO REPORT. The person in charge of any garage or repair shop, dealers, or wreckers of vehicles, to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided in this ordinance, or struck by any bullet, shall report to the police department within twenty-four hours after such motor vehicle is received, giving such vehicle identification number, registration number, and the name and address of the owner or operator of such vehicle. (66-7-212 NMSA 1978)

12-4-9 FALSE REPORTS. No person shall give information to the police department in oral or written reports of accidents, knowing or having reason to believe that the information is false. (*)

12-4-10 WRITTEN ACCIDENT REPORTS CONFIDENTIAL--EXCEPTIONS.

A. All accident reports made by persons involved in accidents or by persons in charge of garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department and state department of transportation or state agencies having use for the records for accident prevention purposes or for the administration of the laws of this state relating to the deposits of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the police department and state department of transportation may disclose:

(1) the identity of a person involved in an accident when his identity is not otherwise known or when the person denies his presence at the accident; or

(2) the fact that the owner or operator of a motor vehicle involved in the accident is or is not insured and if he is insured, the name and address of his insurance carrier.

B. Except as otherwise provided in this section, no accident report shall be used as evidence in any trial, civil or criminal, arising out of an accident.

C. The police department and state department of transportation shall furnish upon demand of any person who has or claims to have made a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the police department and state department of transportation solely to prove a compliance or a failure to comply with the requirement that a report be made to the police department.

D. A certified copy of the investigating officer's accident report may be introduced into evidence in any arbitration or civil action involving the insurer's liability under a motor vehicle or automobile liability policy containing uninsured motorist coverage as required by Section 66-5-301 NMSA 1978 to prove that the owner or operator of the other motor vehicle involved in the accident is either insured or uninsured. The police department and investigating agency shall furnish a certified copy of the investigating officer's accident report to either party to the arbitration or civil action or to the court on request. The certified copy of the investigating officer's report is prima facie evidence that the owner or operator of the other motor vehicle is either insured or uninsured. (66-7-213 NMSA 1978)

ARTICLE V

SIGNS, SIGNALS AND MARKINGS

12-5-1 Authority to Install Traffic-Control Devices
12-5-2 Manual and Specifications for Traffic-Control Devices
12-5-3 Obedience to Required Traffic-Control Devices
12-5-4 When Official Traffic-Control Devices Required for Enforcement Purposes
12-5-5 Official Traffic-Control Devices--Presumption of Legality
12-5-6 Lights and Their Application to Vehicles and Pedestrians
12-5-7 Pedestrian Control Signals
12-5-8 Flashing Signals
12-5-9 Lane-Direction-Control Signals
12-5-10 Display of Unauthorized Signs, Signals or Markings
12-5-11 Interference with Official Traffic-Control Devices or Railroad Signals
12-5-12 Play Streets
12-5-13 Crosswalks and Safety Zones
12-5-14 Traffic Lanes

12-5-1 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The administrator shall place and maintain such traffic-control devices as necessary to carry out the provisions of this ordinance and to regulate, warn or guide traffic. (*)

12-5-2 MANUAL AND SPECIFICATIONS FOR TRAFFIC-CONTROL DEVICES. The administrator shall place and maintain such traffic-control devices upon streets under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this ordinance or to regulate, warn or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications. (66-7-103 NMSA 1978)

12-5-3 OBEDIENCE TO REQUIRED TRAFFIC-CONTROL DEVICES. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this ordinance, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this ordinance. (66-7-104 NMSA 1978)

12-5-4 WHEN OFFICIAL TRAFFIC-CONTROL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES. No provision of this ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (66-7-104 NMSA 1978)

12-5-5 OFFICIAL TRAFFIC-CONTROL DEVICES--PRESUMPTION OF LEGALITY.

A. Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this ordinance, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

B. Any official traffic-control device placed pursuant to the provisions of this ordinance and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this ordinance, unless the contrary shall be established by competent evidence. (*)

12-5-6 LIGHTS AND THEIR APPLICATION TO VEHICLES AND PEDESTRIANS. Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one (1) at a time or in combination, only the colors green, yellow and red shall be used, except for special pedestrian control signals carrying a word legend, and the lights indicate and apply to drivers of vehicles and pedestrians:

A. Green alone:

(1) vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at the place prohibits either turn. Vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited; and

(2) pedestrians facing the signal may proceed across the street within any marked or unmarked crosswalk.

B. Yellow alone when shown following the green signal:

(1) vehicular traffic facing the signal is warned that the red signal will be exhibited immediately thereafter and the vehicular traffic shall not enter the intersection when the red signal is exhibited except to turn right as hereinafter provided; and

(2) no pedestrian facing the signal shall enter the street until the green is shown alone unless authorized to do so by a pedestrian "walk" signal.

C. Red alone:

(1) vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before

entering the intersection (66-7-105 NMSA 1978), and shall remain stopped until permitted to proceed by a green light or arrow (*), or may then turn right after standing until the intersection may be entered safely, provided that such vehicular traffic shall yield the right of way to all pedestrians and vehicles lawfully in or approaching the intersection; and

(2) vehicular traffic on a one-way street facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before entering the intersection, and if a left turn onto a one-way street in the proper direction is intended, may turn left after stopping until the intersection may be entered safely, provided that such vehicular traffic shall yield the right of way to all pedestrians and vehicles lawfully in or approaching the intersection;

(3) whenever the administrator determines on the basis of an engineering and traffic investigation that a turn as hereinabove provided should be prohibited at a particular intersection, such turn may be prohibited by the posting of signs at the intersection indicating that such a turn is prohibited; and

(4) no pedestrian facing the signal shall enter the street until the green is shown alone unless authorized to do so by a pedestrian "walk" signal.

D. Red with green arrow:

(1) vehicular traffic facing the signal may cautiously enter the intersection only to make the movement indicated by the arrow, but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection; and

(2) no pedestrian facing the signal shall enter the street unless he can do so safely and without interfering with any vehicular traffic.

E. If an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section apply except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.

F. When a sign is in place permitting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make the turn indicated by the sign after stopping as required by Subsection C (1). Vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection. (66-7-105 NMSA 1978)

12-5-7 PEDESTRIAN CONTROL SIGNALS. Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk" are in place:

(1) "walk" indicates that pedestrians facing the signal may proceed across the street in the direction of the signal and shall be given the right of way by drivers of all vehicles; and

(2) "don't walk" indicates that no pedestrian shall start to cross the street in the direction of the signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the "don't walk" signal is showing. (66-7-106 NMSA 1978)

12-5-8 FLASHING SIGNALS.

A. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) flashing red (stop signal)--when a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; or

(2) flashing yellow (caution signal)--when a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

B. This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Sections 12-6-7.5 - 12-6-7.8 of this ordinance. (66-7-107 NMSA 1978)

12-5-9 LANE-DIRECTION-CONTROL SIGNALS.

When lane-direction-control signals are placed over the individual lanes of a street, vehicular traffic may travel in any lane over which a green signal is shown, but a vehicle shall not enter or travel in any lane over which a red signal is shown. (*)

12-5-10 DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS.

A. No person shall place, maintain, or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movements of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

B. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the administrator is hereby empowered to remove the same or cause it to be removed without notice. (66-7-108 NMSA 1978)

C. The provisions of this section shall not prohibit the erection of signs upon private property adjacent to streets if the signs give useful directional information and are of a type that cannot be mistaken for official signs. (*)

12-5-11 INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES OR RAILROAD SIGNALS.

A. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. (66-7-109 NMSA 1978)

B. No person shall hide or obscure any official traffic-control device or railroad sign or signals by parking a vehicle or erecting any object or by allowing bushes, hedges, trees or other vegetation to grow so as to obscure traffic-control devices or railroad signals. An obstruction includes, but is not limited to, any sign, fence, ornament, hedge, shrub, tree or display, but it does not include a building.

C. Unobstructed vision for traffic safety shall be maintained by the property owner or occupant on all corner lots regardless of the zone classification. No obstruction between three and eight feet above the street level shall be placed or maintained within a triangular area bounded by the street property lines of the corner lot and a line connecting the points 25 feet distant from the intersection of the property lines of such lot.

D. Every obstruction interfering with official traffic-control devices or railroad signals is a public nuisance, and the administrator may remove the obstruction or cause it to be removed without notice and assess costs involved to the violator. (*)

12-5-12 PLAY STREETS.

A. The administrator has authority to declare any street or part of a street a temporary play street and to place appropriate signs or devices in the street to indicate and help protect the street.

B. Whenever authorized signs are erected to indicate a play street, no person shall drive on the street except drivers of vehicles whose residences are within the closed area. Such drivers shall exercise the greatest care in driving on the play street. (*)

12-5-13 CROSSWALKS AND SAFETY ZONES. The administrator, upon the basis of engineering and traffic study investigations, may:

(1) designate and maintain crosswalks by appropriate devices, marks or lines on the surface of the street where, in his opinion, there is particular danger to pedestrians crossing the street; and

(2) establish safety zones of the kind and character and at places he deems necessary for the protection of pedestrians. (*)

12-5-14 TRAFFIC LANES.

A. The administrator, upon the basis of engineering and traffic study investigations, may mark traffic lanes upon any street where a regular alignment of traffic is necessary.

B. Where such traffic lanes have been marked, it is unlawful for the operator of a vehicle to fail to keep the vehicle within the boundaries of the lane except when lawfully passing another vehicle or when making a lawful turning movement. (*)

ARTICLE VI

TRAFFIC REGULATIONS

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12-6-1 SPEED REGULATIONS

12-6-1.1 BASIC RULE

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding street and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. (*)

12-6-1.2 SPEED LIMITS

A. No person shall drive a vehicle on a street or detour at a speed greater than:

(1) fifteen (15) miles per hour on all streets when passing a school while children are going to, or leaving school, and when the school zone is properly posted:

(2) thirty (30) miles per hour in any business or residence district (66-7-301 NMSA 1978); or

(3) the lawfully posted speed limit when signs are erected giving notice of the speed limit. (*)

(4) the posted speed limit in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department, provided that the posted speed limit be determined by an engineering study performed by the state highway and transportation department.

B. In every event, speed shall be so controlled as may be necessary:

(1) to avoid colliding with any person, vehicle or other conveyance on, or entering, the street;

(2) to comply with legal requirements as may be established by the municipality, the state highway department or the New Mexico state police, and the duty of all persons to use due care; and

(3) to protect workers in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department. (66-7-301 NMSA 1978)

12-6-1.3 ESTABLISHMENT OF SPEED ZONES

A. Whenever the administrator determines, upon the basis of an engineering survey and traffic investigation, that any speed limit permitted under state law or local ordinance is greater or less than is reasonable or safe under the conditions found to exist upon any part of a street within his jurisdiction, he may declare a speed limit for that part which is effective at times determined, when appropriate signs giving notice thereof are erected at the particular part of the street.

B. Alteration of speed limits on state highways by the administrator are not effective until approved by the state highway commission. (66-7-303 NMSA 1978)

C. The administrator shall adhere to and abide by all applicable state statutes in making his determination of speed limits in the municipality.

D. Whenever the administrator declares a speed limit, he shall submit a schedule of the speed limit to the police department, the municipal judge, the municipal clerk and the municipal attorney. (*)

E. Speed zones may be marked by a sign containing a flashing yellow light and, when the light is in operation, the speed limit, instructions or regulations on the sign are in effect.

F. The provisions of Subsection A of this section shall not apply to changes of speed limit in construction zones authorized pursuant to 12-6-1.3 G through K of this section.

G. When construction, repair or reconstruction of any street or highway is being done, the administrator or other governmental authority with jurisdiction over that street or highway is authorized to designate as a construction zone that portion of the street or highway where construction, reconstruction or repair is being done and to close the construction zone to traffic or to provide for a single lane of traffic on any two-lane or four-lane highway in the construction zone. (66-7-303.1 NMSA 1978)

H. The administrator or other governmental authority closing all or a portion of a street or highway or providing for a single lane of traffic on any two-lane or four-lane street or highway pursuant to Subsection G of this section shall erect or cause to be erected traffic-control devices or barricades to warn and notify the public of any change in speed limit and that such street or highway is closed or limited to a single lane of traffic. (66-7-303.1 NMSA 1978)

I. Every pedestrian or person who operates a vehicle on any street or highway shall obey all signs, signals, markings, flagmen or other traffic-control devices which are placed to regulate, control and guide traffic through a construction zone.

J. No person shall remove, change, modify, deface or alter any traffic-control device or barricade which has been erected on any street or highway pursuant to this section.

K. Any person who violates any provision of Subsection I or J of this section is guilty of a petty misdemeanor and upon conviction shall be sentenced in accordance with this code. (66-7-303.1NMSA 1978)

12-6-1.4 REGULATION OF SPEED BY TRAFFIC SIGNALS

The administrator is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof. (*)

12-6-1.5 MINIMUM SPEED REGULATION

A. No person shall drive a motor vehicle at such slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with this ordinance.

B. Whenever the administrator determines on the basis of an engineering and traffic investigation that slow speeds on any part of a street consistently impede the normal and reasonable movement of traffic, the administrator may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with this ordinance. (66-7-305 NMSA 1978)

C. Police officers may enforce this section by directions to drivers. In the event of apparent willful disobedience to this section and refusal to comply with directions

of an officer in accordance herewith, the continued slow operation by a driver is a violation of this section. (*)

12-6-1.6 CHARGING VIOLATIONS

A. In every charge of violation of any speed regulation under this ordinance, the complaint and the uniform traffic citation shall specify the speed at which the defendant is alleged to have driven and the maximum speed applicable within the district or at the location.

B. Provisions of this ordinance for maximum speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident. (66-7-307 NMSA 1978)

12-6-1.7 SPECIAL SPEED LIMITATIONS

A. Subject to the requirements of Section 12-10-1.15 E of this ordinance, no person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of ten miles per hour. (66-7-306 NMSA 1978)

B. No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in Section 66-7-306 (B) NMSA 1978.

12-6-2 DRIVING ON RIGHT SIDE OF STREET--OVERTAKING AND PASSING--USE OF STREET

12-6-2.1 DRIVE ON RIGHT SIDE OF STREET--EXCEPTIONS

A. Upon all streets of sufficient width, a vehicle shall be driven upon the right half of the street, and where practicable, entirely to the right of the center thereof, except as follows:

(1) when overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement (66-7-308 NMSA 1978);

(2) when an obstruction exists making it necessary to drive to the left of the center of the street, provided that any person driving to the left shall yield the right of way to all vehicles traveling in the proper direction on the unobstructed portion of the street (*);

(3) when the right half of the street is closed to traffic while under construction or repair (66-7-308 NMSA 1978)

(4) upon a street divided into three marked lanes for traffic under the rules applicable thereon; or

(5) upon a street designated and signposted for one-way traffic.

B. Upon all streets any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the street except when overtaking and passing another car proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. (66-7-308 NMSA 1978)

C. Upon any street having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the street, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the street for use by traffic not otherwise permitted to use such lanes, or except as permitted under Subsection 12-6-2.1A(2). However, this section shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway. (*)

12-6-2.2 PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTION

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon streets having width for not more than one (1) line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the street as nearly as possible. (66-7-309 NMSA 1978).

12-6-2.3 OVERTAKING A VEHICLE ON THE LEFT

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle; and

(2) except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (66-7-310 NMSA 1978)

12-6-2.4 LIMITATIONS ON OVERTAKING ON THE LEFT

No vehicle shall be driven to the left side of the center of the street in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the street before coming within one hundred feet of any vehicle approaching from the opposite direction. (66-7-312 NMSA 1978)

12-6-2.5 FURTHER LIMITATIONS ON DRIVING ON LEFT OF CENTER OF STREET

A. No vehicle shall at any time be driven to the left side of the street under the following conditions:

(1) when approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) when approaching within one hundred feet of or traversing any intersection or railroad grade crossing; or

(3) when the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel. (66-7-313 NMSA 1978)

B. The foregoing limitations shall not apply:

(1) upon a one-way street;

(2) under the conditions described in 12-6-2.1A(2); nor

(3) to the driver of a vehicle turning left into or from an alley, private road or driveway. (*)

12-6-2.6 WHEN OVERTAKING ON THE RIGHT IS PERMITTED

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) when the vehicle overtaken is making or about to make a left turn;

(2) upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction; or

(3) upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the street is free from obstructions and of sufficient width for two or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the street. (66-7-311 NMSA 1978)

12-6-2.7 NO PASSING ZONES AND RESTRICTIONS ON PASSING

A. The administrator may determine those portions of any street or highway under his jurisdiction where overtaking and passing or driving on the left of the street would be especially hazardous and may, by appropriate signs or markings on the street indicate the beginning and end of such zones. When the signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the direction thereof.

B. Where signs or markings are in place to define a no-passing zone as set forth in Subsection A of this section, no driver shall at any time drive on the left side of the street within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length. This section does not apply under the conditions described in Section 12-6-2.1A(3) or to the driver of a vehicle turning left into or from an alley, private road or driveway. (66-7-315 NMSA 1978)

C. When double yellow lines are painted on a pavement, no driver shall drive any vehicle across the lines except the driver of a vehicle turning left into or from an alley, private road or driveway.

D. No driver shall overtake and pass any other vehicle proceeding in the same direction in a school zone when the school zone signs are in place.

E. Whenever a vehicle is stopped at a marked crosswalk or an unmarked crosswalk at an intersection to permit a pedestrian to cross the street, the driver of the vehicle approaching from the rear shall not overtake and pass the stopped vehicle. (*)

12-6-2.8 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS

A. The administrator may designate and sign streets and alleys as one-way streets and alleys. The designation shall be made only upon the basis of engineering and traffic investigation.

B. Signs indicating the direction of lawful traffic movement shall be placed at every intersection, where movement of traffic in the opposite direction is prohibited. No regulation as to one-way traffic shall be effective unless signs are in place indicating the direction of the flow of traffic.

C. The administrator shall maintain a schedule of all streets and alleys which have been established as one-way and shall provide copies of the schedule to the police department, municipal clerk, municipal judge and municipal attorney. (*)

12-6-2.9 OBEDIENCE TO SIGNS DESIGNATING ONE-WAY STREETS AND ALLEYS

A. Upon those streets and parts of streets and in those alleys restricted to movement in one direction, vehicular traffic shall move only in the indicated direction

when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

B. Failure to comply with such signs is a violation of this ordinance. (*)

12-6-2.10 ROTARY TRAFFIC ISLANDS. A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (66-7-316 NMSA 1978)

12-6-2.11 RESTRICTED DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS.

A. The administrator may determine and designate streets, parts of streets or specific lanes upon which vehicular traffic shall proceed in one direction during one period of the day and the opposite direction during another period of the day. This designation shall be made only upon the basis of engineering and traffic investigation.

B. Appropriate markings, signs, barriers or other devices shall be placed to give notice of the restricted movement.

C. Signs may be placed temporarily designating lanes to be used by traffic moving in particular direction, regardless of the center line of the street. (*)

12-6-2.12 DRIVING ON STREETS LANED FOR TRAFFIC

Whenever any street has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(1) a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) upon a street which is divided into three lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the street is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation;

(3) official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the street and drivers of vehicles shall obey the directions of every such sign (66-7-317 NMSA 1978); and

(4) official traffic-control devices may be installed prohibiting the changing of lanes on sections of streets, and drivers of vehicles shall obey the directions of every such device. (*)

12-6-2.13 FOLLOWING TOO CLOSELY

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

B. The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a street outside of a business or residence district shall not follow another motor truck or motor vehicle drawing another vehicle within three hundred (300) feet, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

C. Motor vehicles being driven upon any street outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall not follow the preceding vehicle closer than three hundred (300) feet. This provision shall not apply to funeral processions, nor shall it apply within or outside of a business or residence district to motor vehicle escort vehicles of a motor vehicle escort service, which may, if necessary to maintain the continuity of the escorted unit or units, precede or follow at a distance closer than three hundred (300) feet to the escorted unit or units. (66-7-318 NMSA 1978)

12-6-2.14 DRIVING ON DIVIDED STREETS

A. Whenever any street has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand segment of the divided street (66-7-319 NMSA 1978), unless directed or permitted to use another segment by official traffic-control devices or police officers. (*)

B. No vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority. (66-7-319 NMSA 1978)

C. Where recessed cut-outs are provided in dividers to facilitate left turns, all vehicles, except those having a turning radius precluding use of such recessed cut-outs, shall execute a left turn by occupying the recess or cut-out prior to entering the intersection. (*)

12-6-2.15 CONTROLLED ACCESS

No person shall drive a vehicle onto or from any controlled-access street except at such entrances and exits as are established by public authority. (66-7-320 NMSA 1978)

12-6-2.16 RESTRICTIONS ON USE OF CONTROLLED-ACCESS STREETS

A. No pedestrian, bicycle or other non-motorized traffic shall use any controlled-access street, but notwithstanding this provision, drivers of vehicles using the controlled-access street are not relieved of responsibility for exercising due care.

B. In addition to the provisions of paragraph A, the local governing body may, by ordinance, regulate or prohibit the use of any controlled-access street within its jurisdiction by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic. (66-7-321 NMSA 1978)

C. No driver shall stop a vehicle upon any controlled-access street for the purpose of taking on or discharging passengers, freight or merchandise.

D. The administrator has the authority to erect and maintain official traffic-control devices on the controlled-access street on which the restrictions are applicable, and when such traffic-control devices are in place, no person shall disobey the restrictions stated on the devices. (66-7-321 NMSA 1978)

12-6-3 DESIGNATING STOP AND YIELD INTERSECTIONS

12-6-3.1 THROUGH STREETS DESIGNATED

A. The administrator, upon traffic and engineering study and investigation, may designate which streets shall be through streets.

B. A schedule of the through streets shall be prepared by the administrator with copies furnished to the police department, municipal clerk, municipal judge and municipal attorney. (*)

12-6-3.2 AUTHORITY TO ERECT STOP AND YIELD SIGNS AT THROUGH STREETS

A. Whenever the administrator designates and describes a through street, the city traffic engineer shall place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting the through street unless traffic at any such intersection is controlled at all times by traffic-control signals.

B. However, at the intersection of two through streets or at the intersection of a through street and heavy traffic street not so designated, stop signs shall be erected at the approaches to both of said streets in a manner determined by the administrator upon the basis of an engineering and traffic study. (*)

12-6-3.3 AUTHORITY TO ERECT STOP OR YIELD SIGNS AT OTHER INTERSECTIONS

The administrator may determine and designate intersections other than through streets where particular hazards exist and determine:

(1) whether vehicles shall stop at one or more entrances to the intersection, in which event he shall have erected a stop sign at every place where a stop is required; or

(2) whether vehicles shall yield the right of way to vehicles on a different street at the intersection, in which event he shall have erected a yield sign at every place where obedience thereto is required. (*)

12-6-4 RIGHT OF WAY

12-6-4.1 VEHICLE APPROACHING OR ENTERING INTERSECTION

A. The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different street.

B. When two vehicles enter an intersection from different streets at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

C. The right of way rules declared in Subsections A and B are modified at through streets and otherwise as provided in this ordinance. (66-7-328 NMSA 1978)

12-6-4.2 VEHICLES TURNING LEFT AT INTERSECTION

The driver of a vehicle within an intersection intending to turn to the left shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this ordinance, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right of way to the vehicle making the left turn. (66-7-329 NMSA 1978)

12-6-4.3 VEHICLE ENTERING STOP OR YIELD INTERSECTION

A. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in this ordinance.

B. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by Section 12-6-4.3(D) and after having stopped shall yield the right of way to any vehicle which has entered the intersection from another street or which is approaching so closely on the street as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.

C. The driver of a vehicle approaching a yield sign shall, in obedience to the sign, slow down to a speed reasonable for the existing conditions, and shall yield the right of way to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection. If the driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his failure to yield right of way. (66-7-330 NMSA 1978)

D. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop completely before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting street before entering the intersection.

E. The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street. (66-7-345 NMSA 1978)

12-6-5 TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

12-6-5.1 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTION

The driver of a vehicle intending to turn at an intersection shall do so as follows:

A. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the street.

B. At any intersection where traffic is permitted to move in both directions on each street entering the intersection, an approach for a left turn, except where left-turn provisions are made, shall be made in that portion of the right half of the street nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the street being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

C. Upon a street with two (2) or more lanes for through traffic in each direction, where a center lane has been provided by distinctive pavement markings for the use of vehicles turning left from both directions, no vehicle shall turn left from any other lane. A vehicle shall not be driven in this center lane for the purpose of overtaking or passing another vehicle proceeding in the same direction. Any maneuver other than a left turn from this center lane will be deemed a violation of this section.

D. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the streets, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the street being entered. (66-7-322 NMSA 1978)

E. No person shall drive across any private or public property, including but not limited to parking areas, driveways and service station areas, for the purpose of avoiding any traffic control device or sign. (*)

12-6-5.2 AUTHORITY TO PLACE DEVICES ALTERING NORMAL COURSE FOR TURNS

The administrator may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in Section 12-6-5.1 be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons or signs. (66-7-322 NMSA 1978)

12-6-5.3 AUTHORITY TO PLACE RESTRICTED TURN SIGNS

A. The administrator may determine those intersections at which drivers of vehicles shall not make a right, left or U-turn and shall place proper signs at the intersections.

B. The making of the turns may be prohibited between certain hours of the day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when the turns are permitted. (*)

12-6-5.4 OBEDIENCE TO NO-TURN SIGNS

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of the sign. (*)

12-6-5.5 LIMITATIONS ON TURNING AROUND

The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless the movement can be made in safety and without interfering with other traffic. (*)

12-6-5.6 TURNING ON CURVE OR CREST OF GRADE PROHIBITED

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by

the driver of any other vehicle approaching from either direction within one thousand feet. (66-7-323 NMSA 1978)

12-6-5.7 STARTING PARKED VEHICLE

A. No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety. (66-7-324 NMSA 1978)

B. No person shall move any parked vehicle without giving appropriate signals as prescribed in Sections 12-6-5.8 through 12-6-5.10. (*)

12-6-5.8 TURNING AND STOPPING MOVEMENTS AND REQUIRED SIGNALS

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the street as required in Section 12-6-5.1 or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a street unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

B. A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. (66-7-325 NMSA 1978)

D. The signals provided for in this section shall be used to indicate an intention to turn, change lanes or start from a parked position and shall not be flashed on one side only on a parked or disabled car or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear. (*)

12-6-5.9 SIGNALS BY HAND AND ARM OR SIGNAL DEVICE

A. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamp or lamps or mechanical signal device except as otherwise provided in Subsection B.

B. Any motor vehicle in use on a street shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles. (66-7-326 NMSA 1978)

12-6-5.10 METHOD OF GIVING HAND AND ARM SIGNALS

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signal shall indicate as follows:

(1) left turn: hand and arm extended horizontally;

(2) right turn: hand and arm extended upward; and

(3) stop or decrease speed: hand and arm extended downward. (66-7-327 NMSA 1978)

12-6-6 STOPPING, STANDING AND PARKING

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

A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(1) on a sidewalk;

(2) in front of a public or private driveway;

(3) within an intersection;

(4) within fifteen feet of a fire hydrant;

(5) on a crosswalk;

(6) within twenty feet of a crosswalk at an intersection;

(7) within thirty feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a street;

(8) between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless the traffic authority indicates a different length by signs or markings;

(9) within fifty feet of the nearest rail of a railroad crossing;

(10) within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance, when properly signposted;

(11) alongside or opposite any excavation or obstruction when stopping, standing or parking would obstruct traffic;

(12) on the street side of any vehicle stopped or parked at the edge or curb of a street;

(13) upon any bridge or other elevated structure upon a street or within a street tunnel;

(14) at any place where official signs prohibit stopping (66-7-351 NMSA 1978);

(15) on any railroad track; or

(16) between a curb and sidewalk or between a curb or lateral line of a roadway, and the adjacent property line. (*)

B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful. (66-7-351 NMSA 1978)

C. The foregoing provisions may be modified by the administrator or his designated representative upon the basis of an engineering and traffic investigation study by the use of appropriate markings, signs or parking meters. (*)

12-6-6.2 ADDITIONAL PARKING REGULATIONS

A. Except as otherwise provided in this ordinance every vehicle stopped or parked upon a street where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen inches of the right-hand curb. (66-7-352 NMSA 1978)

B. Except when otherwise provided in this ordinance, every vehicle stopped or parked on a one-way street shall be so stopped or parked parallel to the curb or edge of the street with its right-hand wheels within 18 inches of the right-hand curb or edge of the street or its left-hand wheels within 18 inches of the left-hand curb or edge of the street. (*)

12-6-6.3 STOPPED OR PARKED VEHICLES NOT TO INTERFERE WITH OTHER TRAFFIC

No motor vehicle shall be stopped, parked, or left standing, whether attended or unattended, upon the traveled portion of any street outside of a business or residence district, when it is practicable to stop, park, or leave such vehicle off the traveled portion of the street. In the event that conditions make it impracticable to move such motor vehicle from the traveled portion of the street, the driver shall make every effort to leave all possible width of the highway opposite the standing vehicle for the free passage of

other vehicles and he shall take care to provide a clear view of the standing vehicles as far as possible to the front and rear. (66-3-852 NMSA 1978)

12-6-6.4 PARKING IN ALLEYS

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the alley for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. (*)

12-6-6.5 ALL-NIGHT PARKING PROHIBITED

No person shall park a vehicle on any street in a non-residential area for a period of time longer than 30 minutes between the hours of 2:00 A.M. and 5:00 A.M. of any day, except physicians on emergency calls. (*)

12-6-6.6 PARKING FOR CERTAIN PURPOSES PROHIBITED

No person shall park a vehicle on any street for the principal purpose of:

(1) displaying the vehicle for sale; or

(2) washing, greasing or repairing the vehicle except repairs necessitated by an emergency. (*)

12-6-6.7 PARKING ADJACENT TO SCHOOLS PROHIBITED

A. The administrator may erect signs indicating no parking on either or both sides of any street adjacent to any school property when parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected indicating no parking on either side of a street adjacent to any school property as authorized in this section, no person shall park a vehicle in any such designated place. (*)

12-6-6.8 PARKING PROHIBITED ON NARROW STREETS

A. The administrator may erect signs indicating no parking on any street when the width of the street does not exceed 24 feet or no parking upon one side of a street as indicated by such signs when the width of the street does not exceed 32 feet.

B. When official signs prohibiting parking are erected on narrow streets as authorized in this section, no person shall park a vehicle on any such street in violation of the sign. (*)

12-6-6.9 STANDING OR PARKING ON ONE-WAY STREETS

A. The administrator may erect signs on the left-hand side of any one-way street to prohibit the standing or parking of vehicles.

B. When such signs are in place, no person shall stand or park a vehicle on such left-hand side in violation of any such sign. (*)

12-6-6.10 STANDING OR PARKING ON DIVIDED STREETS

A. In the event a divided street includes two or more segments for vehicular traffic, and traffic is restricted to one direction on any such segment, no person shall stand or park a vehicle on the left-hand side of the one-way segment unless signs are erected to permit such standing or parking.

B. The administrator may determine where standing or parking may be permitted on the left-hand side of any such one-way portion of a divided street and to erect signs giving notice thereof. (*)

12-6-6.11 NO STOPPING, STANDING OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES

A. The administrator may determine and designate by proper signs, places at intervals not exceeding 100 feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places as authorized in paragraph A, no person shall stop, stand or park a vehicle in any such designated place. (*)

12-6-6.12 STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS

A. The provisions of this section prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

B. The provisions of this section imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

C. The administrator may impose restrictions or prohibitions on standing, stopping or parking and they shall apply as follows:

(1) when signs are erected prohibiting parking at all times on certain streets, no person shall park a vehicle at any time upon any of the streets so designated;

(2) when signs are erected in each block giving notice that stopping, standing or parking is prohibited during certain hours on certain streets, no person shall stop, stand or park a vehicle between the hours specified on the sign on any day, except Sundays and public holidays, within the district or on any of the streets so designated; or

(3) when signs are erected in each block giving notice that parking time is limited on certain streets, no person shall park a vehicle for longer than the time indicated on such signs between the hours of 8:00 A.M. and 6:00 P.M. of any day, except Sundays and public holidays, within the district or on any of the streets so designated.

D. Whenever by this or any other ordinance of this municipality, any parking time limit is imposed or parking is prohibited on designated streets, it is the duty of the administrator to erect appropriate signs giving notice of the restrictions or limitations.

E. No regulation authorized in this section shall be effective unless signs giving notice of prohibitions or limitations are erected and in place at the time of any alleged offense. (*)

12-6-6.13 ANGLE PARKING AND PERMITS FOR LOADING OR UNLOADING AT AN ANGLE TO THE CURB

A. The administrator may determine upon what streets angle parking is permitted and shall mark or sign such streets:

(1) any designation of angle parking shall be made on the basis of engineering and traffic study and investigation; (*)

(2) the administrator may permit angle parking on any street, except that angle parking shall not be permitted on any federal-aid or state highway unless the state highway commission has determined by resolution or order entered in its minutes that the street is of sufficient width to permit angle parking without interfering with the free movement of traffic; (66-7-352 NMSA 1978)

(3) angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive on the left side of the street; and

(4) on those streets which have been signed or marked by the administrator for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the street indicated by signs or markings. (*)

12-6-6.14 STOPPING, STANDING OR PARKING OUTSIDE OF BUSINESS OR RESIDENCE DISTRICTS

A. Upon any street outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the street when it is practicable to stop, park, or leave such vehicle off such part of said street, but in every event an unobstructed width of the street opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such street.

B. This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (66-7-349 NMSA 1978)

C. The state department of transportation, unless otherwise directed by an investigating police officer, or a police officer may remove or cause to be removed a vehicle or other obstruction from the paved or main-traveled part of a highway to the nearest place of safety if the vehicle or other obstruction obstructs traffic or poses a traffic hazard. (66-7-349 C NMSA 1978)

12-6-7 SPECIAL STOPS REQUIRED

12-6-7.1 EMERGING FROM ALLEY, BUILDING, DRIVEWAY OR PRIVATE ROAD

A. The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or the sidewalk area extending across any alleyway or driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the street shall yield the right of way to all vehicles approaching on said street. (66-7-346 NMSA 1978)

B. The driver of a vehicle about to enter or cross a street from a private road or driveway shall yield the right of way to all vehicles approaching on said street. (66-7-331 NMSA 1978)

12-6-7.2 STOP WHEN TRAFFIC OBSTRUCTED

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (*)

12-6-7.3 STOPPING FOR SCHOOL BUS

A. The driver of a vehicle upon approaching or overtaking from either direction any school bus which has stopped on the street, with special school bus signals in operation, for the purpose of receiving or discharging any school children, shall stop the vehicle at least ten feet before reaching the school bus and shall not proceed until the special school bus signals are turned off, the school bus resumes motion or until signaled by the driver to proceed.

B. Every bus used for the transportation of school children shall bear upon the front and rear thereof a plainly visible sign containing the words "School Bus" in letters not less than eight inches in height.

C. The driver of a vehicle upon a street with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled access street and the school bus is stopped in a loading zone which is a part of or adjacent to such street and where pedestrians are not permitted to cross the roadway. (66-7-347 NMSA 1978)

D. It is unlawful to operate any flashing warning signal light on any school bus on any street except when the school bus is stopped or is about to stop on a street for the purpose of permitting school children to board or alight from the school bus. (66-7-348 NMSA 1978)

12-6-7.4 OPERATION OF VEHICLE ON APPROACH OF MOVING AUTHORIZED EMERGENCY VEHICLE; OF ONCOMING VEHICLE--YIELD RIGHT OF WAY

A. Upon the immediate approach of an authorized emergency vehicle displaying flashing emergency lights or when the driver is giving audible signal by siren, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the street clear of any intersection and shall stop and remain in that position, until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (66-7-332 NMSA 1978)

B. Upon approaching a stationary authorized emergency vehicle or a recovery or repair vehicle displaying flashing emergency or hazard lights, unless otherwise directed, the driver of the vehicle shall:

(1) if reasonably safe to do so, drive in a lane not adjacent to the stationary vehicle, decrease the speed of the vehicle to a speed that is reasonable and prudent under the circumstances and proceed with caution; or

(2) if it is not reasonably safe to drive in a lane not adjacent to the stationary vehicle [is stopped], decrease the speed of the vehicle to a speed that is reasonable and prudent under the circumstances, proceed with caution and be prepared to stop. (66-7-332 NMSA 1978)

C. Upon the immediate approach of an oncoming vehicle overtaking or attempting to overtake a vehicle proceeding in the same direction, the driver of that vehicle shall yield the right of way and shall drive to a position to and as close as possible to the right hand edge or curb of the roadway and shall remain as close as possible to the right hand edge or curb of the roadway until the oncoming vehicle has passed. (66-7-332.1 NMSA 1978)

D. This section shall not operate to relieve the driver of an authorized emergency vehicle or the driver of any other vehicle from the duty to drive with due regard for the safety of all persons using the highway. (66-7-322 and 66-7-322.1 NMSA 1978)

12-6-7.5. RAILROAD-HIGHWAY GRADE CROSSING VIOLATIONS--ALL DRIVERS

A. A person driving a vehicle approaching a railroad-highway grade crossing shall:

(1) obey traffic control devices, crossing gates or barriers or the directions of an enforcement official at the crossing;

(2) stop not more than fifty feet and not less than fifteen feet from the nearest rail of a crossing if:

(a) a train is moving through or blocking the crossing;

(b) a train is plainly visible and approaching the crossing within hazardous proximity to the crossing;

(c) the sound of a train's warning signal can be heard; or

(d) a traffic control device, crossing gate, barrier or light or an enforcement official signals the driver to stop; and

(3) proceed through the railroad-highway grade crossing only if it is safe to completely pass through the entire railroad-highway grade crossing without stopping.

B. A person shall not:

(1) drive a vehicle through, around or under a crossing gate or barrier at a railroad-highway grade crossing while the gate or barrier is closed or being opened or closed;

(2) drive onto the railroad-highway grade crossing and stop; or

(3) enter a crossing if the vehicle being driven has insufficient undercarriage clearance to pass over the crossing.

C. The penalty assessment for violation of this section is included in the penalty assessment schedule.

12-6-7.6 ALL VEHICLES MUST STOP AT CERTAIN RAILROAD GRADE CROSSINGS

The administrator, with the approval of the state highway commission, may designate particularly dangerous highway grade crossings of railroads and erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (66-7-342 NMSA 1978)

12-6-7.7 RAILROAD-HIGHWAY GRADE CROSSING VIOLATIONS--CERTAIN VEHICLES REQUIRED TO ALWAYS STOP--EXCEPTIONS

A. Except as set forth in Subsection D of this section, a driver of a vehicle carrying passengers for hire, a school bus carrying school children or a vehicle carrying hazardous materials, radioactive or explosive substances or flammable liquids as cargo or as part of its cargo, before entering a railroad-highway grade crossing, is required to stop no more than fifty feet and no less than fifteen feet from the nearest rail of the railroad.

B. While stopped, the driver shall:

(1) look and listen in both directions along the track for an approaching train and for signals indicating that a train is approaching;

(2) determine it is safe to proceed completely through the railroad-highway grade crossing before entering it; and

(3) set the vehicle in a gear sufficiently low that gears will not need to be shifted before exiting the railroad-highway grade crossing.

C. A driver shall not shift gears while in a railroad-highway grade crossing.

D. A driver of a vehicle carrying passengers for hire, a school bus carrying school children or a vehicle carrying hazardous materials, radioactive or explosive substances or flammable liquids as cargo or as part of its cargo is not required to stop at:

(1) a railroad-highway grade crossing where a police officer directs traffic to proceed;

(2) a railroad-highway grade crossing where a stop-and-go traffic light controls movement of traffic;

(3) a railroad-highway grade crossing used exclusively for industrial switching purposes, within a business district as defined in Section 66-1-4.2 NMSA 1978;

(4) a railroad-highway grade crossing where use of the railroad has been abandoned and there is a sign indicating that the railroad has been abandoned; or

(5) an industrial or spur line railroad-highway grade crossing marked with a sign reading "exempt crossing" that has been designated as exempt by appropriate state or local authorities.

E. Penalties for violation of this section are included in the penalty assessment schedule. (66-7-343 NMSA 1978)

12-6-7.8 MOVING HEAVY EQUIPMENT AT RAILROAD GRADE CROSSINGS

A. No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a street, upon or across any tracks at a railroad grade crossing without first complying with this section.

B. Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

C. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

D. No such crossing shall be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

E. This section shall not apply to the normal movement of farm equipment in the regular course of farm operation. (66-7-344 NMSA 1978)

12-6-8 PASSENGER AND FREIGHT CURB LOADING ZONES

12-6-8.1 AUTHORITY TO DESIGNATE CURB LOADING ZONES

The administrator may determine the location of passenger and freight curb loading zones, and he shall place and maintain appropriate signs indicating the zones and stating the hours during which the provisions of sections 12-6-8.1 through 12-6-8.4 are applicable. (*)

12-6-8.2 PERMITS FOR CURB LOADING ZONES

A. The administrator shall not designate or sign any curb loading zone upon special request of any person unless the person makes application for a permit for the zone and for two signs to indicate the ends of each zone.

B. After the administrator has granted a permit and before signs and markings as may be necessary are installed, the applicant shall pay to the city treasurer a

service fee of twenty-five dollars ($25) per 22-foot stall plus twenty-five cents ($ .25) per foot for additional space per year or fraction thereof.

C. The administrator may impose conditions and general regulations for the use of the signs and for reimbursement of the city for the value thereof in the event of loss or damage and their return in the event of misuse or upon expiration of permit.

D. Every permit shall expire at the end of each calendar year. (*)

12-6-8.3 STOPPING, STANDING OR PARKING IN PASSENGER CURB LOADING ZONES

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to the curb loading zone are effective and then only for a period not to exceed three minutes. (*)

12-6-8.4 STOPPING, STANDING OR PARKING IN FREIGHT CURB LOADING ZONES

A. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to freight curb loading zones are in effect. In no case shall the stop for loading and unloading of material exceed 30 minutes.

B. The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter the zone. (*)

12-6-9 PUBLIC CARRIER STOPS AND STANDS

12-6-9.1 AUTHORITY TO DESIGNATE PUBLIC CARRIER STOPS AND STANDS

A. The administrator may establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public.

B. Every designated bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. (*)

12-6-9.2 FEES AND PERMITS FOR PUBLIC CARRIER STOPS AND STANDS

The following fees shall be charged to each person, firm or corporation for the use of taxicab stands, and permits for the stands shall expire at the end of each calendar year:

(1) one hundred dollars ($100.00) per year or fraction thereof for each stand located within the central business district; and

(2) twenty-five dollars ($25.00) per year or fraction thereof for each stall located in any area outside the central business district. (*)

12-6-9.3 STOPPING, STANDING AND PARKING OF BUSES AND TAXICABS REGULATED

The stopping, standing and parking of buses and taxicabs is regulated as follows:

A. The operator of a bus shall not stand or park the vehicle on any street at any place other than a bus stand so designated as provided in this ordinance.

B. The operator of a bus shall not stop the vehicle on any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in cases of emergency.

C. The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of the vehicle not farther than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

D. The operator of a taxicab shall not stand or park the vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. (*)

12-6-9.4 RESTRICTED USE OF BUS AND TAXICAB STANDS

A. No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed.

B. However, the driver of a passenger vehicle may temporarily stop in a bus stop or taxicab stand for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (*)

12-6-10 SCHOOL CROSSINGS

A. Crosswalks may be established over streets abutting a school or the grounds adjacent thereto, and all children crossing the streets shall be required to do so within the marked crosswalks. The administrator, with advice of the local superintendent of schools, shall establish and mark, or cause to be marked, these street crossings.

B. Crosswalks over streets not abutting on school grounds may be established by the administrator, with advice of the local superintendent of schools and after adequate assurance has been given that proper safety precautions, pursuant to regulations of the administrator, will be maintained at the crossings by the school authorities to enforce their use by children.

C. At all school crossings except as provided in this section, appropriate signs shall be provided as prescribed by the administrator indicating the crossings and regulating traffic movement within the school zones.

D. School crossings are not required to be specifically posted when they are located:

(1) at a signalized intersection;
(2) at an intersection where traffic is controlled by a stop sign; or
(3) at a point where a pedestrian tunnel or overhead crossing is provided. (66-7-336 NMSA 1978)

12-6-11 EXCESSIVE SIZE AND WEIGHT, SLOW-MOVING AND HAZARDOUS VEHICLES

12-6-11.1 PERMIT FOR EXCESSIVE SIZE AND WEIGHT---SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES

A. The department and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on any highway under the jurisdiction of the state transportation commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection by any peace officer. It is a misdemeanor for any person to violate any of the conditions or terms of the special permit.

B. The department shall charge and collect, when the movement consists of any load of a width of twenty feet or greater for a distance of five miles or

more, the sum of three hundred dollars ($300) a day or fraction thereof to defray the cost of state or local police escort. The permit issued and the fee charged shall be based upon the entire movement at one time requiring police escort and not upon the number of vehicles involved.

C. The department shall promulgate regulations in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier himself and for escort vehicles provided by a private business in this state.

(1) If a motor carrier provides his own escort vehicles and personnel, the department shall not charge an escort fee but shall provide the motor carrier escort personnel with a copy of applicable regulations and shall inspect the escort vehicles for the safety equipment required by the regulations. If the escort vehicles and personnel meet the requirements set forth in the regulations and if the motor carrier holds a valid certificate of public convenience and necessity or permit, as applicable, issued pursuant to Chapter 65, Article 2 NMSA 1978, the department shall issue the special permit.

(2) If the escort service is a private business, the business shall have applied to the public regulation commission for and been issued a permit or certificate to operate as a contract or common motor carrier pursuant to Chapter 65, Article 2 NMSA 1978. The public regulation commission shall supply copies of applicable regulations to the business by mail and shall supply additional copies upon request. If the escort vehicles and personnel meet the requirements set forth in the regulations and if the escort service holds a certificate, the special permit shall be issued and the department shall not charge an escort fee.

(3) The movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraphs (1) and (2) of this subsection is subject to department authority and inspection at all times.

(4) The state transportation department shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the state transportation department shall hold public hearings in the area of the state affected by the determination, after which it may adopt regulations designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If any portion of such a four-lane highway lies within the boundaries of a municipality, the state highway and transportation department, after obtaining the approval of the municipal governing body, shall include such portions in its regulations.

D. Except for the movement of manufactured homes, special permits may be issued for a single vehicle or combination of vehicles by the department for a period not to exceed one year for a fee of sixty dollars ($60). The permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the operation is to be within the vicinity of a municipality. Utility service vehicles, operating with special permits

pursuant to this subsection, shall be exempt from prohibitions or restrictions relating to hours or days of operation or restrictions on movement because of poor weather conditions. (66-7-413 D NMSA 1978)

E. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued for a single vehicle for a fee of fifteen dollars ($15).

F. If the vehicle for which a permit is issued under this section is a manufactured home, the department or local highway authority issuing the permit shall

furnish the following information to the property tax division of the department, which shall forward the information:

(1) to the county assessor of any county from which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to if within the same county, the name of the owner of the manufactured home and the identification and registration numbers of the manufactured home;

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

(3) to the owner of a manufactured home having a destination in this state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that manufactured homes are subject to property tax.

G. Except as provided in Subsection H of this section, if the movement of a manufactured home originates in this state, no permit shall be issued under Subsection F of this section until the owner of the manufactured home or his authorized agent obtains and presents to the department proof that a certificate has been issued by the county assessor or treasurer of the county in which the manufactured home movement originates showing that either:

(1) all property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or

(2) no liability for property taxes on the manufactured home exists for the current tax year or any past tax years, except for manufactured homes located on an Indian reservation.

H. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection G of this section if the

manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of his inventory prior to the sale to the owner-purchaser; however, the movement of a manufactured home by a dealer or his authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection G of this section whether the destination is the business location of a dealer or some other destination.

I. No permit shall be issued under this section for movement of a manufactured home whose width exceeds eighteen feet with no more than a six-inch roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

J. The secretary may by regulation provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes; however, in no case may the cost of each permit be less than fifteen dollars ($15.00).

K. The secretary may provide by regulation for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department shall charge a fee for each self-issued permit not to exceed fifteen dollars ($15.00).

L. Any private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

(1) bodily injury liability, providing;

(a) fifty thousand dollars ($50,000) for each person; and

(b) one hundred thousand dollars ($100,000) for each accident; and

(2) property damage liability, providing twenty-five thousand dollars ($25,000) for each accident.

M. Any common motor carrier requesting an oversize permit shall produce a copy of a form "e" or other acceptable evidence that the common motor carrier maintains the insurance minimums prescribed by the public regulation commission. (66-7-413 NMSA 1978)

N. Farm carriers, as defined in Sections 65-2-82 and 65-1-116 NMSA 1978, may transport loads up to twelve feet in width on highways that are not national network highways without acquiring permits or escorts only if the load consists of hay tied in bales over five feet in either length or width and the load is not transported for any

distance greater than fifty miles; provided that the farm carriers display a sign across the front and rear stating "WIDE LOAD" in large visible letters. (66-7-413.1 NMSA 1978)

O . No permit or fee required under this section is necessary for implements of husbandry, including farm tractors and farm trailers when not more than two such farm trailers are towed in tandem, being moved during daylight hours within a county or an adjacent county for a total distance, one way, of not more than fifty miles on any highway:

(1) crossing the farm property of the owner; or

(2) running between separate farm property of the owner. Any person responsible for the movement of implements of husbandry under the provisions of this section shall comply with all safety precautions set forth in this ordinance and in regulations of the state highway commission. (66-7-414 NMSA 1978)

12-6-11.2 SLOW-MOVING VEHICLE IDENTIFICATION

A. As used in this section, "slow-moving vehicle" means any vehicle which is ordinarily moved, operated or driven at a speed less than twenty-five miles an hour.

B. Each slow-moving vehicle moved, operated or driven on a highway which is open for vehicular travel shall display a slow-moving vehicle emblem or flashing amber light as required by Section 66-3-887 NMSA 1978.

C. Use of the emblem is confined to slow-moving vehicles, and its use on any other type of vehicle or on any stationary object is prohibited. This section does not prohibit the use on slow-moving vehicles of red flags or lawful lighting devices in addition to the slow-moving vehicle emblem.

D. No person shall sell, lease, rent or operate any slow-moving vehicle unless the slow-moving vehicle is equipped with a slow-moving vehicle emblem. (66-3-887 NMSA 1978)

12-6-11.3 ESCORT TO BE FURNISHED FOR MOVEMENT OF HAZARDOUS VEHICLES

A. When, in the judgment of the administrator, the movement of any vehicle is deemed a hazard to traffic upon a street over which the vehicle is to travel, the granting of permission for the movement thereof may be conditioned upon a special escort accompanying the hazardous vehicle.

B. The special police car escort to safeguard traffic during the movement of the hazardous vehicle shall conform to the provisions of Section 66-7-314 NMSA 1978. (66-7-314 NMSA 1978)

12-6-12 DRIVING REGULATIONS AND OFFENSES

12-6-12.1 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; CHEMICAL TESTING; OFFICER TO FILE STATEMENT; IMMEDIATE LICENSE REVOCATION

A. It is unlawful for a person who is under the influence of intoxicating liquor to drive a vehicle within this municipality.

B. It is unlawful for:

(1) a person to drive a vehicle in this state if the person has an alcohol concentration of eight one-hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle; or

(2) a person to drive a commercial motor vehicle in this state if the person has an alcohol concentration of four one hundredths or more in the person's blood or breath within three hours of driving the commercial motor vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle.

C. It is unlawful for a person who is under the influence of any drug to a degree which renders him incapable of safely driving a vehicle to drive a vehicle within this municipality. The fact that any person charged with a violation of this subsection is or has been entitled to use such drug under the laws of this state is not a defense against the charge.

D. Aggravated driving while under the influence of intoxicating liquor or drugs consists of a person who:

1) drives a vehicle in this state and has an alcohol concentration of sixteen one-hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle;

(2) has caused bodily injury to a human being as a result of the unlawful operation of a motor vehicle while driving under the influence of intoxicating liquor or drugs; or

(3) refused to submit to chemical testing, as provided for in the Implied Consent Act (66-8-105 to 66-8-112 NMSA 1978), and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor or drugs. (66-8-102 NMSA 1978).

E. Any person who operates a motor vehicle within this municipality shall be deemed to have given consent, subject to the provisions of the Implied Consent Act, to chemical tests of his breath or blood or both, approved by the scientific laboratory division of the Department of Health pursuant to the provision of Section 24-1-22 NMSA 1978 as determined by a law enforcement officer, or for the purpose of determining the drug or alcoholic content of his blood, if arrested for any offense arising out of the acts alleged to have been committed while the person was driving a motor vehicle while under the influence of an intoxicating liquor or any drug.

F. A test of blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to Section 24-1-22 NMSA 1978, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle within this municipality, while under the influence of intoxicating liquor or drug. (66-8-107 NMSA 1978)

G. Any person who is dead, unconscious or otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by Section 12-6-12.1E, and the test or tests designated by the law enforcement officer may be administered. (66-8-108 NMSA 1978)

H. Only the persons authorized by Section 66-8-103 NMSA 1978 shall withdraw blood from any person for the purpose of determining its drug or alcoholic content. This limitation does not apply to the taking of samples of breath.

I. The person tested shall be advised by the law enforcement officer of the person's right to be given an opportunity to arrange for a physician, licensed professional or practical nurse, or laboratory technician or technologist who is employed by a hospital or physician, of his own choosing to perform a chemical test in addition to any test performed at the direction of a law enforcement officer.

J. Upon the request of the person tested, full information concerning the test or tests performed at the direction of the law enforcement officer shall be made available to him as soon as it is available from the person performing the test.

K. The law enforcement agency represented by the law enforcement officer at whose direction the chemical test is performed shall pay for the chemical test.

L. If a person exercises his right under Subsection I to have a chemical test performed upon him by a person of his own choosing, then the cost of that test shall be paid by the law enforcement agency represented by the law enforcement officer at whose direction a chemical test was administered under Subsection E. (66-8-109 NMSA 1978)

M. The results of a test performed pursuant to the Implied Consent Act may be introduced into evidence in any civil action or criminal action arising out of the acts alleged to have been committed by the person tested for driving a motor vehicle while under the influence of intoxicating liquor or drug.

N. When the blood or breath of the person tested contains:

(1) an alcohol concentration of less than four one-hundredths or less, it shall be presumed that the person was not under the influence of intoxicating liquor;

(2) an alcohol concentration of at least four one-hundredths but less than eight one-hundredths, no presumption shall be made that the person either was or was not under the influence of intoxicating liquor unless the person is driving a commercial vehicle and the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether or not the person was under the influence of intoxicating liquor;

(3) an alcohol concentration of eight one-hundredths or more, the arresting officer shall charge him with a violation of this section; or

(4) an alcohol concentration of four one-hundredths or more and the person is driving a commercial vehicle, it shall be presumed that the person is under the influence of intoxicating liquor. (66-8-110 NMSA 1978)

O. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Sec. 12-6-12.1. (66-8-110 NMSA 1978)

P. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

Q. The presumptions in Subsection N of this section do not limit the introduction of other competent evidence concerning whether or not a person was under the influence of intoxicating liquor. (66-8-110 NMSA 1978)

R. Nothing in this section is intended to authorize any police officer, or any judicial or probation officer, to make any arrest or to direct the performance of a blood-alcohol test, except in the performance of his official duties and as otherwise authorized by law. (66-8-104 NMSA 1978)

S. If a person under arrest for violation of an offense enumerated in the Motor Vehicle Code refuses upon request of a law enforcement officer to submit to chemical tests designated by the law enforcement agency as provided in Section 12-6-12.1 E and F, none shall be administered, except when a municipal judge, magistrate or district judge issues a search warrant authorizing chemical tests as provided in Section 12-6-12.1 E and F, upon his finding in a law enforcement officer's written affidavit that there is probable cause to believe that the person has driven a motor vehicle while under the

influence of intoxicating alcohol or drug thereby causing the death or great bodily injury of another person, or there is probable cause to believe that the person has committed a felony while under the influence of intoxicating alcohol or drug and that chemical tests as provided in Section 12-6-12.1 E and F will produce material evidence in a felony prosecution. (66-8-111 NMSA 1978)

T. If a law enforcement officer has reasonable grounds to believe that a person arrested for violation of Subsections A, B, C or D of this section had been driving a motor vehicle within this municipality while under the influence of intoxicating liquor or drug and that upon his request, the person refused to submit to a chemical test, after being advised that failure to submit could result in revocation of his privilege to drive, then the law enforcement officer shall transmit to the director a statement signed under penalty of perjury stating what such reasonable grounds were and stating that the person refused to submit to a chemical test after being advised of the consequences of such refusal.

U. On behalf of the director, a law enforcement officer requesting a chemical test or directing the administration of a chemical test pursuant to Section 12-6-12.1 E and F shall serve immediate written notice of revocation and of right to a hearing on a person who refuses to permit chemical testing or on a person who submits to a chemical test the results of which indicate an alcohol concentration in the person's blood or breath of eight one-hundredths or more if the person is twenty-one years of age or older, four one-hundredths or more if the person is driving a commercial vehicle or two one-hundredths or more if the person is less than twenty-one years of age. Upon serving notice of revocation, the law enforcement officer shall take the license or permit of the driver, if any, and issue a temporary license valid for twenty days or, if the driver requests a hearing pursuant to Section 66-8-112 NMSA 1978, valid until the date the department issues the order following that hearing; provided that a temporary license shall not be issued to a driver without a valid license or permit. The law enforcement officer shall send the person's driver's license to the director along with the signed statement required pursuant to Subsection S of this section. (66-8-111.1 NMSA 1978)

12-6-12.2 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PENALTIES; SENTENCING; FEES *Amended June, 2010*

A. If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor or drug (12-6-12.1A through D) the trial judge shall be required to inquire into the past driving record of the person before sentence is entered in the matter. (66-8-110 NMSA 1978)

B. When a person is charged with a violation of 12-6-12.1A through D, any plea of guilty thereafter entered in satisfaction of the charges shall include at least a plea of guilty to violation 12-6-12.1A, B, C or D and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized if:

(1) the results of a test performed pursuant to the Implied Consent Act discloses that the blood of the person charged contains an alcohol concentration of eight one-hundredths or more; (66-8-102 NMSA 1978 as amended)

(2) four one-hundredths or more if the person is driving a commercial vehicle; or

(3) the defendant has refused to submit to a chemical test or tests of his breath or blood. (66-8-102 NMSA 1978)

C. A person under first conviction pursuant to this section shall be punished by imprisonment for not more than ninety days or by a fine of not more than nine hundred ninety-nine dollars ($999.00), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first conviction pursuant to this section, an offender shall be sentenced to not less than twenty-four hours of community service. In addition, the offender may be required to pay a fine of three hundred dollars ($300.00). The offender shall be ordered by the court to participate in and complete a screening program described in Subsection F of this section and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school," approved by the traffic safety bureau of the state transportation department and also may be required to participate in other rehabilitative services as the court shall determine to be necessary. In addition to those penalties, when an offender commits aggravated driving while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail. If an offender fails to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or fails to comply with any other condition of parole, the offender shall be sentenced to not less than an additional forty-eight consecutive hours in jail. Any jail sentence imposed pursuant to this section for failure to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or for aggravated driving while under the influence of intoxicating liquor or drugs shall not be suspended, deferred or taken under advisement. On a first conviction pursuant to this section, time spent in jail for the offense prior to the conviction for that offense shall be credited to any to any term of imprisonment fixed by the court. A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions.

D. A second or third conviction pursuant to this section shall be punished by imprisonment for not more than one hundred seventy-nine days or by a fine of not more than nine hundred ninety-nine dollars ($999.00), or both; provided that if the sentence is suspended in whole or part, the period of probation may extend beyond one hundred seventy-nine days but shall not exceed one year. Notwithstanding any provision of law to the contrary for suspension or deferment of execution of a sentence:

(1) upon a second conviction, each offender shall be sentenced to a jail term of not less than ninety-six consecutive hours, not less than forty-eight hours of community service and a fine of five hundred dollars ($500.00). In addition to those penalties, when an offender commits aggravated driving while under the influence of

intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than ninety-six consecutive hours. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement; and

(2) upon a third conviction, an offender shall be sentenced to a jail term of not less than thirty consecutive days, not less than ninety-six hours of community service and a fine of nine hundred ninety-nine dollars ($999.00). In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

E. Fourth and subsequent offenses shall be prosecuted under state law in magistrate or district court. (66-8-102 NMSA 1978)

F. Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, with a time specified by the court, an alcohol or drug abuse screening program approved by the Department of Finance and Administration and if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

G. Upon a second or third conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court:

(1) not less than a twenty-eight-day inpatient, residential or in-custody substance abuse program approved by the court;

(2) not less than a ninety-day outpatient treatment program approved by the court;

(3) a drug court program approved by the court; or

(4) any other substance abuse treatment approved by the court.

The requirement imposed pursuant to this section shall not be suspended, deferred or taken under advisement. (66-8-102 NMSA 1978)

H. Upon a conviction pursuant to section 12-6-12.1, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the Traffic Safety Bureau of the Department of Transportation. Unless determined by the Traffic Safety Bureau to be indigent, the offender shall pay all costs associated with having an ignition interlock device installed on the appropriate motor vehicles. The offender shall operate only those vehicles equipped with ignition interlock devices for:

(1) a period of one year, for a first offender;

(2) a period of two years, for a second conviction pursuant to this section;

(3) a period of three years, for a third conviction pursuant to this section; or

(4) the remainder of the offender's life, for a fourth or subsequent conviction pursuant to this section.

I. A person who is issued an ignition interlock license and operates a vehicle that is not equipped with an ignition interlock device is driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act and may be subject to the penalties provided in section 12-6-12.6.

J. A person who is issued an ignition interlock license and who knowingly and deliberately tampers or interferes or causes another to tamper or interfere with the proper and intended operation of an ignition interlock device may be subject to the penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act as provided in Section 12-6-12.6. (66-5-504 NMSA 1978)

K. Five years from the date of conviction and every five years thereafter, a fourth or subsequent offender may apply to a district court for removal of the ignition interlock device requirement provided in this section and for restoration of a driver's license. A district court may, for good cause shown, remove the ignition interlock device requirement and order restoration of the license; provided that the offender has not been subsequently convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs. Good cause may include an alcohol screening and proof from the interlock vendor that the person has not had violations of the interlock device. (66-8-102 NMSA 1978)

L. An offender who obtains an ignition interlock license and installs an ignition interlock device prior to conviction shall be given credit at sentencing for the time period the ignition interlock device has been in use. (66-8-102 NMSA 1978)

M. Except as otherwise prohibited in this section, a municipal judge may suspend in whole or in part the execution of sentence or place the defendant on probation for a period not exceeding one year on terms and conditions that municipal judge deems best, or both, or defer sentence. If the municipal judge decides to defer the execution of a sentence, such deferral shall be granted only as allowed in Subsection N of this section. A suspension of execution of sentence or probation, or both, as allowed pursuant to this section, 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.

O. A person convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of 12-6-12.1A, B, C or D shall be assessed, in addition to any other fee or fine, a fee of eighty-five dollars ($85.00) to defray the cost of chemical and other tests used to determine the influence of alcohol or drugs. Additionally, the person shall be assessed 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 municipal court shall collect the fees and maintain the fees in separate funds and transfer the fees along with other funds collected by the court per 35-14-7 NMSA 1978. The municipality shall maintain the fees pursuant to this subsection in separate funds and transfer the fees collected pursuant to this subsection to the administrative office of the courts for credit to the crime laboratory fund and the traffic safety fund. (31-12-7 through 31-12-9 NMSA 1978)

P. With respect to this section and notwithstanding any provision of law to the contrary, if an offender's sentence was suspended or deferred in whole or in part and the offender violates any condition of probation, the court may impose any sentence that the court could have originally imposed and credit shall not be given for time served by the offender on probation. (66-8-102 NMSA 1978)

Q. As used in this section and in 12-6-12.1:

(1) "bodily injury" means an injury to a person not likely to cause death or great bodily harm to the person, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the person's body; and

(2) "conviction" means adjudication of guilt and does not include imposition of a sentence.

(3) "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;

(b) has a gross vehicle weight rating of more than twenty-six thousand pounds;

(c) is designed to transport sixteen or more passengers, including the driver; or

(d) is of any size and is used in the transportation of hazardous materials, which requires the motor vehicle to be placarded under applicable law.

R. A conviction pursuant to a municipal or county ordinance in New Mexico or a law of any other jurisdiction, territory, or possession of the United States or of a tribe where that ordinance is equivalent to New Mexico law for driving while under the influence of intoxicating liquor or drugs, prescribing penalties for driving while under the influence of intoxicating liquor or drugs shall be deemed to be a conviction pursuant to this section for purposes of determining whether a conviction is a second or subsequent conviction. (66-8-102. NMSA 1978)

S. A law enforcement officer making an arrest for a violation of the provisions of 12-6-12.2 or of similar municipal or county ordinances shall use standard arrest reports and procedures developed and approved by the Department of Public Safety in accordance with Section 8 of Laws of 2005, Chapter 269.

12-6-12.2A 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 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 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. (66-8-102.5 NMSA 1978)

12-6-12.3 RECKLESS DRIVING

A. Any person who drives any vehicle carelessly and heedlessly in willful or wanton disregard of the rights or safety of others and without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property is guilty of reckless driving.

B. Every person convicted of reckless driving shall be punished:

(1) Upon a first conviction by imprisonment for not less than five days nor more than ninety days, or by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00), or both; and

(2) On a second or subsequent conviction by imprisonment for not less than ten days nor more than ninety days, or by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00), or both. (66-8-113 NMSA, 1978)

12-6-12.4 CARELESS DRIVING

A. Any person operating a vehicle on the street shall give his full time and entire attention to the operation of the vehicle.

B. Any person who operates a vehicle in a careless, inattentive or imprudent manner, without due regard for the width, grade curves, corners, traffic, weather and road conditions and all other attendant circumstances is guilty of careless driving. (66-8-114 NMSA 1978)

12-6-12.5 OPERATORS AND CHAUFFEURS MUST BE LICENSED

A. Except those expressly exempted by Section 66-5-4 NMSA 1978, no person shall drive any motor vehicle or moped upon a street in this municipality unless he holds a valid license issued under the provisions of the New Mexico Motor Vehicle Code.

B. Any person licensed under the provisions of the New Mexico Motor Vehicle Code, or expressly exempted from licensure, may exercise the privilege granted upon all streets and highways in this municipality. (66-5-2 NMSA 1978)

C. No person, whether a resident or non-resident of the State of New Mexico, shall operate a motor vehicle or moped upon a street in this municipality in violation of any restrictions with respect to the type of, or special mechanical devices required on, a motor vehicle which the licensee may operate or any other restrictions applicable to the licensee. (*)

D. Every licensee shall have the licensee's driver's license in the licensee's immediate possession at all times when operating a motor vehicle or moped, and shall display the license upon demand of a magistrate or police officer or a field deputy or inspector of the division. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor; however, a person charged with violating this section shall not be convicted if the person produces in court a driver's license issued to the person and valid at the time of the person's citation his arrest. (66-5-16 NMSA 1978)

12-6-12.6 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 the person's privilege to do so is suspended and who knows or should have kn~~ow~~n that the person's license was suspended. Upon conviction, the person may be punished pursuant to Subsection B of Section 66-8-7 NMSA 1978 or for no more than ninety days of 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)

12-6-12.6A 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 license 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:
   (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

12-6-12.8 UNATTENDED MOTOR VEHICLE

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake, or placing the transmission in parking position, thereon and, when standing upon any grade, turning the front wheels in such a manner that the vehicle will be held by the curb or will leave the street if the brake fails. (66-7-353 NMSA 1978)

12-6-12.9 LIMITATIONS ON BACKING

A. The driver of a vehicle shall not back it:

(1) unless the movement can be made with reasonable safety and without interfering with other traffic;

(2) upon any shoulder or roadway of any controlled-access street, or upon the exit or entry road of any controlled-access street; (66-7-354 NMSA 1978)

(3) into an intersection or around a corner unless preceded by an observer to safely direct the movement; or

(4) from a private driveway into any street unless the movement can be made with safety and without interfering with other traffic on the street. (*)

B. In no case shall a vehicle be backed more than 60 feet unless preceded by an observer to safely direct the movement. (*)

12-6-12.10 OBSTRUCTION TO DRIVER'S VIEW OR DRIVING MECHANISM

A. No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such position as to interfere with driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle. (66-7-357 NMSA 1978)

12-6-12.11 RESTRICTION ON USE OF VIDEO IN MOTOR VEHICLES

A. It is unlawful to operate in this municipality any motor vehicle equipped with a video screen, of whatever type, upon which images may be projected or shown, if the screen is within the normal view of the driver of the motor vehicle unless the video screen is solely used as an aid to the driver in the operation of the vehicle.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor.

C. As used in this section " video screen" does not include closed circuit monitors or computer terminal monitors used by law enforcement agencies in law enforcement motor vehicles. (66-7-358 NMSA 1978)

12-6-12.12 COASTING PROHIBITED

A. The driver of any motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-360 NMSA 1978)

12-6-12.13 FOLLOWING FIRE APPARATUS PROHIBITED

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (66-7-361 NMSA 1978)

12-6-12.14 CROSSING FIRE HOSE

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, without the consent of the fire department official in command. (66-7-362 NMSA 1978)

12-6-12.15 DRIVING THROUGH SAFETY ZONES PROHIBITED

No vehicle shall at any time be driven through or within a safety zone. (66-7-361 NMSA 1978)

12-6-12.16 VEHICLES SHALL BE DRIVEN ONLY ON STREETS, PRIVATE ROADS AND DRIVEWAYS

No driver of a vehicle shall operate or be in control of a vehicle on other than the portions of streets improved, designed and ordinarily used for vehicular traffic, private roads, driveways or alleys in this municipality, except as otherwise provided by this ordinance or as otherwise authorized or designated by the administrator or his designated representative. (*)

12-6-12.17 DRIVING ON SIDEWALK AND PRIVATE PROPERTY

A. No person shall drive any vehicle on, or across a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

B. No person shall drive on private property, except upon a permanent or authorized temporary driveway or parking area, without the express authorization of the owner, lessee or other person authorized by the owner to control the use of the private property. (*)

12-6.12.18 PROHIBITED ACTIVITIES WHILE DRIVING

No person shall:

(1) drive a vehicle while engaged in any activity which interferes with the safe operation of the vehicle;

(2) drive while having in his lap any person, adult or minor, or any animal;

(3) drive while seated in the lap of another person while the vehicle is in motion;

(4) drive a vehicle while having either arm around another person; or

(5) operate a motor vehicle's equipment, including but not limited to the vehicle horn or lights, in such manner as to distract other motorists on the public way or in such a manner as to disturb the peace. (*)

12-6-12.19 RACING ON STREETS *Amended July, 2007*

A. Unless written permission setting out pertinent conditions is obtained from the chief of the municipal police, and then only in accordance with such conditions (*) no person shall drive a vehicle on a street in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, whether or not the speed is in excess of the maximum speed prescribed by law, and no person shall in any manner participate in any such race, drag race, competition, contest, test or exhibition.

B. As used in this section:

(1) "drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit;

(2) "race" means the use of one (1) or more vehicles in a manner to outgain or outdistance another vehicle, prevent another vehicle from passing, arrive at a given destination ahead of another vehicle or test the physical stamina or endurance of drivers over long-distance routes. (66-8-115 NMSA 1978)

(3) "exhibition driving" consists of intentionally fish-tailing, peeling-out, losing traction, and burning of rubber while operating a motorcycle or motor-driven vehicle,, includes intentionally operating the vehicle on a single tire (commonly known as a “wheelie”); operating a vehicle from a standing position; or operating the vehicle without at least one hand gripping the handlebars. (*)

12-6-12.20 PROCESSIONS

A. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while the procession is in motion and when the vehicles in the procession are conspicuously designated as required in this section. This provision shall not apply at intersections where traffic is controlled by police officers.

B. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the street as practicable and shall follow the vehicle ahead as closely as is practicable and safe.

C. A funeral composed of a procession of vehicles shall be identified by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division.

D. No funeral, procession or parade containing 200 or more persons or 50 or more vehicles, except the Armed Forces of the United States, the military forces of

this state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply. (*)

12-6-12.21 DRIVER TO TAKE PRECAUTIONS APPROACHING THE BLIND

A. The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or with out a red tip, or using a guide dog shall take all necessary precautions to avoid injury to the blind pedestrian. Any driver who fails to take necessary precautions shall be liable in damages for any injury caused to the pedestrian.

B. A totally blind or partially blind pedestrian not carrying a cane or using a guide dog shall have all the rights and privileges conferred by law on other persons, and the failure of a totally blind pedestrian to carry a cane or to use a guide dog shall not be held to constitute nor be evidence of contributory negligence. (28-7-4 NMSA 1978)

12-6-12.22 OFFENSES BY PERSONS OWNING OR CONTROLLING VEHICLES

It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or to permit the operation of such vehicle upon a street in this municipality in any manner contrary to this ordinance. (66-8-121 NMSA 1978)

12-6-12.23 PERMITTING UNAUTHORIZED PERSONS TO DRIVE

A. No person shall cause or knowingly permit his child or ward under the age of eighteen years to drive a motor vehicle upon any street when such minor is not authorized under state law or is in violation of any of the provisions of the New Mexico Motor Vehicle Code. (66-5-40 NMSA 1978)

B. No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street by any person who is not authorized under state law or is in violation of any of the provisions of the New Mexico Motor Vehicle Code. (66-5-41 NMSA 1978)

12-6-12.24 PARTIES TO UNLAWFUL ACTS

Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be unlawful, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of

this ordinance or of the Motor Vehicle Code is likewise guilty of such offense. (66-8-120 NMSA 1978)

12-6-13 MISCELLANEOUS TRAFFIC REGULATIONS

12-6-13.1 OFFENSES RELATING TO DRIVING UNDER THE INFLUENCE

A. No owner or person in control of a motor vehicle shall permit it to be driven or operated by any person who is a habitual user of narcotic drugs or by any person who is under the influence of intoxicating liquor, narcotic drugs or any other drug to a degree which renders him incapable of safely driving the vehicle.

B. No person under the influence of intoxicating liquor, narcotic drug or other drug to a degree which renders him incapable of driving safely shall start or attempt to operate a vehicle. (*)

12-6-13.2 UNLAWFUL RIDING

A. No person shall ride or permit another person to ride in or on any portion of a vehicle not designated or intended for the use of passengers.

B. This provision shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise. (*)

12-6-13.3 UNHITCHED TRAILER ON STREET

No person shall leave any type of trailer unhitched upon a street. (*)

12-6-13.4 MOVING OR MOLESTING UNATTENDED VEHICLES

A. No person shall individually or in association with one or more others do any of the following:

(1) purposely, and without authority from the owner, start or cause to be started the engine of any motor vehicle;

(2) purposely and maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which they were left by the owner or driver of said motor vehicle;

(3) purposely scratch or damage the chassis, running gear, body, sides, tip covering or upholstering of a motor vehicle which is the property of another;

(4) purposely destroy any part of a motor vehicle or purposely cut, mash, mark, or in any other way, destroy or damage any part, attachment, fastening or appurtenance of a motor vehicle, without the permission of the owner;

(5) purposely drain or start the drainage of any radiator, oil tank or gas tank upon a motor vehicle, without the permission of the owner;

(6) purposely put any metallic or other substance or liquid in the radiator, carburetor, oil tank, grease cup, oilers, lamps, gas tanks or machinery of the motor vehicle with the intent to injure or damage the same or impede the working of the machinery thereof;

(7) maliciously tighten or loosen any bracket, bolt, wire, nut, screw or other fastening on a motor vehicle; or

(8) purposely release the brake upon a standing motor vehicle with the intent to injure said machine. (66-3-506 NMSA 1978)

B. The foregoing provisions shall not apply to a police officer or member of the fire department or street maintenance department who in discharge of his duty legally moves or causes to be moved any unattended vehicle, nor to any person who moves the vehicle at the direction of or in compliance with orders from a police officer or member of the fire department or street maintenance department who in the discharge of his duties legally orders or directs the moving of the unattended vehicle. (*)

12-6-13.5 DESTRUCTIVE OR INJURIOUS MATERIAL ON ROADWAY

A. No person shall throw or deposit upon any street any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street.

B. Any person who drops, or permits to be dropped or thrown, upon any street any destructive or injurious material shall immediately remove the same or cause it to be removed.

C. Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle. (66-7-364 NMSA 1978)

D. No vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a street in cleaning or maintaining such street.

E. No person shall operate on any street any vehicle or combination of vehicles with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the street. (66-7-407 NMSA 1978)

12-6-13.6 TRAINS AND BUSES NOT TO OBSTRUCT STREETS

No person or corporation shall direct the operation of or operate any railroad train or bus in such manner to prevent the use of any street for purposes of travel for a period of time longer than five minutes. (*)

12-6-13.7 BOARDING OR ALIGHTING FROM VEHICLES

A. No person shall board or alight from any moving vehicle or any vehicle which is stopped in traffic.

B. No person shall alight or enter a vehicle except when it is stopped at a curb or in a passenger loading zone. (*)

12-6-13.8 IMPROPER OPENING OF DOORS.

No person shall:

(1) open the door of a vehicle on the side near moving traffic unless it is reasonably safe to do so, and the door can be opened without interfering with the movement of traffic; or

(2) leave a door of a vehicle open on the side of the vehicle near moving traffic for a period of time longer than necessary to load or unload passengers. (66-7-367 NMSA 1978)

12-6-13.9 OCCUPIED MOVING HOUSE TRAILER

No person shall:

(1) occupy a house trailer while it is being towed upon a street; or

(2) tow a house trailer on any street when the house trailer is occupied by any person. (66-7-366 NMSA 1978)

12-6-13.10 ANIMALS ON STREET

A. It is unlawful for any person, during the hours of darkness to ride a horse or other animal upon the traveled portion of any street which is normally used by motor vehicles.

B. It is unlawful for any person negligently to permit livestock to wander or graze upon any fenced street at any time or, during the hours of darkness, to drive livestock along or upon any street which is normally used by motor vehicles.

C. Owners of livestock ranging in pastures through which unfenced roadways pass shall not be liable for damages by reason of injury or damage to persons or property occasioned by collisions of vehicles using said roadways and livestock or animals ranging in said pastures unless such owner of livestock is guilty of specific negligence other than allowing his animals to range in said pasture.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-363 NMSA 1978)

12-6-13.11 DRIVING ON MOUNTAIN STREETS

A. The driver of a motor vehicle traveling through defiles or canyons or on mountain streets shall hold such motor vehicle under control and as near the right-hand edge of the street as reasonably possible.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-359 NMSA 1978)

12-6-13.12 CHILD PASSENGER RESTRAINT; PENALTY; ENFORCEMENT

A. A person shall not operate a passenger car, van or pickup truck in this state except for an authorized emergency vehicle, public transportation or school bus unless all passengers less than eighteen years of age are properly restrained.

B. Each person less than eighteen years of age shall be properly secured in a child passenger restraint device or by a seat belt, unless all seating positions equipped with seat belts are occupied, as follows:

(1) children less than one year of age shall be properly secured in a rear-facing child passenger restraint device that meets federal standards, in the rear seat of a vehicle that is equipped with a rear seat. If the vehicle is not equipped with a rear seat, the child may ride in the front seat of the vehicle if the passenger-side air bag is deactivated or if the vehicle is not equipped with a deactivation switch for the passenger-side air bag:

(2) children one year of age through four years of age, regardless of weight, or children who weigh less than forty pounds, regardless of age, shall be properly secured in a child passenger restraint device that meets federal standards;

(3) children five years of age through six years of age, regardless of weight, or children who weigh less than sixty pounds, regardless of age, shall be properly secured in either a child booster seat or an appropriate child passenger restraint device that meets federal standards; and

(4) children seven years of age through twelve years of age shall be properly secured in a child passenger device or by a seat belt.

C. A child is properly secured in an adult seat belt when the lap belt properly fits across the child's thighs and hips and not the abdomen. The shoulder strap shall cross the center of the child's chest and not the neck, allowing the child to sit all the way back against the vehicle seat with knees bent over the seat edge.

D. Failure to be secured by a child passenger restraint device or by a safety belt as required by this section shall not in any instance constitute fault or negligence and shall not limit or apportion damages. (66-7-369 NMSA 1978)

E. Failure to be secured by a child passenger restraint device or by a safety belt as required by this section shall not in any instance constitute fault or negligence and shall not limit or apportion damages. (66-7-369 NMSA 1978)

12-6-13.13 MANDATORY USE OF SEATBELTS

A. Except as provided by Section 12-6-13.12 and in Subsection B of this section, each occupant of a motor vehicle having a gross vehicle weight of ten thousand pounds or less manufactured with safety belts in compliance with federal motor vehicle safety standard number 208 shall have a safety belt properly fastened about his body at all times when the vehicle is in motion on any street or highway.

B. This section shall not apply to an occupant of a motor vehicle having a gross vehicle weight of ten thousand pounds or less who possesses a written statement from a licensed physician that he is unable for medical reasons to wear a safety belt or to a rural letter carrier of the United States postal service while performing the duties of a rural letter carrier. (66-7-372 NMSA 1978)

C. Each person violating Subsection A of Section 12-6-13.13 shall be fined an amount not less than twenty-five dollars ($25.00) or more than fifty dollars ($50.00) including court costs.

D. Failure to be secured by a child passenger restraint device or by a safety belt as required in this Section shall not in any instance constitute fault or negligence and shall not limit or apportion damages.

E. The provisions of this Section shall be enforced whether or not associated with the enforcement of any other statute. (66-7-373 NMSA 1978)

12-6-13.14 CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES IN OPEN CONTAINERS IN A MOTOR VEHICLE PROHIBITED--EXCEPTIONS

A. No person shall knowingly drink any alcoholic beverage while in a motor vehicle upon any street within this municipality.

B. No person shall have in his possession on his person, while in a motor vehicle upon any street within this municipality, any bottle, can or other receptacle

containing any alcoholic beverage which has been opened or had its seal broken or the contents of which have been partially removed.

C. It is unlawful for the registered owner of any motor vehicle, to knowingly keep or allow to be kept in a motor vehicle, when the vehicle is upon any street within this municipality, any bottle, can or other receptacle containing any alcoholic beverage which has been opened or had its seal broken or the contents of which have been partially removed, unless the container is kept in:

(1) the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk;

(2) the living quarters of a motor home or recreational vehicle;

(3) a truck camper;

(4) the bed of a pick-up truck when the bed is occupied by passengers.

A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers. This section does not apply to the driver or owner of or any passenger in a bus, taxicab or limousine for hire licensed to transport passengers pursuant to the Motor Carrier Act or proper legal authority.

D. The provisions of this section do not apply to:

(1) any person who, upon the recommendation of a doctor, carries alcoholic beverages in that persons motor vehicle for medicinal purposes;

(2) any clergyman or his agent who carries alcoholic beverages for religious purposes in the clergyman's or his agent's motor vehicle; or

(3) any person who is employed by a person licensed by the Alcoholic Beverage Control Act, while discharging his duties as an employee (66-8-138)

E. Penalties

(1) Whoever is guilty of a second or subsequent violation of any provision of this ordinance shall be sentenced pursuant to this code.

(2) In addition to any other penalty or disposition ordered pursuant to law, upon conviction for a second or subsequent violation of the provisions of Section 12-6-13.14, the convicted person shall have his driver's license revoked for a period of three months upon a second violation and for one year upon a third or subsequent violation. (66-8-139 NMSA 1978)

F. "Alcoholic Beverages" Defined. As used in this ordinance "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whisky, rum, gin, aromatic bitters bearing the federal internal revenue strip stamps or any similar alcoholic beverage, including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol but excluding medicinal bitters. (66-1-4.1 NMSA 1978)

12-6-13.15 LITTERING

A. Littering consists of discarding refuse:

(1) on public property in any manner other than by placing the refuse in a receptacle provided for the purpose by the responsible governmental authorities, or otherwise in accordance with lawful direction; or

(2) on private property not owned or lawfully occupied or controlled by the person, except with the consent of the owner, lessee or occupant thereof. (30-8-4 NMSA 1978).

B. Whoever commits littering is guilty of a petty misdemeanor. The use of uniform traffic citations is authorized for the enforcement of this section. The court may to the extent permitted by law, as a condition to suspension of any other penalty provided by law, require a person who commits littering to pick up and remove from any public place or any private property, with prior permission of the legal owner, any litter deposited thereon.

C. Any jail sentence imposed pursuant to Subsection B of this section may be suspended, in the discretion of the magistrate or judge, upon conditions that the offender assist in litter clean-up in the jurisdiction for a period not to exceed the length of the suspended sentence. (*)

12-6-14 PEDESTRIANS' RIGHTS AND DUTIES

12-6-14.1 PEDESTRIAN OBEDIENCE TO TRAFFIC-CONTROL DEVICES AND TRAFFIC REGULATIONS

Pedestrians shall be subject to traffic-control signals at intersections as provided in Section 12-5-6, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions provided in this ordinance. (66-7-333 NMSA 1978)

12-6-14.2 PEDESTRIANS RIGHT OF WAY IN CROSSWALKS *Amended July, 2007*

A. When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the street within a crosswalk when the pedestrian is in the crosswalk.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

C. Subsection A shall not apply under the conditions stated in Section 12-6-14.4.

D. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the street, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

E. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-334 NMSA 1978)

12-6-14.3 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK

A. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-338 NMSA 1978)

12-6-14.4 CROSSING AT OTHER THAN CROSSWALKS

A. A pedestrian crossing a street at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the street.

B. Any pedestrian crossing a street at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the street.

C. Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk. (66-7-335 NMSA 1978)

D. No pedestrian shall cross a street intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements. (*)

E. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-335 NMSA 1978)

12-6-14.5 PEDESTRIANS ON STREETS

A. Where sidewalks are provided it is unlawful for a pedestrian to walk along and upon an adjacent street.

B. Where sidewalks are not provided any pedestrian walking along and upon a street shall when practicable walk only on the left side of the street or its shoulder facing traffic which may approach from the opposite direction.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-339 NMSA 1978)

12-6-14.6 PEDESTRIANS SOLICITING RIDES OR BUSINESS

A. No person shall stand in a street for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

B. No person shall stand on or in proximity to a street for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street. (66-7-340 NMSA 1978)

12-6-14.7 OBEDIENCE OF PEDESTRIANS TO BRIDGE AND RAILROAD SIGNALS

A. No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

B. No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed. (*)

12-6-14.8 DRIVERS TO EXERCISE DUE CARE

Notwithstanding the foregoing provisions of this ordinance every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a street. (66-7-337 NMSA 1978)

12-6-15 REFERENCE TO VEHICLES UPON THE STREETS

A. The provisions of Article 6 of this 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 4 of this ordinance and Sections 12-6-12.1 through 12-6-12.3 of this ordinance shall apply upon the streets and highways and elsewhere throughout this municipality. (66-7-2 NMSA 1978)

12-6-16 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

Amended July, 2007

A. As used in this section, "electric personal assistive mobility device" means a self-balancing device having two non-tandem wheels designed to transport a single person by means of an electric propulsion system with an average power of one horsepower and with a maximum speed on a paved level surface of less than twenty miles per hour when powered solely by its propulsion system and while being ridden by an operator who weighs one hundred seventy pounds.

B. An electric personal assistive mobility device shall be equipped with:

(1) front, rear and side reflectors;

(2) a braking system that enables the operator to bring the device to a controlled stop; and

(3) if operated at any time from one-half hour after sunset to one-half hour before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the device.

C. The secretary of the state department of transportation shall by rule prescribe motor vehicle safety standards applicable to electric personal assistive mobility devices.

D. An operator of an electric personal assistive mobility device traveling on a sidewalk, roadway or bicycle path shall have the rights and duties of a pedestrian, and shall exercise due care to avoid colliding with pedestrians. An operator shall yield the right of way to pedestrians.

E. Except as provided in this section, no other provisions of the Uniform Traffic Ordinance shall apply to electric personal assistive mobility devices.

F. An operator who violates a provision of Subsection B, C or D of this section shall receive a warning for the first offense. For a second offense, the operator shall be punished by a fine of ten dollars ($10.00). For a third or subsequent offense, in addition to the fine, the electric personal assistive mobility device shall be impounded for up to thirty days.

G. This section does not apply to personal assistive mobility devices used by persons with disabilities." (66-3-1102 NMSA 1978)

12-6-16.1 NEIGHBORHOOD ELECTRIC CARS *Added July, 2007*

A. A neighborhood electric car means a four-wheeled electric motor vehicle that has a maximum speed of more than twenty miles per hour but less than twenty-five miles per hour, complies with the federal requirements specified in 49 CFR 571.500 and shall be equipped with head lamps, stop lamps, front and rear turn signals lamps, tail lamps, reflex reflectors, a parking brake, at least one interior and one exterior rear view mirror, a windshield, windshield wipers, a speedometer, an odometer, braking for each wheel, seat belts and a vehicle identification number.

B. Except as provided for in Subsection C or D of this section, a neighborhood electric car, properly registered pursuant to provisions of the Motor Vehicle

Code, in compliance with the Mandatory Financial Responsibility Act and driven by an individual with a valid driver's license, may be operated on any street, roadway or highway under the jurisdiction of either the state or a local authority if the posted maximum speed limit is thirty-five miles per hour or less; provided, a neighborhood electric car may cross at an intersection or permitted crossing point at any street, roadway or highway that has a maximum speed limit higher than thirty-five miles an hour.

C. A local authority may prohibit the operation of neighborhood electric cars on any road under its jurisdiction if the governing body of the local authority determines that the prohibition is necessary in the interest of safety.

D. The department of transportation may prohibit the operation of neighborhood electric cars on any road under its jurisdiction if it determines that the prohibition is necessary in the interest of safety.

E. Neighborhood electric cars are exempt from the following provisions:

(1) the emblems or flashing light requirements for slow-moving vehicles in Section 66-3-887 NMSA 1987;

(2) any requirement for vehicle emission inspections adopted by a local authority pursuant to Subsection C of Section 74-2-4 NMSA 1978; and

(3) the minimum motor displacement requirements of Paragraph (2) of Subsection A of Section 66-7-405 NMSA 1978. (66-3-1103 NMSA 1978)

12-6-17 BOATING REGULATIONS AND OFFENSES BOATING WHILE INTOXICATED ACT

12-6-17.1 DEFINITIONS

A. "bodily injury" means an injury to a person that is not likely to cause death or great bodily harm to the person, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the person's body;

B. "conviction" means an adjudication of guilt and does not include imposition of a sentence;

C. "motorboat" means any boat, personal watercraft or other type of vessel propelled by machinery, whether or not machinery is the principle source of propulsion. "Motorboat" includes a vessel propelled or designed to be propelled by a sail, but does not include a sailboard or a windsurf board. "Motorboat" does not include a houseboat or any other vessel that is moored on the water, but not moving on the water; and

D. "operate" means to physically handle the controls of a motorboat that is moving on the water.

12-6-17.2 OPERATING A MOTORBOAT WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

A. It is unlawful for a person who is under the influence of intoxicating liquor to operate a motorboat.

B. It is unlawful for a person who is under the influence of any drug to a degree that renders him incapable of safely operating a motorboat to operate a motorboat.

C. It is unlawful for a person who has an alcohol concentration of eight one hundredths or more in his blood or breath to operate a motorboat.

D. Aggravated boating while under the influence of intoxicating liquor or drugs consists of a person who:

(1) has an alcohol concentration of sixteen one hundredths or more in his blood or breath while operating a motorboat;

(2) has caused bodily injury to a human being as a result of the unlawful operation of a motorboat while under the influence of intoxicating liquor or drugs; or

(3) refused to submit to chemical testing, as provided for in the Boating While Intoxicated Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor or drugs.

E. Every person under first conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than five hundred dollars ($500), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. The offender shall be ordered by the court to attend a boating safety course approved by the national association of state boating law administrators. An offender ordered by the court to attend a boating safety course shall provide the court with proof that the offender successfully completed the course within seven months of his conviction or prior to completion of his probation, whichever period of time is less. In addition to those penalties, when an offender commits aggravated boating while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail and may be fined not more than seven hundred fifty dollars ($750). On a first conviction under this section, any time spent in jail for the offense prior to the conviction for that offense shall be credited to any term of imprisonment fixed by the court. A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions.

F. A second or subsequent conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than seven hundred fifty dollars ($750), or both; provided that if the sentence is suspended in whole or in part, the period of probation shall not exceed one year. In addition to those penalties, when an offender commits aggravated boating while under the influence of

intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail and may be fined not more than one thousand dollars ($1,000).

12-6-17.3 GUILTY PLEAS--LIMITATIONS

A. When a complaint or information alleges a violation of 12-6-17.2 any plea of guilty thereafter entered in satisfaction of the charges shall include at least a plea of guilty to the violation of one of the subsections of 12-6-17.2, and no other disposition by plea of guilty to any other charge in satisfaction of the charge shall be authorized if the results of a test performed pursuant to that act disclose that the blood or breath of the person charged contains an alcohol concentration of eight one hundredths or more.

12-6-17.4 BLOOD-ALCOHOL TESTS--PERSONS QUALIFIED TO PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY

A. Only a physician, licensed professional or practical nurse or laboratory technician or technologist employed by a hospital or physician shall withdraw blood from a person in the performance of a blood-alcohol or drug test. A physician, nurse, technician or technologist who withdraws blood from a person in the performance of a blood-alcohol or drug test that has been directed by a law enforcement officer, or by a judicial or probation officer, shall not be held liable in a civil or criminal action for assault, battery, false imprisonment or any conduct of a law enforcement officer, except for negligence, nor shall a person assisting in the performance of the test, or a hospital wherein blood is withdrawn in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or any conduct of a law enforcement officer, except for negligence. in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or any conduct of a law enforcement officer, except for negligence.

12-6-17.5 BLOOD-ALCOHOL TEST--LAW ENFORCEMENT, JUDICIAL OR PROBATION OFFICER UNAUTHORIZED TO MAKE ARREST OR DIRECT TEST EXCEPT IN PERFORMANCE OF OFFICIAL DUTIES AUTHORIZED BY LAW

A. Nothing in this Act is intended to authorize a law enforcement officer, or a judicial or probation officer, to make an arrest or direct the performance of a blood-alcohol or drug test, except in the performance of his official duties or as otherwise authorized by law.

12-6-17.6 IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST

A. A person who operates a motorboat within this state shall be deemed to have given consent, subject to the provisions of the Boating While Intoxicated Act, to chemical tests of his blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978 as determined by a law enforcement officer, or for the purposes of determining the drug or

alcohol content of his blood if arrested for any offense arising out of acts alleged to have been committed while the person was operating a motorboat while under the influence of an intoxicating liquor or drug.

B. The arrested person shall be advised by a law enforcement officer that failure to submit to a chemical test may be introduced into evidence in court and that the court, upon conviction, may impose increased penalties for the person's failure to submit to a chemical test.

C. A test of blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating a motorboat while under the influence of an intoxicating liquor or drug.

D. A person who operates a motorboat in this state and who is involved in a fatal boating incident shall be deemed to have given consent, subject to the provisions ofthe Boating While Intoxicated Act, to mandatory chemical tests of his blood or breath or both, as determined by a law enforcement officer and approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978.

12-6-17.7 CONSENT OF PERSON INCAPABLE OF REFUSAL NOT WITHDRAWN

A. A person who is dead, unconscious or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by the Boating While Intoxicated Act, and the test designated by the law enforcement officer may be administered.

12-6-17.8 ADMINISTRATION OF CHEMICAL TEST--PAYMENT OF COSTS--ADDITIONAL TESTS.

A. Only the persons authorized by the Boating While Intoxicated Act shall withdraw blood from a person for the purpose of determining its alcohol or drug content. This limitation does not apply to the taking of samples of breath.

B. The person tested shall be advised by the law enforcement officer of the person's right to be given an opportunity to arrange for a physician, licensed professional or practical nurse or laboratory technician or technologist who is employed by a hospital or physician of his own choosing to perform a chemical test in addition to a test performed at the direction of a law enforcement officer.

C. Upon the request of the person tested, full information concerning the test performed at the direction of the law enforcement officer shall be made available to him as soon as it is available from the person performing the test.

D. The agency represented by the law enforcement officer at whose direction the chemical test is performed shall pay for the chemical test.

E. If a person exercises his right under Subsection B of this section to have a chemical test performed upon him by a person of his own choosing, the cost of that test shall be paid by the agency represented by the law enforcement officer at whose direction a chemical test was administered pursuant to 12-6-17.6.

12-6-17.9 USE OF TESTS IN CRIMINAL OR CIVIL ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING

A. The results of a test performed pursuant to the Boating While Intoxicated Act may be introduced into evidence in a civil action or criminal action arising out of the acts alleged to have been committed by the person tested for operating a motorboat while under the influence of intoxicating liquor or drugs.

B. When the blood or breath of the person tested contains:

(1) an alcohol concentration of five one hundredths or less, it shall be presumed that the person was not under the influence of intoxicating liquor; or

(2) an alcohol concentration of more than five one hundredths but less than eight one hundredths, no presumption shall be made that the person either was or was not under the influence of intoxicating liquor. However, the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

C. When the blood or breath of the person tested contains an alcohol concentration of eight one hundredths or more, the arresting officer shall charge him with a violation of 12-7-17.2.

D. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

E. The alcohol concentration in a person's blood or breath shall be determined by a chemical test administered to the person within three hours of the alleged boating while under the influence of intoxicating liquor. In a prosecution pursuant to the provisions of the Boating While Intoxicated Act, it is a rebuttable presumption that a person is in violation of the provisions of that act if he has an alcohol concentration of eight one hundredths or more in his blood or breath as determined by a chemical test administered to the person within three hours of the alleged boating while under the influence of intoxicating liquor. If the chemical test is administered more than three hours after the alleged boating while under the influence of intoxicating liquor, the test result is admissible as evidence of the alcohol concentration in the person's blood or breath at the time of the alleged boating and the trier of fact shall determine what weight to give the test result.

F. The presumptions in Subsection B of this section do not limit the introduction of other competent evidence concerning whether the person was under the influence of intoxicating liquor.

G. If a person is convicted of operating a motorboat while under the influence of intoxicating liquor or drugs, the trial judge shall be required to inquire into past convictions of the person for operating a motorboat while under the influence of intoxicating liquor or drugs before sentence is entered in the matter.

12-6-17.10 MOTORBOATS--INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--FEE UPON CONVICTION

A. A person convicted of a violation of the Boating While Intoxicated Act shall be assessed by the court, in addition to any other fee or fine, a fee of sixty-five dollars ($65.00) to defray the costs of chemical and other tests used to determine the influence of intoxicating liquor or drugs.

B. All fees collected pursuant to the provisions of this section shall be transmitted monthly to the crime laboratory fund. All balances in the crime laboratory fund collected pursuant to this section are appropriated to the administrative office of the courts for payment upon invoice to the scientific laboratory division of the department of health for the costs of chemical and other tests used to determine the influence of intoxicating liquor or drugs.

C. Payment of funds out of the crime laboratory fund of fees collected pursuant to this section shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the department of finance and administration.

12-6-18 TEXTING WHILE DRIVING *July, 2014*

A. A person shall not read or view a text message or manually type on a handheld mobile communication device for any purpose while driving a motor vehicle, except to summon medical or other emergency help or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.

B. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a handheld mobile communications device. Unless otherwise provided by law, the handheld mobile communication device used in the violation of the provisions of this section is not subject to search by a law enforcement officer during a traffic stop made pursuant to the provisions of this section.

C. As used in this section:

(1) “driving” means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or

otherwise, but “driving” excludes operating a motor vehicle when the vehicle has pulled over to the side of or off an active roadway and has stopped at a location in which it can remain safely stationary;

(2) “handheld mobile communication device” means a wireless communications device that is designed to receive and transmit text or image messages, but “handheld mobile communications device” excludes global positioning or navigation systems, devices that are physically or electronically integrated into a motor vehicle and voice-operated or hands-free devices that allow the user to compose, send or read a text message without the use of a hand except to activate, deactivate or initiate a feature or function; and

(3) “text message” means a digital communication transmitted or intended to be transmitted between communication devices and includes electronic mail, an instant message, a text or image communication and a command or request to an internet site; but “text message” excludes communications through the use of a computer-aided dispatch service by law enforcement or rescue personnel.

D. A violation of provisions of this section is punishable by a fine of $25 for a first violation and $50 for a second or subsequent violation. Violations of provisions of this section may be included in a local penalty assessment ordinance.

ARTICLE VII

SPECIAL RULES FOR MOTORCYCLES AND OFF-HIGHWAY VEHICLES

12-7-1 Traffic Regulations Apply to Persons Operating Motorcycles
12-7-2 Operating Motorcycles on Streets Laned for Traffic
12-7-3 Clinging to Other Vehicles
12-7-4 Riding on Motorcycles
12-7-5 Eye-Protective Devices or Windshields
12-7-6 Safety Helmets
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12-7-8 Motorcycle Maneuverability
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12-7-9 Off-Highway Motor Vehicles - Definitions
12-7-9.1 Off-Highway Motor Vehicles--Registration; Plate Requirement
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12-7-10 Mopeds--Standards--Operator Requirements--Application of Motor Vehicle Code

12-7-1 TRAFFIC REGULATIONS APPLY TO PERSONS OPERATING MOTORCYCLES. Every person operating a motorcycle shall be granted all the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this ordinance, except as to special regulations in Sections 12-7-1 through 12-7-8 and except as to those provisions of this ordinance which by their nature can have no application. (*)

12-7-2 OPERATING MOTORCYCLES ON STREETS LANED FOR TRAFFIC.

A. All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This section shall not apply to motorcycles operated two abreast in a single lane.

B. The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken, except that this provision shall not apply to police officers in the performance of their official duties.

C. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles, except that this provision shall not apply to police officers in the performance of their official duties.

D. Motorcycles shall not be operated more than two abreast in a single lane. (*)

12-7-3 CLINGING TO OTHER VEHICLES. No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on a street. (*)

12-7-4 RIDING ON MOTORCYCLES.

A. A person operating a motorcycle, motor scooter or motor-driven cycle shall ride only upon the permanent and regular seat attached thereto, and shall have his feet upon the footrests provided on the machine.

B. The operator shall not carry any other person nor shall any other person ride on a motorcycle, motor scooter or motor-driven cycle unless it is designed to carry more than one person. If a motorcycle, motor scooter or motor-driven cycle is designed to carry more than one person, the passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the motorcycle, motor scooter or motor-driven cycle. The passenger shall have his feet upon the footrests attached for passenger use. (66-7-355 NMSA 1978)

C. No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars.

D. No operator of a motorcycle shall carry any person nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator. (*)

12-7-5 EYE-PROTECTIVE DEVICES OR WINDSHIELDS. Any person operating a motorcycle, motor scooter or motor-driven cycle, not having a fixed windshield of a type approved by regulation of the secretary, shall wear an eye-protective device which may be a faceshield attached to a safety helmet, goggles or safety eyeglasses. All eye-protective devices or windshields shall be of a type approved by regulations authorized by 66-7-355 NMSA 1978. (66-7-355 NMSA 1978)

12-7-6 MANDATORY USE OF PROTECTIVE HELMET.

A. No person under the age of eighteen shall operate a motorcycle unless he is wearing a safety helmet securely fastened on his head in a normal manner as headgear and meeting the standards authorized by 66-7-356 NMSA 1978. No dealer or person who leases or rents motorcycles shall lease or rent a motorcycle to a person under the age of eighteen unless the lessee or renter shows such person a valid operator's license or permit and possesses the safety equipment required of an operator who is under the age

of eighteen. No person shall carry any passenger under the age of eighteen on any motorcycle unless the passenger is wearing a securely fastened safety helmet, as specified in this section, meeting the standards specified by the director.

B. Failure to wear a safety helmet as required in this section shall not constitute contributory negligence.

C. Autocycles are exempted from the helmet provisions of this section. . (66-7-356 NMSA 1978)

12-7-7 FOOTRESTS AND HANDLEBARS.

A. Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for the passenger. (*)

12-7-8 MOTORCYCLE MANEUVERABILITY.

A. No motorcycle shall be equipped in a manner such that it is incapable of turning a ninety-degree angle with a circle having a radius of not more than fourteen feet. Evidence of a motorcycle being unable to turn a ninety degree angle within a circle having a radius of not more than fourteen feet shall be prima facie evidence of an unsafe vehicle as described in Section 12-10-1.1.

B. For the purposes of this section, a police officer may require the driver of a motorcycle to demonstrate the ability of any motorcycle to be ridden as described in Subsection A of this section. Failure or refusal of any operator to demonstrate the ability of any motorcycle being operated upon the highways shall be prima facie evidence of an unsafe vehicle as described in Section 12-10-1.1. (66-3-842 NMSA 1978)

12-7-8.1 MOTORCYCLE ENDORSEMENT NOT REQUIRED FOR AUTOCYCLE OPERATION.

Autocycles shall be registered as motorcycles and proof of financial responsibility may characterize them as motorcycles, but a driver shall not be required to have a motorcycle endorsement to operate an autocycle. (66-3-1.4 NMSA 1978)

12-7-9 OFF-HIGHWAY MOTOR VEHICLES - DEFINITIONS

As used in this section:

A. “board” means the off-highway motor vehicle advisory board;

B. “department means the Department of Game and Fish;

C. “division” means the motor vehicle division of the Taxation and Revenue Department;

D. “fund” means the trail safety fund;

E. "off-highway motor vehicle" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

(1) "all-terrain vehicle," which means a motor vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;

"off-highway motorcycle," which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control; or

(2) "snowmobile," which means a motor vehicle designed to travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires;

(3) "recreational off-highway vehicle," which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons and having;

(a) a steering wheel for steering control;
(b) non-straddle seating;
(c) maximum speed capability greater than 35 miles per hour;
(d) gross vehicle weight rating no greater than 1,750 pounds;
(e) less than 80 inches in overall width, exclusive of accessories;
(f) engine displacement of less than 1,000 cubic centimeters; and
(g) identification by means of a 17-character vehicle identification number; or

(4) by rule of the department, any other vehicles that may enter the market that fit the general profile of vehicles operated off-highway for recreational purposes;

F. "staging area" means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation; and

G. "unpaved public roadway" means a dirt graveled street or road that is constructed, signed and maintained for regular passenger-car use by the general public.

12-7-9.1 OFF-HIGHWAY MOTOR VEHICLES—REGISTRATION; PLATE REQUIREMENT

A. Unless exempted from the provisions of this section, a person shall not operate an off-highway motor vehicle unless the off-highway motor vehicle has been

registered in accordance with Chapter 66, Article 3 NMSA 1978. The owner shall affix the validating sticker as provided in Chapter 66, Article 3 NMSA 1978. (66-3-1003 NMSA 1978)

12-7-9.2 OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON STREETS OR HIGHWAYS -- PROHIBITED AREAS.

A. No person shall operate an off-highway motor vehicle on any limited access street at any time or any paved street or highway except as provided in Subsection B, C, D or E of this section.

B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the street. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then crossing in the most direct manner, as close to a perpendicular angle as possible.

C. If authorized by ordinance or resolution of a local authority or the State Transportation Commission, a recreational off-highway vehicle or an all-terrain vehicle may be operated on a paved street or highway owned and controlled by the authorizing authority if:

(1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;

(2) the vehicle has brakes, mirrors and mufflers;

(3) the operator has valid driver's licenses or permits as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-Highway Motor Vehicle Act;

(4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act; and

(5) the operator of the vehicle is using eye protection that comply with the Off-Highway Motor Vehicle Act; and

(6) if the operator is under eighteen years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act.

D. Except for sections of the Motor Vehicle Code that are in conflict with the licensing and equipment requirements of the Off-Highway Motor Vehicle Act, any operator using an off-highway motor vehicle on a paved street or highway shall be subject to the requirements and penalties for operators of moving or parked vehicles under the Motor Vehicle Code.

E. By ordinance or resolution, a local authority or the State Transportation Commission may establish separate speed limits and operating restrictions

for off-highway vehicles where they are authorized to operate on paved streets or highways pursuant to Subsection C of this section.

F. A person shall not operate an off-highway motor vehicle on state game commission-owned, -controlled or –administered land except as specifically allowed pursuant to Chapter 17, Article 6 NMSA 1978.

G. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the Energy, Minerals and Natural Resources Department, pursuant to Chapter 16, Article 2 NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of Energy, Minerals and Natural Resources.

H. Unless authorized, a person shall not:

(1) remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or

(2) install any off-highway motor vehicle-related sign. (66-3-1011 NMSA)

12-7-9.3 DRIVING OF OFF-HIGHWAY MOTOR VEHICLES ADJACENT TO STREETS.

A. Off-highway motor vehicles issued a validating sticker or nonresident permit may be driven adjacent to a street, yielding to all vehicles entering or exiting the street, in a manner so as not to interfere with traffic upon the street, only for the purpose of gaining access to, or returning from areas designed for the operation of off-highway motor vehicles, by the shortest route possible and when no other route is available or when the area adjacent to a street is being used as a staging area. Such use must occur between the street and fencing that separates the street from private or public lands.

B. When snow conditions permit, an off-highway motor vehicle may be operated on the right-hand side of a street, parallel, but not closer than ten feet, to the inside of the plow bank. (66-3-1012 NMSA 1978)

12-7-9.4 OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON PRIVATE LANDS. It is unlawful to operate an off-highway motor vehicle on private lands except with the express permission of the owner of the lands. (66-3-1013 NMSA 1978)

12-7-9.5.1.1 ACCIDENTS AND ACCIDENT REPORTS. The driver of an off-highway motor vehicle involved in an accident resulting in injuries to, or the death of, any person, or resulting in damage to public or private property to the extent of five hundred dollars ($500) or more, shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the driver is under the age of eighteen, the driver's parent or legal guardian shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. (66-3-1014 NMSA)

12-7-9.6 ENFORCEMENT OF OFF-HIGHWAY MOTOR VEHICLE REGULATIONS. A wildlife conservation officer, state police officer or peace officer of this state or any of its political subdivisions, upon displaying his badge of office, has the authority to enforce the provisions of Sections 12-7-9.1 through 12-7-9.5 of this ordinance and may require the operator of any off-highway motor vehicle to produce the certificate of registration or nonresident permit, proof of successful completion of an off-highway motor vehicle training course conducted by an off-highway safety training organization approved and certified by the department , when required by Section 12-7-9.8, and the personal identification of the operator, and may issue citations for violations of the provisions of Sections 12-7-9.1 through 12-7-9.9 of this ordinance. (66-3-1015 NMSA 1978)

12-7-9.7 EXEMPTIONS

The provisions of the this Section shall not apply to persons who operate off-highway motor vehicles on privately held lands or to off-highway motor vehicles that are:

A. owned and operated by an agency or department of the United States, this state or a political subdivision of this state;

B. operated exclusively on lands privately held; provided that the appropriate tax or fee has been paid in lieu of the motor vehicle registration fees;

C. owned by nonresidents and used in this state only for organized and endorsed competition purposes; provided that the use is not on a rental basis;

D. brought into this state by manufacturers or distributors for wholesale purposes and not used for demonstrations;

E. in the possession of dealers as stock-in-trade and not used for demonstration purposes;

F. farm tractors, as defined in Section 66-1-4.6 NMSA 1978, special mobile equipment, as defined in Section 66-1-4.16 NMSA 1978, or off-highway motor vehicles being used for agricultural operations; or

G. used exclusively on private closed courses, whether owned by the rider or another person; provided that, if applicable, the excise tax and registration fees have been paid and are current. (66-3-1005 NMSA 1978)

12-7-9.8 OFF-HIGHWAY MOTOR VEHICLE SAFETY PERMIT; REQUIREMENTS, ISSUANCE.

A person under the age of eighteen shall be required to successfully complete an off-highway motor vehicle safety training course for which the person shall have parental permission. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the department. Upon

successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization. (66-3-1010.2 NMSA 1978)

12-7-9.9 OPERATION AND EQUIPMENT – SAFETY REQUIREMENTS

A. A person shall not operate an off-highway motor vehicle:

(1) in a careless, reckless or negligent manner so as to endanger the person or property of another;

(2) while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;

(3) while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;

(4) in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;

(5) on or within an earthen tank or other structure meant to water livestock or wildlife, unless the off-highway motor vehicle is on a route designated by the landowner or land management agency as an off-highway motor vehicle route:

(6) in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;

(7) in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian or occupied dwelling, unless the person operates the vehicle on a closed course or track or a public roadway;

(8) unless in possession of the person's registration certificate or nonresident permit;

(9) unless the vehicle is equipped with a spark arrester approved by the United States forest service; provided that a snowmobile is exempt from this provision;

(10) when conditions such as darkness limit visibility to five hundred feet or less, unless the vehicle is equipped with:

(a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet; and

(b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet under normal atmospheric conditions; or

(11) that produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287; or

(12) where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations.

B. A person under the age of eighteen shall not operate an off-highway motor vehicle:

(1) or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear and that meets the standards established by the department ;

(2) without an off-highway motor vehicle safety permit; or

(3) while carrying a passenger.

C. A person under the age of eighteen but at least ten years of age shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of eighteen who has a valid driver's license. This subsection shall not apply to a person who is at least:

(1) thirteen years of age and has a valid motorcycle license and off-highway motor vehicle safety permit; or

(2) fifteen years of age and has a valid driver's license, instructional permit or provisional license and off-highway motor vehicle safety permit.

D. A person under the age of ten shall not operate an off-highway motor vehicle unless:

(1) the all-terrain vehicle or recreational off-highway vehicle is an age-appropriate size-fit vehicle established by rule of the department ; and

(2) the person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course certified by the department .

E. An off-highway motor vehicle may not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition. (66-3-1010.3 NMSA 1978)

12-7-9.10 PENALTIES

A. A person who violates the provisions of this Section is guilty of a penalty assessment misdemeanor. A parent, guardian or custodian who causes or knowingly permits a child under the age of eighteen years to operate an off-highway motor vehicle in violation of the provisions of this Section is in violation of this Section and subject to the same penalty as the child operating the off-highway motor vehicle in violation of this section. (66-3-1020 NMSA 1987)

B. As used in the Off-Highway Motor Vehicle Act, "penalty assessment misdemeanor" means violation of any provision of the Off-Highway Motor Vehicle Act for which a violator may be subject to the following:

CLASS 1 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to possess a		

registration certificate or nonresident permit	66-3-1010.3	$10.00
Violations involving headlights or taillights	66-3-1010.3	10.00
failure to possess an off-highway motor vehicle safety permit	66-3-1010.3	10.00
selling a vehicle that produces noise in excess of ninety-six decibels	66-3-1010.3	10.00
any violation of the Off-Highway Motor Vehicle Act not otherwise specifically defined elsewhere in this section	66-3-1010.3	10.00

CLASS 2 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to complete a required off-highway motor vehicle safety training course	66-3-1010.2	$50.00
operating a vehicle in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling	66-3-1010.3	50.00
a person under the age of eighteen but at least fifteen years of age who operates an off-highway motor vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	50.00
operating an off-highway motor vehicle that produces noise that exceeds ninety-six decibels	66-3-1010.3	50.00
unauthorized installation, removal, destruction or defacing of a motor vehicle sign	66-3-1011	50.00

CLASS 3 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating a vehicle that is not equipped with an approved spark arrester	66-3-1010.3	$100.00
operating an off-highway motor vehicle while in pursuit of and with intent to hunt or take a species of animal or bird protected by law, unless otherwise authorized by the state game commission	66-3-1010.3	100.00
operating an off-highway motor vehicle in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition	66-3-1010.3	100.00
operating an off-highway motor vehicle on or within an earthen tank or other structure meant to water livestock or wildlife	66-3-1010.3	100.00
operating a motor vehicle in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle without wearing eye protection and a safety helmet	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle while carrying a passenger	66-3-1010.3	100.00
a person under the age of fifteen but at least ten years of age who operates an off-highway motor vehicle		

in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	100.00
a person under the age of ten operating an all-terrain vehicle or recreational off-highway motor vehicle that is not an age-appropriate size-fit or who operates an off-highway motor vehicle in violation of the supervision requirements of this section	66-3-1010.3	100.00
CLASS 4 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating an off-highway motor vehicle in a careless, reckless or negligent manner so as to endanger the person or property of another	66-3-1010.3	$200.00
operating an off-highway motor vehicle on any road or area closed to off-highway motor vehicle traffic under local, state or federal regulations	66-3-1010.3	200.00
operating an off-highway motor vehicle on a limited-access highway or freeway.	66-3-1011	200.00

C. The penalty for second, third and subsequent violations within a three-year time period shall be increased as follows:

(1) a second violation in a class 1 penalty category involving failure to possess a registration certificate or nonresident permit shall be increased to a Class 2 penalty category;

(2) any class 2 or class 3 violation for a second or greater infraction within a three-year period shall be increased to the next-highest penalty assessment category; and

(3) each subsequent violation in a Class 4 penalty category will result in an additional penalty of two hundred dollars ($200).

D. Multiple violations for the same incident shall be treated as a single event and shall not result in graduated penalties.

E. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

F. 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.

12-7-10 MOPEDS--STANDARDS--0PERATOR REQUIREMENTS--APPLICATION OF MOTOR VEHICLE CODE.

A. Mopeds shall comply with those motor vehicle safety standards deemed necessary and prescribed by the director of motor vehicles.

B. Operators of mopeds shall have in their possession while operating a moped a valid operator's or restricted operator's license of any class issued to them.

C Except as provided in Subsections A and B of this section, none of the provisions of the New Mexico Motor Vehicle Code or of this ordinance relating to motor vehicles or motor-driven cycles as defined in these codes shall apply to a moped. (66-3-1101 NMSA 1978).

ARTICLE VIII

OPERATION OF BICYCLES

12-8-1 Effect of Regulations
12-8-2 Traffic Ordinance Applies to Persons Riding Bicycles
12-8-3 Riding on Bicycles
12-8-4 Clinging to Vehicles
12-8-5 Riding on Streets and Bicycle Paths
12-8-6 Carrying Articles
12-8-7 Lamps and Other Equipment on Bicycles
12-8-8 Obedience to Traffic-Control Devices
12-8-9 Parking
12-8-10 Speed
12-8-11 Emerging from Alley, Driveway, Private Road or Building
12-8-12 Riding on Sidewalks
12-8-23 Penalties

12-8-1 EFFECT OF REGULATIONS.

A. The parent of any child and the guardian of any ward shall not authorize or permit any such child or ward to violate any of the provisions of this ordinance.

B. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (66-3-701 NMSA 1978)

12-8-2 TRAFFIC ORDINANCE APPLIES TO PERSONS RIDING BICYCLES. Every person riding a bicycle upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle, except as to the special regulations within Sections 12-8-1 through 12-8-23. (66-3-702 NMSA 1978)

12-8-3 RIDING BICYCLES.

A. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (66-3-703 NMSA 1978)

12-8-4 CLINGING TO VEHICLES. No person riding upon any bicycle,

coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a street. (66-3-704 NMSA 1978)

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. (66-3-705 NMSA 1978) 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.

12-8-6 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebar. (66-3-706 NMSA 1978)

12-8-7 LAMPS AND OTHER EQUIPMENT ON BICYCLES.

A. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the division which shall be visible from all distances from fifty feet to three hundred feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be

used in addition to the red reflector.

B. No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle shall not be equipped with, nor shall any person use upon a bicycle any siren or whistle.

C. Every bicycle shall be equipped with a brake which will enable the operator to make the brake wheels skid on dry, level, clean pavement. (66-3-707 NMSA 1978)

12-8-8 OBEDIENCE TO TRAFFIC-CONTROL DEVICES.

A. Any person operating a bicycle shall obey the instructions of official traffic-control devices applicable to vehicles, unless otherwise directed by a police officer.

B. Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event the person shall then obey the regulations applicable to pedestrians. (*)

12-8-9 PARKING. No person shall park a bicycle upon a street other than upon the street against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic. (*)

12-8-10 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.(*)

12-8-11 EMERGING FROM ALLEY, DRIVEWAY, PRIVATE ROAD OR BUILDING.

A. The operator of a bicycle emerging from an alley, private road, driveway or building shall yield the right of way to all pedestrians on the sidewalk or sidewalk area.

B. Upon entering the street, the driver of a bicycle shall yield the right of way to all vehicles approaching on the street.(*)

12-8-12 RIDING ON SIDEWALKS.

A. No person shall ride a bicycle upon a sidewalk within a business district.

B. No person shall ride a bicycle on any sidewalk or street when signs are posted prohibiting bicycles on the sidewalk or street.

C. When signs are posted requiring bicycles to use sidewalks or paths adjacent to a street, no person shall ride a bicycle on the street adjacent to the sidewalks or paths.

D. Whenever any person is riding a bicycle upon a sidewalk, the person shall yield the right way to any pedestrian and shall give audible signal before overtaking and passing a pedestrian.(*)

12-8-23 PENALTIES. Every person convicted of a violation of any provision of Sections 12-8-1 through 12-8-23 shall be punished by a fine of not more than twenty-five dollars ($25.00), or by removal and detention of the license plate or decal from the person's bicycle for a period not to exceed thirty days or by any combination thereof.(*)

ARTICLE IX

PARKING REGULATIONS

12-9-9 Parking in Designated Disabled Parking Spaces
12-9-10 Parking Lots - Standards

12-9-9 PARKING IN DESIGNATED DISABLED PARKING SPACES.

Amended July, 2010

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 or 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) or more than five hundred dollars ($500). 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).

12-9-10 PARKING LOTS – STANDARDS

A. Every parking lot coming under the provisions of the Accessible Parking Standards and Enforcement Act (66-7-352.1 NMSA 1978) shall have designated and maintained accessible parking spaces for persons with significant mobility limitation as provided in Subsection B of this section. No building permit shall be issued by any local government for the construction or substantial renovation of a commercial building inviting public access unless the parking lot has designated accessible parking spaces for persons with significant mobility limitation as delineated in Subsection B of this section.

B. The minimum number of designated accessible parking spaces for persons with significant mobility limitation are as follows:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF PARKING SPACES FOR PERSONS WITH SIGNIFICANT MOBILITY LIMITATIONS
1 to 25	1
26 to 35	2
36 to 50	3
51 to 100	4
101 to 300	8
301 to 500	12
501 to 800	16
801 to 1,000	20
More than 1,000	20, plus 1 for each 100 over 1,000.

The designated accessible parking spaces for persons with significant mobility limitation shall be located so as to provide the most convenient access to entranceways or to the nearest curb cut. Every parking lot shall have at least one designated accessible parking space for persons with significant mobility limitation designed to accommodate a motor vehicle passenger van, and there shall be a minimum of one such space for every eight designated accessible parking spaces for persons with significant mobility limitations.

C. A sign or other designation posted after July 1, 2010 at an accessible parking space pursuant to this section shall include the language “Violators are subject to a fine and/or towing.” (66-7-352.4 NMSA 1978)

ARTICLE X

Revised 1-2020

VEHICLE REGULATIONS

12-10-1	Equipment
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12-10-1.2	Vehicles to Be in Safe Condition
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12-10-1.4	Visibility Distance and Mounted Height of Lamps
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12-10-1.9	Stop Lamps, Signal Lamps and Signal Devices
12-10-1.10	Muffler--Prevention of Noise--Emission Control Devices
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12-10-1.13	Prohibiting Lugs
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12-10-1.15	Prohibiting Metal Tires or Dragging Load
12-10-1.16	Brakes
12-10-1.17	Horns and Warning Devices
12-10-1.18	Mirrors
12-10-1.19	Application of Succeeding Sections
12-10-1.20	Additional Equipment Required
12-10-1.21	Color of Clearance Lamps, Side--Marker Lamps and Reflectors
12-10-1.22	Lamps and Reflectors--Truck Tractors and Road Tractors
12-10-1.23	Lamps and Reflectors--Large Semi-Trailers, Full Trailers and House Trailers
12-10-1.24	Lamps and Reflectors--Small Semi-Trailers, House Trailers and Trailers
12-10-1.25	Lamps and Reflectors--Pole Trailers
12-10-1.26	Lamps and Reflectors--Combinations in Driveaway-Towaway Operations
12-10-1.27	Mounting of Reflectors, Clearance Lamps and Side-Marker Lamps
12-10-1.28	Clearance Lamps to Indicate Extreme Width, Height and Length
12-10-1.29	Side-Marker Lamps Combined with Clearance Lamps
12-10-1.30	Combination Tail and Stop Lamps
12-10-1.31	Lighting Devices to Be Electric
12-10-1.32	Requirements for Headlamps and Auxiliary Road-Lighting Lamps
12-10-1.33	Requirements for Clearance, Side-Marker and Other Lamps
12-10-1.34	Obstructed Lights Not Required
12-10-1.35	Lamps on Parked Vehicles
12-10-1.36	Lamps on Other Vehicles and Equipment
12-10-1.37	Spot Lamps and Auxiliary Lamps
12-10-1.38	Additional Lighting Equipment
12-10-1.39	Multiple Beam Road Lighting Equipment

12-10-1.40 Use of Multiple Beam Road Lighting Equipment
12-10-1.41 Single Beam Road Lighting Equipment
12-10-1.42 Alternate Road Lighting Equipment
12-10-1.43 Number of Driving Lamps Required or Permitted
12-10-1.44 Special Restrictions on Lamps
12-10-1.45 Lights on Snow Removal Equipment
12-10-1.46 Meaning of the Term "Motor Vehicle" as Used Sections 12-10-1.47 through 12-10-1.51 of This Ordinance--Unattended Vehicles
12-10-1.47 Stopped Vehicles Not to Interfere with Other Traffic
12-10-1.48 Emergency Signals--Disabled Vehicle
12-10-1.49 Non-Emergency Signals--Stopped or Parked Vehicles
12-10-1.50 Emergency Signals--Flame Producing
12-10-1.51 Emergency Signals Dangerous Cargoes

12-10-2 Transporting or Handling Explosives or Dangerous Articles

12-10-3 Regulating the Kinds and Classes of Traffic on the Streets
12-10-3.1 Restrictions Upon Use of Streets by Certain Vehicles
12-10-3.2 Minimum Vehicle Size
12-10-3.3 Projecting Loads on Passenger Vehicles
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12-10-3.6 Width of Vehicles
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12-10-3.8 Exceptions on Size, Weight and Load

12-10-4 Display of Current Valid Registration Plate

12-10-5 Evidence of Registration to Be Signed and Exhibited on Demand

12-10-6 Mandatory Financial Responsibility

12-10-1 EQUIPMENT

12-10-1.1 PROHIBITED ACTS

A. Except as otherwise provided in this section, it is a penalty assessment misdemeanor for any person to drive or move, or for the owner to cause or permit to be driven or moved, on any street, any vehicle, or combination of vehicles, which is in such unsafe condition as to endanger any person, or which does not contain those parts, or is not at all times equipped with such lamps and other equipment, in proper condition and adjustment, as is required by Sections 12-10-1.1 through 12-10-1.51, or which is equipped in any manner that is in violation of those sections, or for any person to do any act forbidden, or fail to perform any act required under those sections.

B. Nothing contained in Sections 12-10-1.1 through 12-10-1.51 shall be construed to prohibit the use of additional parts and accessories on any vehicle which are not inconsistent with the provisions of such sections.

C. The provisions of Sections 12-10-1.1 through 12-10-1.51, with respect to equipment on vehicles, shall not apply to implements of husbandry, road machinery, road rollers or farm tractors, except as made applicable in those sections. (66-3-801 NMSA 1978)

12-10-1.2 VEHICLES TO BE IN SAFE CONDITION

A. No person shall drive or move on any street any motor vehicle, trailer, semi-trailer, or pole trailer, or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this ordinance, and said vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the street. (66-3-901 NMSA 1978)

B. Any police officer may at any time when having reasonable cause to believe that any vehicle is unsafe, or not equipped as required by this ordinance, or that its equipment is not in proper adjustment or repair, require the driver of the vehicle to stop and submit the vehicle to inspection and tests as may be appropriate and reasonable.(*)

12-10-1.3 WHEN LIGHTED LAMPS ARE REQUIRED

A. Every vehicle upon a street within this municipality at any time from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as hereinafter stated.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-802 NMSA 1978)

12-10-1.4 VISIBILITY DISTANCE AND MOUNTED HEIGHT OF LAMPS

A. Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in Section 12-10-1.3 in respect to a vehicle without load when upon a straight, level, unlighted street under normal atmospheric conditions unless a different time or condition is expressly stated.

B. Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load. (66-3-803 NMSA 1978)

12-10-1.5 HEAD LAMPS ON MOTOR VEHICLES

A. Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two headlamps with at least one on each side of the front of

the motor vehicle, which headlamps shall comply with the requirements and limitations set forth in this ordinance.

B. Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two headlamps which shall comply with the requirements and limitations of this ordinance.

C. Every headlamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the headlamp of not more than fifty-four inches nor less than twenty inches to be measured as set forth in Section 12-10-1.4B. The provisions of this paragraph shall apply only to new motor vehicles sold after July 1, 1953. (66-3-804 NMSA 1978)

D. For the purposes of Sections 12-10-1.1 through 12-10-1.5 parking lamps shall not be used in lieu of head lamps.(*)

E. No headlight shall emit a glaring or dazzling light. (66-3-828 NMSA 1978)

F. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-804 NMSA 1978)

12-10-1.6 DIMMING OF LIGHTS

A. Whenever a motor vehicle meets another motor vehicle on any street during nighttime when headlights are in use, the driver of the vehicle shall, when within 500 feet of the other vehicle, dim or tilt the beams of the headlights downward.

B. The driver of any motor vehicle in any business district at nighttime when headlights are required shall keep headlights dimmed.

C. Whenever the driver of a motor vehicle overtakes another vehicle proceeding in the same direction or follows another vehicle proceeding in the same direction or follows another vehicle proceeding in the same direction within 200 feet at nighttime when headlights are required, the driver shall dim or tilt the beam of the headlights downward.(*)

12-10-1.7 TAIL LAMPS

A. Every motor vehicle, trailer, semi-trailer, and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of five hundred feet to the rear; provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified. And further, every such above mentioned vehicle, other than a truck tractor, registered in this state and manufactured or assembled after July 1, 1953, shall be equipped with at least two tail lamps mounted on the rear, which when lighted as herein required shall comply with the provisions of this section.

B. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than twenty inches.

C. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted. (66-3-805 NMSA 1978)

D. No tail lamp shall emit a glaring or dazzling light. (66-3-828 NMSA 1978)

E. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-805 NMSA 1978)

12-10-1.8 VEHICLES TO BE EQUIPPED WITH REFLECTORS

A. Every new motor vehicle hereafter sold and operated upon a street, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, two red reflectors, except that every motorcycle and every motor-driven cycle shall carry at least one reflector, meeting the requirements of this section.

B. Every such reflector shall be mounted on the vehicle at a height not less than twenty inches nor more than sixty inches measured as set forth in Section 12-10-1.4B, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within three hundred feet to fifty feet from such vehicle when directly in front of lawful upper beams of headlamps. (66-3-806 NMSA 1978)

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-806 NMSA 1978)

12.10-1.9 STOP LAMPS, SIGNAL LAMPS AND SIGNAL DEVICES

A. From and after January 1, 1954, it shall be unlawful for any person to sell any new motor vehicle, including any motorcycle or motor-driven cycle, in this municipality or for any person to drive such vehicle on the streets unless it is equipped with at least one stop lamp meeting the requirements of Subsection C(1).

B. No person shall sell or offer for sale or operate on the streets any motor vehicle, trailer, semi-trailer or house trailer registered in this state which was manufactured or assembled after January 1, 1954, unless it is equipped with mechanical or electric turn signals meeting the requirements of Subsection C(2). This subsection shall not apply to any motorcycle or motor-driven cycle. (66-3-807 NMSA 1978)

C. Any motor vehicle, trailer, semi-trailer and house trailer may be equipped and when required under this ordinance shall be equipped with the following stop lamps, signal lamps, or signal devices:

(1) stop lamp or stop lamps on the rear which shall emit a red, amber or yellow light and which shall be actuated upon application of the service brakes and which may but need not be incorporated with one or more other rear lamps; and

(2) lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.

D. Every stop lamp shall be plainly visible and understandable from a distance of one hundred feet to the rear both during normal sunlight and nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of one hundred feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

E. All mechanical signal devices shall be self-illuminated when in use at the times mentioned in Section 12-10-1.3 of this ordinance. (66-3-828 NMSA 1978)

12-10-1.10 MUFFLERS--PREVENTION OF NOISE--EMISSION CONTROL DEVICES

A. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a street in this municipality.

B. The muffler, emission control equipment or device, engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

C. Every registered gasoline-fueled motor vehicle manufactured or assembled, commencing with the 1968 models, shall at all times be equipped and maintained in good working order with the factory-installed devices and equipment or their replacements designed to prevent, reduce or control exhaust emissions or air pollution. (66-3-844 NMSA 1978)

12-10-1.11 LAMP OR FLAG ON PROJECTING LOAD

A. Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in Section 12-10-1.3 hereof, a red light or lantern plainly visible from a distance of at least five hundred feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

B. If any part of a vehicle, or any load thereon, or any mechanical

device, whether a temporary or permanent part of the vehicle, extends beyond the front bumpers thereof the extreme front corners of such projection shall at the times specified in Section 12-10-1.3 be indicated by amber lights or lanterns visible from a distance of at least five hundred feet to the sides and front. (66-3-824 NMSA 1978)

12-10-1.12 WINDSHIELD MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS; WINDOWS MUST BE TRANSPARENT; EXCEPTIONS

A. No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon or in the front windshield, windows to the immediate right and left of the driver or in the rear-most window if the latter is used for driving visibility except as provided in Section 12-10-1.12A. The rear-most window is not necessary for driving visibility where outside rear-view mirrors are attached to the vehicle.

B. The windshield on every motor vehicle, except a motorcycle, shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

C. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-846 NMSA 1978)

12-10-1.12A SUN SCREENING MATERIAL ON WINDSHIELDS AND WINDOWS; REQUIREMENTS; VIOLATION; PENALTY

A. A person shall not operate on any street or highway a motor vehicle that is registered or required to be registered in this state if that motor vehicle has a sun screening material on the windshield or any window that does not comply with the requirements of this section.

B. Except as otherwise provided in this section, a sun screening material:

(1) when used in conjunction with the windshield, shall be nonreflective, shall not be red, yellow or amber in color and shall be used only along the top of the windshield, not extending downward beyond the ASI line or more than five inches from the top of the windshield, whichever is closer to the top of the windshield; and

(2) when used in conjunction with the safety glazing materials of the side wings or the side windows located at the immediate right and left of the driver, the side windows behind the driver and the rearmost window shall be nonreflective, shall have a light transmission of not less than twenty percent and shall be used only on the windows of a motor vehicle equipped with one right and one left outside rearview mirror.

C. Each manufacturer shall:

(1) certify to the division that a sun screening material used by that manufacturer is in compliance with the nonreflectivity and light transmission requirements of this section;

(2) provide a label not to exceed one and one-half square inches in size that:

(a) is installed permanently and legibly between the sun screening material and each glazing surface to which it is applied;

(b) contains the manufacturer's name, the date the sun screening material was manufactured and the percentage of light transmission; and

(c) is placed in the left lower corner of each glazing surface when facing the motor vehicle from the outside; and

(3) include instructions with he sun screening material for proper installation, including the affixing of the label specified in this subsection.

D. No person shall:

(1) offer for sale or for use any sun screening material for motor vehicle use not in compliance with this section; or

(2) install any sun screening material on motor vehicles intended for operation on any street or highway without permanently affixing the label specified in subsection C of this section.

E. The provisions of this section do not apply to a motor vehicle registered in this state in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this state that states that the person has a physical condition that makes it necessary to equip the motor vehicle with sun screening material that is in violation of this section. The affidavit shall be in the possession of the person with such a physical condition, or the person's legal guardian, at all times while being transported in the motor vehicle.

F. The light transmission requirement of this section does not apply to windows behind the driver on truck tractors, buses, recreational vehicles, multipurpose passenger vehicles and motor homes. The provisions of this section shall not apply to motor vehicle glazing which complies with federal motor vehicle standards.

G. The provisions of this section do not apply to motor vehicles that have sun screening material on the windshield or any window prior to July 1,1997.

H. As used in this section:

(1) "light transmission" means the ration of the amount of total light that passes through a product or material, expressed in percentages, to the amount of total light falling on the product or material;

(2) “manufacturer” means any person engaged in the manufacturing or assembling of sun screening products or materials designed to be used in conjunction with motor vehicle glazing materials for the purpose of reducing the effects of the sun;

(3) “nonreflective” means designed to absorb light rather than to reflect it; and

(4) sun screening material means any film material, substance, device or product that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

I. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-846.1 NMSA 1978)

12-10-1.13 PROHIBITING LUGS

No person shall drive a tractor engine, tractor or vehicle with lugs on the wheels thereof over any paved street.(*)

12-10-1.14 PERMISSION TO USE EMERGENCY EQUIPMENT ON OTHER THAN OFFICIAL VEHICLES

No person shall operate a vehicle other than an official vehicle, equipped with any red lights mounted so as to project a beam in a forward direction, or a siren, unless written permission of the chief of police or his designated representative is first obtained.(*)

12-10-1.15 PROHIBITING METAL TIRES OR DRAGGING LOAD

A. When the use thereof is permitted, every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one-inch thick above the edge of the flange of the entire periphery.

B. No person shall operate or move on any street any motor vehicle, trailer, or semi-trailer having any metal tire in contact with the street, except that for the purposes of this ordinance a snow tire with metal studs designed to increase traction on ice or snow shall not be considered a metal tire.

C. No tire on a vehicle moved on a street shall have on its periphery any block, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the street, and except also that it shall be permissible to use tire chains of reasonable proportions or snow tires with metal studs designed to increase traction on ice or snow upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

D. The administrator may, in his discretion, issue special permits authorizing the operation upon a street of traction engines or tractors having movable

tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a street would otherwise be prohibited under the provisions of this ordinance.

E. No vehicle equipped with solid rubber or cushion tires shall be permitted upon any street of this municipality without special permission first being granted by the administrator, and in no event may any such vehicle be operated at a speed in excess of that specified by law. (66-3-847 NMSA 1978)

F. No person shall operate or move on any street any motor vehicle, trailer or semi-trailer from which any object or load scrapes along or over any paved surface.(*)

12-10-1.16 BRAKES

A. Brake equipment is required as follows:

(1) every motor vehicle, other than a motorcycle, when operated upon a street shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels;

(2) every motorcycle when operated upon a street, shall be equipped with at least two brakes which may be operated by hand or foot;

(3) every bus, truck, truck tractor, road tractor, trailer and semi-trailer, and pole trailer shall be equipped with brakes on all wheels in contact with road surfaces except:

(a) trailers, semi-trailers and pole trailers of a gross weight of less than three thousand pounds;

(b) any vehicle being towed in a driveaway-towaway operation; provided, the combination of vehicles is capable of complying with the performance requirements of Subsection B of this section;

(c) trucks, truck tractors and road tractors having three or more axles need not have brakes on the front wheels, except when such vehicles are equipped with at least two steerable axles the wheels of one such axle need not be equipped with brakes;

(d) house-moving dollies subject to regulations adopted by the secretary of transportation under the Motor Transportation Act; and

(e) motor vehicles of the types named in this section hereinabove, heretofore manufactured prior to July 1, 1963;

(4) every house trailer of a gross weight in excess of three thousand pounds, registered in the state, shall be equipped with brakes on at least two wheels in contact with road surfaces. Every house trailer of a gross weight of three thousand pounds or more, when operated upon a highway or street, shall be equipped with brakes adequate to control the movement of, and to stop and to hold, such vehicle, and so designed as to be applied by the driver of the towing motor vehicle;

(5) every bus, truck, road tractor or truck tractor shall be equipped with parking brakes capable of locking the rear driving wheels and adequate under any condition of loading to hold, to the limit of traction of such braked wheels, such vehicle or combination of vehicles to which such motor vehicle may be attached. The operating controls of such parking brakes shall be independent of the operating controls of the service brakes;

(6) in any combination of motor-drawn vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed; and

(7) the brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

B. Every motor vehicle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, of being stopped on a dry, smooth, level road, free from loose material, upon application of the service brake, within the distance specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	Feet to stop from 20 miles per hour	**Deceleration in ft. per second**
Vehicles or combinations of vehicles having brakes on all wheels . .	30	14
Vehicles or combinations of vehicles not having brakes on all wheels . .	40	10.7

C. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (66-3-840 NMSA 1978)

12-10-1.17 HORNS AND WARNING DEVICES

A. Every motor vehicle when operated upon a street shall be equipped with a horn in good working order and capable of emitting sound audible under normal

conditions from a distance of not less than two hundred feet, but no horn or other warning device shall be used which does not produce a harmonious sound. The driver of a motor vehicle shall, when reasonably necessary to ensure safe operation, give audible warning with his horn but shall not otherwise use such horn when upon a street.

B. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell except as otherwise permitted in this section.

C. It is permissible, but not required, that any commercial vehicle be equipped with a theft-alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

D. Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the division, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof. (66-3-843 NMSA 1978)

12-10-1.18 MIRRORS

Every motor vehicle shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle. (66-3-845 NMSA 1978)

12-10-1.19 APPLICATION OF SUCCEEDING SECTIONS

Sections 12-10-1.20, 12-10-1.21, 12-10-1.27, 12-10-1.33 and 12-10-1.34 shall apply in lieu of Sections 12-10-1.5A,B,C, 12-10-1.7A,B,C and 12-10-1.8 as to passenger buses, trucks, truck tractors, road tractors, and such trailers, semi-trailers and pole trailers provided for therein, when
operated upon any street, and said vehicles shall be equipped as required. All lamp equipment required shall be lighted at the times mentioned in Section 12-10-1.3 of this ordinance. (66-3-808 NMSA 1978)

12-10-1.20 ADDITIONAL EQUIPMENT REQUIRED

Every bus or truck less than eighty inches in over-all width shall be equipped as follows:

(1) on the front: two headlamps; and

(2) on the rear: one red tail lamp; one red or amber stop lamp; two red reflectors, one at each side. (66-3-809 NMSA 1978)

12-10-1.21 COLOR OF CLEARANCE LAMPS, SIDE-MARKER LAMPS AND REFLECTORS

Every bus or truck eighty inches or more in over-all width shall be equipped as follows:

(1) on the front: two headlamps; two amber clearance lamps, one at each side;

(2) on the rear: one red tail lamp; one red or amber stop lamp; two red clearance lamps, one at each side; two red reflectors, one at each side.

(3) all lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber; and

(4) on each side: one amber side-marker lamp, located at or near the front; one red side-marker lamp, located at or near the rear; one amber reflector, located at or near the front; one red reflector, located at or near the rear. (66-3-810 NMSA 1978)

12-10-1.22 LAMPS AND REFLECTORS--TRUCK TRACTORS AND ROAD TRACTORS

Every truck tractor and road tractor shall be equipped as follows:

(1) on the front: two headlamps; two amber clearance lamps, one at each side; and

(2) on the rear: one red tail lamp; one red or amber stop lamp. (66-3-811 NMSA 1978)

12-10-1.23 LAMPS AND REFLECTORS--LARGE SEMI-TRAILERS, FULL TRAILERS AND HOUSE TRAILERS

A. Every semi-trailer, full trailer or house trailer eighty inches or more in over-all width shall be equipped as follows:

(1) on the front: two amber clearance lamps; one at each side;

(2) on the rear: one red tail lamp; one red or amber stop lamp; two red clearance lamps, one at each side; two red reflectors, one at each side; and

(3) on each side: one amber side-marker lamp, located at or near the front; one red side-marker lamp, located at or near the rear; one amber reflector, located at or near the front; one read reflector, located at or near the rear.

B. Side-marker lamps may be in combination with clearance lamps and may use the same light source. (66-3-812 NMSA 1978)

12-10-1.24 LAMPS AND REFLECTORS--SMALL SEMI-TRAILERS, HOUSE TRAILERS AND TRAILERS

Every semi-trailer, house trailer or trailer less than eighty inches in over-all width shall be

equipped as follows: on the rear: one red tail lamp; two red reflectors, one at each side; one red or amber stop lamp, if the semi-trailer, house trailer or trailer obscures the stop lamp on the towing vehicle. (66-3-813 NMSA 1978)

12-10-1.25 LAMPS AND REFLECTORS--POLE TRAILERS

Every pole trailer shall be equipped as follows:

(1) on the rear: one red tail lamp, two red reflectors, one at each side, placed to indicate extreme width of the pole trailer; and

(2) on each side, on the rearmost support for the load: one combination marker lamp showing amber to the front and red to the side and rear, mounted to indicate the maximum width of the pole trailer; and red reflector, located at or near the rear; and on pole trailers thirty feet or more in over-all length, an amber marker lamp on each side near the center. (66-3-814 NMSA 1978)

12-10-1.26 LAMPS AND REFLECTORS--COMBINATIONS IN DRIVEAWAY-TOWAWAY OPERATIONS

Combinations of motor vehicles, as enumerated in Section 12-10-1.19 of this ordinance, engaged in driveaway-towaway operations shall be equipped as follows:

A. On towing vehicle;

(1) on the front, two head lamps and two amber clearance lamps, one at each side;

(2) on each side and near the front, one amber side-marker lamp;

(3) on the rear, one red tail lamp; one red or amber stop lamp; and

(4) provided, however, that vehicles of less than eighty inches in width shall be equipped as provided in Section 12-10-1.20 of this ordinance.

B. On the towed vehicles of a tow-bar combination, the towed vehicle of a single saddle-mount combination and on the rearmost towed vehicle of a double saddle-mount combination:

(1) on each side, and near the rear, one red side-marker lamp; and

(2) on the rear, one red tail lamp; two red clearance lamps, one at each side; one red or amber stop lamp; two red reflectors, one at each side.

C. On the first saddle-mount of a double saddle-mount combination: one each side and near the rear, one amber side-marker lamp.

D. Combinations of vehicles less than eighty inches in width in driveaway-towaway operations shall carry lamp and reflectors as required in Section 12-10-1.20 of this ordinance. (66-3-815 NMSA 1978)

12-10-1.27 MOUNTING OF REFLECTORS, CLEARANCE LAMPS AND SIDE-MARKER LAMPS

A. Reflectors required by Section 12-10-1.20 and 12-10-1.21 of this ordinance shall be mounted upon the motor vehicle at a height of not less than twenty-four inches nor more than sixty inches above the ground on which the motor vehicle stands, except that reflectors shall be mounted as high as practicable on motor vehicles which are so constructed as to make compliance with the twenty-four-inch requirements impractical. They shall be so installed as to perform their function adequately and reliably and, except for temporary reflectors required for vehicles in driveaway-towaway operations, all reflectors shall be permanently and securely mounted in workmanlike manner so as to provide the maximum of stability, and the minimum likelihood of damage. Required reflectors otherwise properly mounted may be securely installed with flexible strapping or belting provided that under conditions of normal operation they reflect light in the required directions. Required temporary reflectors mounted on motor vehicles during the time they are in transit in any driveaway-towaway operations must be firmly attached.

B. All reflectors on the rear and those nearest to the rear on the sides, except those referred to in Subsection C of this section, shall reflect a red color; all other reflectors, except those referred to in Subsection C of this section, shall reflect an amber color; provided that this requirement shall not be construed to prohibit the use of motor vehicles in combination if such motor vehicles are severally equipped with reflectors as required by Section 12-10-1.20 through 12-10-1.26 of this ordinance.

C. Retroreflective surface, other than required reflectors, may be used, provided:

(1) designs do not resemble traffic control signs, lights or devices, except that straight edge stripping resembling a barricade pattern may be used;

(2) designs do not tend to distort the length or width of the motor vehicle;

(3) such surfaces shall be at least three inches from any required lamp or reflector unless of the same color as such lamp or reflector;

(4) no red color shall be used on the front of any motor vehicle; and

(5) no provision of this subsection shall be so construed as to prohibit the use of retroreflective registration plates required by any state or local authorities. (66-3-816 NMSA 1978)

12-10-1.28 CLEARANCE LAMPS TO INDICATE EXTREME WIDTH, HEIGHT AND LENGTH

Clearance lamps shall, so far as is practicable, be mounted as to indicate the extreme width, height and length of the motor vehicle; except that clearance lamps on truck-tractors shall be so located as to indicate the extreme width of the truck-tractor cab. (66-3-817 NMSA 1978)

12-10-1.29 SIDE-MARKER LAMPS COMBINED WITH CLEARANCE LAMPS

Side-marker lamps may be combined with clearance lamps and may use the same light source. (66-3-818 NMSA 1978)

12-10-1.30 COMBINATION TAIL AND STOP LAMPS

Except as required by 12-10-1.29 of this ordinance tail lamps may be incorporated in the same housing with stop lamps so long as the requirements for each are fulfilled. (66-3-819 NMSA 1978)

12-10-1.31 LIGHTING DEVICES TO BE ELECTRIC

Lighting devices shall be electric, except that red liquid burning lanterns may be used on the end of load in the nature of poles, pipes, and ladders projecting to the rear of the vehicle. (66-3-820 NMSA 1978)

12-10-1.32 REQUIREMENTS FOR HEADLAMPS AND AUXILIARY ROADLIGHTING LAMPS

A. Headlamps and lamps or auxiliary road lighting lamps shall be mounted so that the beams are readily adjustable, both vertically and horizontally, and the mounting shall be such that the aim is not readily disturbed by ordinary conditions of service.

B. Every bus, truck or truck-tractor shall be equipped with two single-beam headlamps supplemented by two auxiliary single-beam headlamps furnishing, respectively, an upper and lower distribution of light, also selectable at the driver's will.

C. Headlamps shall be constructed and installed so as to comply with the provisions of Sections 12-10-1.39 through 12-10-1.41 of this ordinance. (66-3-821 NMSA 1978)

12-10-1.33 REQUIREMENTS FOR CLEARANCE, SIDE-MARKER AND OTHER LAMPS

A. Except for temporary side-marker and clearance lamps on motor vehicles, as enumerated in Section 66-3-808 NMSA 1978, being transported in driveaway-towaway operations, temporary electric lamps on projecting loads, and temporary marker lamps on pole trailers, all lamps shall be permanently and securely

mounted in workmanlike manner on a permanent part of the motor vehicle. All clearance lamps and side-marker lamps must be firmly attached.

B. Clearance, side-marker, tail and projecting load-marker lamps shall be so mounted as to be capable of being seen from a distance of at least five hundred feet under clear atmospheric conditions during the time lamps are required to be lighted. The light from front clearance lamps shall be visible to the front and that from side-marker lamps to the side, that from rear clearance and tail lamps to the rear. This section shall not be construed to apply to lamps which are obscured by another unit or a combination of vehicles.

C. Clearance, side-marker, tail and projecting load-marker lamps shall be constructed and installed so as to provide an adequate and reliable warning signal. (66-3-822 NMSA 1978)

12-10-1.34 OBSTRUCTED LIGHTS NOT REQUIRED

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp, except tail lamps, need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination; but, this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. (66-3-823 NMSA 1978)

12-10-1.35 LAMPS ON PARKED VEHICLES

A. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half-hour after sunset and half-hour before sunrise and in the event there is sufficient light to reveal any person of object within a distance of five hundred feet upon such street or highway no lights need to be displayed upon such parked vehicle.

B. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half-hour after sunset and a half-hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: at least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and same lamp or at least one other lamp shall display a red light visible, from a distance of five hundred feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

C. Any lighted headlamps upon a parked vehicle shall be depressed or dimmed. (66-3-825 NMSA 1978)

12-10-1.36 LAMPS ON OTHER VEHICLES AND EQUIPMENT

A. All vehicles, including animal-drawn vehicles, not specifically required by the provisions of this ordinance to be equipped with lamps, shall at the time specified in 12-10-1.3 of this ordinance hereof be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of five hundred feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred feet to the rear.

B. Every farm tractor not equipped with an electric lighting system shall at all times mentioned in Section 12-10-1.3 of this ordinance be equipped with lamps or lanterns meeting the requirements of Subsection A above. Every farm tractor equipped with an electric lighting system shall at all times mentioned in Section 12-10-1.3 of this ordinance display a red tail lamp and either multiple-beam or single-beam headlamps meeting the requirements of Sections 12-10-1.7, 12-10-1.39 and 12-10-1.41 of this ordinance.

C. All combinations of tractors and towed farm equipment shall, in addition to the lighting equipment required by Subsection B above, be equipped with a lamp or lamps displaying a white or amber light visible from a distance of five hundred feet to the front and red light visible from a distance of five hundred feet to the rear, and said lamp or lamps shall be installed or capable of being positioned so that visibility from the rear is not obstructed by the towed equipment and so as to indicate the furthest projection of said towed equipment on the side of the road used by other vehicles in passing such combinations. And further, all such towed farm equipment shall be equipped either with two tail lamps displaying a red light visible from a distance of the five hundred feet to the rear or two red reflectors visible from a distance of fifty to five hundred feet to the rear when illuminated by the upper beam of headlamps, and the location of such lamps or reflectors shall be such as to indicate as nearly as practicable the extreme left and right rear projections of said towed equipment on the street. (66-3-826 NMSA 1978)

12-10-1.37 SPOT LAMPS AND AUXILIARY LAMPS

A. Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle; provided, however, that lighted spot lamps shall be turned off at least five hundred feet from approaching motor vehicles.

B. Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed, when the vehicle is not loaded, that none of the high-intensity portion of the light to the left of the center of the vehicle shall, at a distance of twenty-five feet ahead, project higher than a level of four inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower headlamp beams as specified in Section 12-10-1.39B of this ordinance.

C. Any motor vehicle may be equipped with not to exceed one auxiliary passing lamp mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of Section 12-10-1.39 of this ordinance shall apply to any combination of headlamps and auxiliary passing lamps.

D. Any motor vehicle may be equipped with not to exceed one auxiliary driving lamp mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands. Any lighted auxiliary driving lamp shall be turned off at least five hundred feet from approaching motor vehicles. The provisions of Section 12-10-1.39 of this ordinance shall apply to any combination of headlamps and auxiliary driving lamp. (66-3-827 NMSA 1978)

12-10-1.38 ADDITIONAL LIGHTING EQUIPMENT

A. Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

B. Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

C. Any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion. (66-3-829 NMSA 1978)

12-10-1.39 MULTIPLE BEAM ROAD LIGHTING EQUIPMENT

Except as hereinafter provided, the headlamps or the auxiliary driving lamps or the auxiliary passing lamp, or combinations thereof, on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

A. There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty feet ahead for all conditions of loading.

B. There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

C. Every new motor vehicle registered in this state after July 1, 1953, which has multiple beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted. The indicator shall be so designed

and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. (66-3-830 NMSA 1978)

12-10-1.40 USE OF MULTIPLE BEAM ROAD LIGHTING EQUIPMENT

Whenever a motor vehicle is being operated on a street or shoulder adjacent thereto during the times specified in Section 12-10-1.3 of this ordinance, the driver shall use all distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at safe distance in advance of the vehicle, subject to the following requirements and limitations:

A. Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

B. The lowermost distribution of light specified in Section 12-10-1.39B of this ordinance shall be deemed to avoid glare at all times, regardless of road contour and loading.

C. Whenever the driver of a vehicle overtakes another vehicle proceeding in the same direction and within two hundred feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected through the rear window of the overtaken vehicle. (66-3-831 NMSA 1978)

12-10-1.41 SINGLE BEAM ROAD LIGHTING EQUIPMENT

Headlamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to July 1, 1953, in lieu of multiple beam road lighting
equipment herein specified if the single distribution of light complies with the following requirements and limitations:

A. The headlamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level of which the vehicle stands at a distance of seventy-five feet ahead.

B. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet. (66-3-832 NMSA 1978)

12-10-1.42 ALTERNATE ROAD LIGHTING EQUIPMENT

Any motor vehicle may be operated under the conditions specified in Section 12-10-1.3 of this ordinance when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in Sections 12-10-1.39 or 12-10-1.41 of this ordinance; provided, however, that at no time shall it be operated at a speed in excess of twenty miles an hour. (66-3-833 NMSA 1978)

12-10-1.43 NUMBER OF DRIVING LAMPS REQUIRED OR PERMITTED

A. At all times specified in Section 12-10-1.3 of this ordinance, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

B. Whenever a motor vehicle equipped with headlamps as herein required is also equipped with any auxiliary lamp or spot lamps or any other lamp on the front thereof projecting a beam of intensity greater than three hundred candle power, not more than a total of four or any such lamps on the front of a vehicle shall be lighted at any one time when upon a street. (66-3-834 NMSA 1978)

12-10-1.44 SPECIAL RESTRICTIONS ON LAMPS

A. Lighted lamps or illuminating devices upon a motor vehicle other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, that project a beam of light of an intensity greater than three hundred candle power shall be directed so that no part of the high-intensity portion of the beam strikes the level of the street on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

B. A person shall drive or move upon a highway a vehicle or equipment with a lamp or device displaying a red light visible from directly in front of the center of the vehicle or equipment, except as expressly authorized or required by the New Mexico Motor Vehicle Code.

C. Flashing lights are prohibited except as provided in this section and except on authorized emergency vehicles, school buses, snow-removal equipment and highway-marking equipment. Flashing red lights may be used as warning lights on disabled or parked vehicles and on any vehicle as a means of indicating turn.

D. A recovery or repair vehicle standing on a highway for the purpose of removing, and actually engaged in removing, a disabled vehicle, and while engaged in towing any disabled vehicle, may display flashing lights in any color except red. This provision shall not be construed as permitting the use of flashing lights by recovery or repair vehicles in going to or returning from the location of disabled vehicles unless actually engaged in towing a disabled vehicle.

E. Only fire department vehicles, law enforcement agency vehicles, ambulances and school buses may display flashing red lights visible from the front of the vehicle. All other vehicles authorized by the New Mexico Vehicle Code to display flashing lights visible from the front of the vehicle may use any other color of light that is visible. (66-3-835 NMSA 1978)

12-10-1.44 SPECIAL RESTRICTIONS ON LAMPS

A. Lighted lamps or illuminating devices upon a motor vehicle other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle

warning lamps and school bus warning lamps, which project a beam of light of an intensity greater than three hundred candle power shall be directed so that no part of the high-intensity portion of the beam strikes the level of the street on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

B. No person shall drive or move upon any street, any vehicle or equipment with a lamp or device thereon displaying a red light visible from directly in front of the center of the vehicle or equipment. This section does not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by the New Mexico Motor Vehicle Code.

C. Flashing lights are prohibited except as provided in Subsection D of this section and except on authorized emergency vehicles, school buses, snow-removal equipment and highway-marking equipment. Flashing red lights may be used as warning lights on disabled or parked vehicles and on any vehicle as a means of indicating turn.

D. Tow cars standing on streets for the purpose of removing, and actually engaged in removing, disabled vehicles, and while engaged in towing any disabled vehicle, may display flashing lights. This shall not be construed as permitting the use of flashing lights by tow cars in going to or returning from the location of disabled vehicles unless actually engaged in towing a disabled vehicle.

E. Only fire department vehicles, law enforcement agency vehicles, ambulances and school buses shall display flashing red lights visible from the front of the vehicle. All other vehicles authorized by the New Mexico Vehicle Code to display flashing lights visible from the front of the vehicle may use any other color of light that is visible. (66-3-835 NMSA 1978)

12-10-1.45 LIGHTS ON SNOW REMOVAL EQUIPMENT

It shall be unlawful to operate any snow removal equipment on any street unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted by the State Highway Commission as provided in Section 66-3-836 NMSA 1978. (66-3-836 NMSA 1978)

12-10-1.46 MEANING OF THE TERM "MOTOR VEHICLE" AS USED IN SECTIONS 12-10-1.47 THROUGH 12-10-1.51 OF THIS ORDINANCE--UNATTENDED VEHICLES

A. For the purposes of Sections 12-10-1.47 through 12-10-1.51 of this ordinance "motor vehicle" means every bus, truck tractor, road tractor,, and every driven vehicle in driveaway-towaway operations, required by Section 12-10-2 of this ordinance to have emergency equipment thereon.

B. No motor vehicle shall be left unattended until the parking brake has been securely set. All reasonable precautions shall be taken to prevent the movement of any vehicle left unattended. (66-3-851 NMSA 1978)

12-10-1.47 STOPPED VEHICLES NOT TO INTERFERE WITH OTHER TRAFFIC

No motor vehicle shall be stopped, parked, or left standing, whether attended or unattended, upon the traveled portion of any street outside of a business or residence district, when it is practicable to stop, park, or leave such vehicle off the traveled portions of the street. In the event that conditions make it impracticable to move such motor vehicle from the traveled portion of the street, the driver shall make every effort to leave all possible width of the street opposite the standing vehicle for the free passage of other vehicles and he shall take care to provide a clear view of the standing vehicle as far as possible to the front and rear. (66-3-852 NMSA 1978)

12-10-1.48 EMERGENCY SIGNALS--DISABLED VEHICLE

Whenever any motor vehicle is disabled upon the traveled portion of any street or the shoulder thereof, when lighted lamps are required, except where there is sufficient street lighting to make it clearly discernible to persons and vehicles on the street at a distance of five hundred feet, the following requirements shall be observed:

A. The driver of such vehicle shall immediately place on the traveled portion of the street at the traffic side of the disabled vehicle, a lighted fuse and lighted red electric lantern, or a red emergency reflector.

B. Except as provided in Subsections C and D of this section, as soon thereafter as possible, but in any event within the burning period of the fuse, the driver shall place three liquid-burning flares or pot torches, or three red emergency reflectors on the traveled portion of the street in the following order:

(1) one at a distance of approximately one hundred feet from the disabled vehicle in the center of the traffic lane occupied by such vehicle and toward traffic approaching in that lane;

(2) one at a distance of approximately one hundred feet in the opposite direction from the disabled vehicle in the center of the traffic lane occupied by such vehicle; and

(3) one at the traffic side of the disabled vehicle, not less than ten feet to the front or rear thereof. If a red electric lantern or red emergency reflector has been placed on the traffic side of the vehicle in accordance with Subsection A of this section, it may be used for this purpose.

C. If disablement of any motor vehicle shall occur within five hundred feet of a curve, crest of a hill, or other obstruction to view, the driver shall so place the warning signal in that direction as to afford ample warning to other users of the street, but in no case less than one hundred feet nor more than five hundred feet from the disabled vehicle.

D. If gasoline or any other flammable or combustible liquid or gas seeps or leaks from a fuel container of a motor vehicle disabled or otherwise stopped upon

a street, no emergency warning signal producing a flame shall be lighted or placed except at such a distance from any such liquid or gas as will assure the prevention of a fire or explosion. (66-3-853 NMSA 1978)

12-10-1.49 NON-EMERGENCY SIGNALS--STOPPED OR PARKED VEHICLES

Whenever for any cause other than disablement or necessary traffic stops, any motor vehicle is stopped upon the traveled portion of any street, or shoulder thereof, during the time lights are required, except where there is sufficient street lighting to make clearly discernible persons and vehicles on the street at a distance of five hundred feet, the following requirements shall be observed:

A. The driver of such vehicle shall immediately place on the traveled portion of the street at the traffic side of the vehicle, a lighted fuse and lighted red electric lantern, or a red emergency reflector.

B. If the stop is to exceed ten minutes, the driver shall place emergency signals as required and in the manner prescribed by Section 12-10-1.48 of this ordinance. (66-3-854 NMSA 1978)

12-10-1.50 EMERGENCY SIGNALS--FLAME PRODUCING

No driver shall attach or permit any person to attach a lighted fuse or other flame producing emergency signal to any part of a motor vehicle. (66-3-855 NMSA 1978)

12-10-1.51 EMERGENCY SIGNALS--DANGEROUS CARGOES

No driver shall use or permit the use of any flame producing emergency signal for protecting any motor vehicle transporting explosives, any cargo tank motor vehicle used for the transportation of any flammable liquid or flammable compressed gas, whether loaded or empty; or any motor vehicle using compressed gas as a motor fuel. In lieu thereof, red electric lanterns or red emergency reflectors shall be used, the placement of which shall be in the same manner a prescribed in Section 12-10-1.48 of this ordinance. (66-3-856 NMSA 1978)

12-10-2 TRANSPORTING OR HANDLING EXPLOSIVES OR DANGEROUS ARTICLES

A. Any person operating any vehicle transporting explosives or other dangerous articles, as defined in the New Mexico Motor Vehicle Code, as cargo upon a street shall comply with the provisions of Sections 66-3-858 through 66-3-873 NMSA 1978 with respect to marking of vehicles. (66-3-858 NMSA 1978)

B. No motor vehicle transporting any explosive or any other dangerous article shall be left unattended upon any street in any residence or business district except when the driver is engaged in the performance of normal operations incident to his duties as an operator of the vehicle to which he is assigned; provided, however, the chief of police may except any street in any business district from the operation of this subsection.

C. Drivers of motor vehicles transporting explosives, inflammable liquids, or inflammable, noxious or toxic compressed gasses in cargo tanks, shall avoid, so far as practicable, driving into or through congested streets, places where crowds are assembled and dangerous crossings. So far as practicable this shall be accomplished by prearrangement of routes.

D. No blasting caps or other materials designed and used for detonating charges or explosives may be transported in or on a vehicle with any explosive.(*)

E. The administrator shall enforce such rules and regulations adopted and promulgated by the director with respect to the transportation of compressed gasses and corrosive liquids by tank vehicle upon the public street. (66-3-873 NMSA 1978)

12-10-3 REGULATING THE KINDS AND CLASSES OF TRAFFIC ON THE STREETS

12-10-3.1 RESTRICTIONS UPON USE OF STREETS BY CERTAIN VEHICLES

A. The administrator may determine and designate those heavily traveled streets upon which shall be prohibited the use of the street by motor driven cycles, bicycles, horse-drawn vehicles or other non-motorized traffic and shall erect appropriate signs giving notice thereof.

B. When signs are erected giving notice of the restrictions, no person shall disobey the restrictions stated on the signs.(*)

12-10-3.2 MINIMUM VEHICLE SIZE

A. It is unlawful to operate on the streets of this municipality any motor vehicle:

(1) with a wheelbase, between two axles, of less than three feet seven inches; (66-7-405 NMSA 1978)

(2) any motorcycle with less than a twenty-five (25) inch seat height measured from the ground to the lowest point on top of the seat cushion, without a rider.(*)

B. For the purpose of this section, wheelbase shall be measured upon a straight line from center to center of the vehicle axles. (66-7-405 NMSA 1978)

12-10-3.3 PROJECTING LOADS ON PASSENGER VEHICLES

No passenger-type vehicle, except a motorcycle, shall be operated on any street with any load carried thereon extending beyond the line of the fenders on the left side of the vehicle nor extending more than six (6) inches beyond the line of the fenders on the right side of the vehicle. (66-7-403 NMSA 1978)

12-10-3.4 SPECIAL PROJECTING LOAD LIMITS

The load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than seven feet beyond the rear of the bed or body of such vehicle. (66-7-406 NMSA 1978)

12-10-3.5 TRAILERS AND TOWED VEHICLES

A. When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby. When a combination of vehicles are engaged in transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered, the load shall be distributed so as to equalize the weights on the axle of each vehicle insofar as possible.

B. When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square. (66-7-408 NMSA 1978)

12-10-3.6 WIDTH OF VEHICLES

A. The total outside width of any vehicle or its load, excepting mirrors, shall not exceed eight feet six inches. Safety devices up to three inches on either side of the vehicle are also excepted. (66-7-402 NMSA 1978)

12-10-3.7 HEIGHT AND LENGTH OF VEHICLES AND LOADS

A. No vehicle, shall exceed a height of fourteen feet.

B. No vehicle, shall exceed a length of forty feet extreme over-all dimension, exclusive of front and rear bumpers, except when operated in combination with another vehicle as provided in this section. No combination of vehicles, unless otherwise exempted in this section, shall exceed an overall length of sixty-five feet, exclusive of front and rear bumpers.

C. No combination of vehicles coupled together shall consist of more than two units, except:

(1) a truck tractor and semi-trailer shall be permitted to pull one trailer;

(2) a vehicle shall be permitted to pull two units, provided that the middle unit is equipped with brakes and has a weight equal to or greater than the last unit and the total combined gross weight of the towed units does not exceed the manufacturer's stated gross weight of the towing units;

(3) a double or triple saddle-mount or fifth wheel mount of vehicles in transit by driveway-towaway methods shall be permitted;

(4) vehicles and trailers operated by or under contract for municipal refuse systems;

(5) farm trailers, implements of husbandry and fertilizer trailers

operated by or under contract to a farmer or rancher in his farming or ranching operations; and

(6) as provided in Subsection D and E of this section.

D. Exclusive of safety and energy conservation devices, refrigeration units and other devices such as coupling devices, vehicles operating a truck tractor semitrailer or truck tractor semitrailer-trailer combinations on the interstate highway system and those qualifying federal aid primary system highways designated by the secretary of the United States department of transportation, pursuant to the United States Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411, and on those highways designated by the department by rule or regulation with the concurrence of the state transportation department may exceed an overall length limitation of sixty-five feet, provided that the length of the semitrailer in a truck tractor semitrailer combination does not exceed fifty-seven feet six inches and the length of the semitrailer or trailer in a truck tractor semitrailer-trailer combination does not exceed twenty-eight six inches. The department shall adopt rules and regulations granting reasonable access to terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers to vehicles operating in combination pursuant to this subsection. As used in this subsection, "truck tractor" means a non-cargo carrying power unit designed to operate in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the truck tractor.

E. Notwithstanding any other subsection of this section, any trailer or semitrailer combination of such dimensions as those that were in actual and lawful use in this state on December 1, 1982 may be lawfully operated on the highways of this state. (66-7-404 NMSA 1978)

12-10-3.8 EXCEPTIONS ON SIZE, WEIGHT AND LOAD

The provisions of Sections 12-10-3.1 through 12-10-3.7 of this ordinance governing size, weight and load shall not apply to fire apparatus, road machinery engaged in street construction or maintenance, or to implements of husbandry, including farm tractors, temporarily moved upon a street, or to a vehicle operated under the terms of a special permit issued as herein provided. (66-7-401 NMSA 1978)

12-10-4 VEHICLE SUBJECT TO REGISTRATION; EXCEPTIONS

A. With the exception of vehicles identified in Subsection B of this section, every motor vehicle, manufactured home, trailer, semitrailer and pole trailer when driven or moved upon a highway and every off-highway motor vehicle is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

(1) any such vehicle driven or moved upon a highway in conformance with the provisions of the Motor Vehicle Code relating to manufacturers, dealers, lien-holders or nonresidents;

(2) any such vehicle that is driven or moved upon a highway only for the purpose

of crossing the highway from one property to another;

(3) an implement of husbandry that is only incidentally operated or moved upon a highway;

(4) special mobile equipment;

(5) a vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(6) a freight trailer if it is:

a. properly registered in another state;
b. identified by a proper base registration plate that is properly displayed; and
c. identified by other registration documents that are in the possession of the operator and exhibited at the request of a police officer;

(7) a freight trailer or utility trailer owned and used by:

(a) a nonresident solely for the transportation of farm products purchased by the nonresident from growers or producers of the farm products and transported in the trailer out of the state;
(b) a farmer or a rancher who transports to market only the produce, animals or fowl produced by that farmer or rancher or who transports back to the farm or ranch supplies for use thereon; or
(c) a person who transports animals to and from fairs, rodeos or other places, except racetracks, where the animals are exhibited or otherwise take part in performances, in trailers drawn by a motor vehicle or truck of less than ten thousand pounds gross vehicle weight rating bearing a proper registration plate, but in no case shall the owner of an unregistered trailer described in this paragraph perform such uses for hire;

(8) a moped;

(9) an electric personal assistive mobility device;

(10) a vehicle moved on a highway by a towing service as defined in Section 59A-50-2 NMSA 1978; and

(11) an off-highway motor vehicle exempted pursuant to Section 66-3-1005 NMSA 1978.

12-10-4.1 DISPLAY OF CURRENT VALID REGISTRATION PLATE

A. It is a violation of this ordinance for any person to drive or park upon a public street or public parking area of this municipality any motor vehicle or trailer which does not display one or more visible current valid registration plates as required by state law.(*)

B. The registration plate shall be attached to the rear of the vehicle for which it is issued; however, the registration plate shall be attached to the front of a road tractor or truck tractor. The plate shall be securely fastened at all times, in a fixed horizontal position, at a height of not less than twelve inches from the ground, measuring from the bottom of the plate. It shall be in a place and position so as to be clearly visible, and it shall be maintained free from foreign material and in a condition to be clearly legible.

C. No vehicle, while being operated on the streets of this municipality, shall have displayed thereon, either on the front or the rear thereof, any license plate, including tab or sticker, other than one issued, or validated, for the current registration period, by the division or any other licensing authority having jurisdiction over the vehicle.
No expired license plate, tab or sticker shall be displayed on such vehicle, other than an expired special license plate which may be exhibited on the front of the vehicle. (66-3-18 NMSA 1978)

D. Nothing contained herein shall be construed as prohibiting the use, on the front of the vehicle, of a promotional or advertising plate. (66-3-18 NMSA 1978)

E. Any police officer may, upon discovering that the registration plate of any vehicle is illegible because of wear or damage or other causes, issue a citation to the owner or operator of the vehicle. The citation shall provide that the owner shall, within thirty days from the date of the citation, apply for and obtain a duplicate or replacement plate from the division. (66-3-17 NMSA 1978)

F. Any motor vehicle owner who has been issued a citation for an illegible registration plate and who fails to comply with the terms of the citation requiring the acquisition of a duplicate or replacement plate within thirty days of the date of the citation is guilty of a misdemeanor. (66-8-10 NMSA 1978)

12-10-5 EVIDENCE OF REGISTRATION TO BE SIGNED AND EXHIBITED ON DEMAND

Every owner, upon receipt of registration evidence, shall write his signature thereon in a space provided. Every such registration evidence or duplicates thereof validated by the division shall be exhibited upon demand of any police officer. (66-3-13 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. (66-5-229 NMSA 1978)

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)

ARTICLE XI

TRAFFIC VIOLATIONS BUREAU

12-11-1 Traffic Violations Bureau Created
12-11-2 Fines Accepted by the Traffic Violations Bureau
12-11-3 When Person Charged May Elect to Appear at Bureau or Before Municipal Judge
12-11-4 Duties of Traffic Violations Bureau

12-11-1 TRAFFIC VIOLATIONS BUREAU CREATED.

A. A traffic violations bureau is established to assist the municipal court in its administrative work.

B. The personnel of the bureau shall be responsible to the municipal judge.

C. The bureau shall be open at such hours as the municipal judge may designate.(*)

12-11-2 FINES ACCEPTED BY THE TRAFFIC VIOLATIONS BUREAU.

A. The municipal judge who hears traffic cases shall designate by rule as provided in the Rules of Procedure for the Municipal Courts, adopted by the New Mexico Supreme Court, as amended, the specified offenses under the traffic ordinance of this municipality in respect to which payments of fines may be accepted by the traffic violations bureau.

B. The municipal judge shall specify by rule as provided in the Rules of Procedure for the Municipal Courts, adopted by the New Mexico Supreme Court, as amended, suitable schedules of the amount of the fines for first, second and subsequent offenses, provided the fines are within the limits declared by law or ordinance, and shall further specify what number of offenses shall require appearance before the judge.(*)

12-11-3 WHEN PERSON CHARGED MAY ELECT TO APPEAR AT BUREAU OR BEFORE MUNICIPAL JUDGE.

A. Any person charged with an offense for which payment of a fine may be made to the traffic violations bureau under the foregoing provisions shall have the option of:

(1) paying the fine within the time specified in the notice of arrest at the traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court; or

(2) upon a plea of not guilty shall be entitled to a trial as authorized by law and depositing any bail required as provided in the Rules of Procedure for the Municipal Courts, adopted by the New Mexico Supreme Court, as amended.

B. For the purpose of this ordinance, the payment of a fine to the traffic violations bureau shall be deemed an acknowledgment of conviction of the alleged offense. The traffic violations bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment of the fine.(*)

12-11-4 DUTIES OF TRAFFIC VIOLATIONS BUREAU.

A. The traffic violations bureau shall accept designated fines, issue receipts and represent in court violators who are permitted and who desire to plead guilty, waive appearance and give power of attorney.

B. The traffic violations bureau shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time for their appearance on the court docket and notify the arresting officer or the municipal attorney or the liaison officer if any are to be present.

C. The traffic violations bureau shall keep a record of all violations of the traffic ordinance together with a record of a final disposition of all such alleged offenses:

(1) the record shall be maintained to show all types of violations and the total of each; and

(2) the record shall accumulate during at least a two-year period and from that time on shall be maintained complete for at least the most recent two-year period.

D. The traffic violations bureau shall study the cases of drivers charged with frequent or serious violations of traffic ordinances or involved in frequent traffic accidents or any one serious accident, shall attempt to discover the reasons therefore and shall take whatever steps are lawful and reasonable to prevent the recurrence thereof or to have the licenses of the persons suspended or revoked.

E. The traffic violations bureau shall keep records and submit summarized monthly reports to the administrator of all notices issued and arrests made for violations of the traffic ordinances and of all fines collected by the traffic violations bureau of the court and of the final disposition or current status or every case of violations of the provisions of the said ordinances. The records shall be so maintained as to show all types of violations and the totals of each.

F. The traffic violations bureau shall follow such procedures as may be prescribed by the traffic ordinances of this municipality or as may be required by any law of this state.(*)

ARTICLE XII

PENALTIES AND PROCEDURES ON ARREST

12-12-1 Penalties
12-12-1.1 Maximum Penalty
12-12-1.2 Penalty Assessment Program
12-12-1.3 Mandatory Fees Upon Conviction
12-12-2 Forms and Records of Traffic Citations and Arrests
12-12-3 Conduct of Arresting Officer--Notices by Citation
12-12-3.1 Electronic Uniform Traffic Citation
12-12-4 Uniform Traffic Citation is Complaint
12-12-5 Arrest without Warrant
12-12-6 Immediate Appearance before Municipal or Magistrate Judge
12-12-7 Failure to Obey Notice to Appear
12-12-8 Arresting Officer to be in Uniform
12-12-9 Handling of Citations
12-12-10 Illegal Cancellation--Audit of Citation Records
12-12-11 Abstract of Traffic Cases--Report on Convictions
12-12-12 Citation on Illegally Parked Vehicle
12-12-13 Failure to Comply with Traffic Citation Attached to Parked Vehicle
12-12-14 Presumption in Reference to Illegal Parking
12-12-15 When Warrant to be Issued
12-12-16 Disposition of Traffic Fines and Forfeitures
12-12-17 Official Misconduct
12-12-18 Authority to Remove or Relocate Vehicles
12-12-19 Abandoned Vehicles on Private Property
12-12-20 Authorized Immobilization of Vehicle
12-12-21 Liability for Damage
12-12-22 Sunday Actions

12-12-1 PENALTIES.

12-12-1.1 MAXIMUM PENALTY. Unless another penalty is expressly provided in this 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 three hundred dollars ($300.00) or by imprisonment for not more than 90 days or by both such fine and imprisonment. (*)

12-12-1.2 PENALTY ASSESSMENT PROGRAM. Any municipality may, by passage of an ordinance, establish a municipal penalty assessment program similar to that established in Section 66-8-116 NMSA 1978 for violations of provisions of the Motor Vehicle Code. Such a municipal program shall be limited to violations of municipal traffic ordinances. All penalty assessments shall be processed by the municipal court and all fines and fees collected shall be deposited in the treasury of the municipality. (66-8-130 NMSA 1978)

12-12-1.3 MANDATORY FEES UPON CONVICTION *Amended 7-09*

A. There is imposed upon any person convicted of violating any municipal ordinance the penalty for which carries a potential jail term or any ordinance relating to the operation of a motor vehicle the following mandatory fees:

(1) a corrections fee of twenty dollars ($20.00);

(2) a judicial education fee of three dollars ($3.00); and

(3) a court automation fee of six dollars ($6.00).

B. As used in this 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 a penalty assessment in lieu of trial.

C. All corrections fees collected shall be deposited in a special corrections fund in the municipal treasury and shall be used only for:

1. municipal jailer training;
2. construction planning, construction, operation and maintenance of the municipal jail;
3. paying the costs of housing the municipality's prisoners in a county jail or detention facility or housing juveniles in a detention facility;
4. complying with federal match or contribution requirements relating to jails or juvenile detention facilities;
5. providing in-patient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;
6. defraying the cost of transporting prisoners to jails or juvenile detention facilities; or
7. providing electronic monitoring systems.

D. A municipality may credit the interest collected from fees deposited in the special corrections fund to the municipality’s general fund.

E. All judicial education fees collected shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of benchbooks and other written materials, of municipal judges and other municipal court personnel.

F. All court automation fees collected shall be remitted monthly to the state treasurer for credit to the municipal court automation fund and shall be used for the purchase and maintenance of court automation systems in the municipal courts. The court automation system shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information system council. (35-14-11 NMSA 1978)

12-12-2 FORMS AND RECORDS OF TRAFFIC CITATIONS AND ARRESTS.

A. The municipality shall provide books to include uniform traffic citation forms authorized by state law for notifying alleged violators to appear and answer to charges of violating traffic ordinances in the municipal court.

B. The municipality shall issue uniform traffic citation books to the chief of police or his authorized agent and shall maintain a record of every book issued and shall require a written receipt for every book.

C. The chief of police shall keep a record and require a receipt for each serially numbered citation issued to individual officers. (*)

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

Amended 2013

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 ordinance 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 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 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. (66-8-123 B NMSA 1978)

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 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 Section 66-5-30 NMSA 1978.

D. In order to secure his release, the arrested person must give his 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. (66-8-123 NMSA 1978)

F. An electronic traffic citation, prescribed by Sec 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 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.

12-12-3.1 ELECTRONIC UNIFORM TRAFFIC CITATION

A. 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. (66-8-128 NMSA 1978)

12-12-4 UNIFORM TRAFFIC CITATION IS COMPLAINT. The uniform traffic citation used as a notice to appear is a valid complaint, though not verified. (66-8-131 NMSA 1978)

12-12-5 ARREST WITHOUT WARRANT.

A. Members of the municipal police force may arrest without warrant any person:

(1) present at the scene of a motor vehicle accident;

(2) on a street when charged with theft of a motor vehicle;

(3) charged with crime in another jurisdiction, upon receipt of a message giving the name or a reasonably accurate description of the person wanted, the crime alleged and a statement he is likely to flee the jurisdiction of the state; (66-8-125 NMSA 1978)

(4) charged with driving while under the influence of intoxicating liquor or drugs;

(5) charged with failure to stop in the event of an accident causing death, personal injuries or damage to property;

(6) charged with reckless driving;

(7) the arresting officer has good cause to believe has committed a felony;

(8) who refuses to give his written promise to appear in court or acknowledge receipt of a warning notice; (1961-62 Op. Atty. Gen. No. 61-117) or

(9) who is charged with driving when his privilege to do so was suspended or revoked pursuant to Section 66-8-111 NMSA 1978 or pursuant to a conviction for driving while under the influence of intoxicating liquor or drugs. (66-8-122 NMSA 1978)

B. To arrest without warrant, the arresting officer must have reasonable grounds, based on personal investigation which may include information from eyewitnesses, to believe the person arrested has committed a crime.

C. Members of the municipal police force may not make arrests for traffic violations if not in uniform; however, nothing in this section shall be construed to prohibit the arrest, without warrant, by a peace officer of any person when probable cause exists to believe that a felony crime has been committed or in non-traffic cases. (66-8-125 NMSA 1978)

D. This section governs all police officers in making arrests without warrant for violations of the New Mexico Motor Vehicle Code, this ordinance and other laws relating to motor vehicles but the procedure prescribed is not exclusive of any other method prescribed by law for the arrest and prosecution of a person violating these laws. (66-8-127 NMSA 1978)

12-12-6 IMMEDIATE APPEARANCE BEFORE MUNICIPAL OR MAGISTRATE JUDGE. Whenever any person is arrested for any violation of this ordinance or other law relating to motor vehicles punishable as a misdemeanor, he shall be immediately taken before an available municipal or magistrate judge who has jurisdiction of the offense when the:

(1) person requests immediate appearance;

(2) person is charged with driving while under the influence of intoxicating liquor or narcotic drugs;

(3) person is charged with failure to stop in the event of an accident causing death, personal injuries or damage to property;

(4) person is charged with reckless driving;

(5) arresting officer has good cause to believe the person arrested has committed a felony;

(6) person refuses to give his written promise to appear in court or acknowledge receipt of a warning notice; or

(7) person is charged with driving when his privilege to do so was suspended or revoked pursuant to a conviction for driving while under the influence of intoxicating liquor or drugs. (66-8-122 NMSA 1978)

12-12-7 FAILURE TO OBEY NOTICE TO APPEAR.

A. 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.

B. A written promise to appear in court may be complied with by appearance of counsel. (66-8-126 NMSA 1978)

12-12-8 ARRESTING OFFICER TO BE IN UNIFORM.

Amended July, 2007

A. No person shall be arrested for violating this ordinance or other law relating to motor vehicles punishable as a misdemeanor except by a commissioned, salaried peace officer who, at the time of arrest, is wearing a uniform clearly indicating the peace officer's official status. (66-8-124 NMSA 1978)

B. Notwithstanding the provisions of Subsection A of this section, a municipality may provide by ordinance that uniformed private security guards may be commissioned by the local police agency to issue parking citations for violations of clearly and properly marked fire zones and access zones for persons with significant mobility limitation. Prior to the commissioning of any security guard, the employer of the security guard shall agree in writing with the local police agency to the commissioning of the employer's security guard. The employer of any security guard commissioned under the provisions of this section shall be liable for the actions of that security guard in carrying out the security guard's duties pursuant to that commission. Notwithstanding the provisions of the Tort Claim Act, private security guards commissioned under this section shall not be deemed public employees under that act. (66-8-124 NMSA 1978)

12-12-9 HANDLING OF CITATIONS

A. Any entity that wishes to submit uniform traffic citations required to be submitted to the department by electronic means must secure the prior permission of the department. (66-8-128 D NMSA 1978)

B. Every police officer issuing a uniform traffic citation to an alleged violator of this ordinance or other law relating to motor vehicles shall dispose of the citations as indicated on the back of each copy. (66-8-133 NMSA 1978)

C. Citations spoiled or issued in error shall be marked "void" in large letters on the face, signed by the officer, and the copies disposed of as a valid warning notice. (66-8-133 NMSA 1978)

D. Upon filing of the uniform traffic citation in the municipal court, the citation may be disposed of only by trial in the court or by other official action by a judge of the court including, at the discretion of the municipal judge, forfeiture of bail or

by payment of a fine to the traffic violations bureau of the court. (*)

E. The chief of police shall maintain or cause to be maintained a record of serially numbered warrants issued by the municipal court on traffic violation charges which are delivered to the police department for service and of the final disposition of all such warrants. (*)

F. The chief of police shall issue, keep a record and require a receipt for each serially numbered citation issued to individual police officers. (66-8-132 NMSA 1978)

G. It is a misdemeanor and official misconduct for any officer or other public official or employee to dispose of a uniform traffic citation except as provided in this section. (66-8-133 NMSA 1978)

12-12-10 ILLEGAL CANCELLATION--AUDIT OF CITATION RECORDS.

A. Any person who cancels or solicits the cancellation of any uniform traffic citation other than as provided in this ordinance is guilty of a misdemeanor.

B. Every record of uniform traffic citations required in this ordinance shall be audited monthly by the appropriate fiscal officer of this municipality.

C. The fiscal officer shall publish an annual summary of all traffic violation notices issued by the traffic-enforcement agency. (66-8-134 NMSA 1978)

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 ordinance 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 bot ; 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 right to counsel and, if represented, the name and address of counsel.

C. The abstract of record prepared and forwarded under Subsection 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 Subsection B of this Section may be 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 Subsection 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 (10) 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. (66-8-135 NMSA 1978)

12-12-12 CITATION ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without driver is found parked, standing or stopped in violation of any of the restrictions imposed by this ordinance, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to the vehicle a traffic citation on a form provided by the municipality for the driver to answer to the charge against him within five days during the hours and at a place specified in the citation. (*)

12-12-13 FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE. If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to the motor vehicle within a period of five days, the traffic violations bureau or clerk of the municipal court shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event the letter is disregarded for a period of five days a warrant of arrest will be issued. (*)

12-12-14 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

A. In any prosecution charging a violation of any ordinance governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of the ordinance, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, for the time during which, the violation occurred.

B. The foregoing stated presumption shall apply only when the procedure as prescribed in Sections 12-12-12 and 12-12-13 has been followed. (*)

12-12-15 WHEN WARRANT TO BE ISSUED. In the event any person fails to comply with a traffic citation given to the person or attached to a vehicle or fails to make

appearance pursuant to a summons directing an appearance in the municipal court or the traffic violations bureau, or if any person fails or refuses to deposit bail as required and within the time permitted by ordinance, the municipal judge shall issue either a summons or a warrant for his arrest. (*)

12-12-16 DISPOSITION OF TRAFFIC FINES AND FORFEITURES. All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this ordinance shall be paid into the municipal treasury. (*)

12-12-17 OFFICIAL MISCONDUCT. Failure, refusal or neglect on the part of any judicial or other officer or employee receiving or having custody of any fine or forfeiture, either before or after a deposit in the municipal treasury, shall constitute misconduct in office and shall be grounds for removal. (*)

12-12-18 AUTHORITY TO REMOVE OR RELOCATE VEHICLES.

A. Definitions
For purposes of this section:

(1) "Chief" shall mean the Chief of Police of the municipal police department or his designated representative.

(2) "Impound" shall mean the towing and storage of a motor vehicle as authorized in this section.

(3) "Owner" of a vehicle shall mean the registered owner or owners of a vehicle as recorded with the New Mexico department of motor vehicles or similar agency of a state outside New Mexico. Where written notice to the owner is required by this section, such notice shall be given to each registered owner. Where appearance of the owner is required by this section, appearance may be by a person authorized by the owner to appear on his behalf.

(4) "Sign" shall mean a printed notification to the public giving notice of the possibility of removal of a vehicle by stating that the area is a tow-away zone, or that the violation of the restrictions stated on the sign may result in towing, and the sign must be readily visible from the point of removal.

(5) "Written Notice" shall mean notice sent by certified mail, return receipt requested, to the last known address of the owner:

a) When such notice is required under the terms of this section, weekends and holidays shall not be included when calculating the time for mailing notice.

b) When a vehicle is registered in a state outside New Mexico, the Chief shall make all reasonable and diligent efforts to ascertain the name and address of all registered owners. If the name and address information for an in-state or out-of-state registered vehicle is not available soon enough to meet the time deadlines for mailing written notice, then the notice shall be mailed as soon as possible after the

information is received.

c) As a valid substitute for "written notice" as defined herein, notice may be given by personal service or in any other reasonable manner, so long as actual notice is given to at least one owner within the time limits provided. Notice may be effected by verbal notice to an owner, or to the driver or passenger of a vehicle, if the driver or passenger reasonably appears to have custody of the vehicle with the owner's knowledge and permission. Verbal notice to the owner, driver or passenger shall be valid, however, only if the person so notified is given all the information required in the written notice and the person is given in writing a phone number where the owner, driver or passenger can obtain further information from a municipal employee.

d) If notice cannot be given per the other provisions of this paragraph, notice shall be given by publication once in a newspaper of general circulation in the community as soon as practicable after reasonable and diligent efforts to give notice as provided elsewhere in this paragraph prove fruitless. (*)

C. Impoundment of Vehicles Generally.

(1) Any vehicle impounded pursuant to this section shall be towed in accordance with state and local law to an authorized private storage facility or an area designated or maintained by the police department or by the municipality. The person authorizing impoundment shall issue signed and dated instructions in writing to the storage facility specifically stating whether the vehicle is to be held for investigation or as evidence, or whether it may be released to the owner after all attendant charges have been satisfied pursuant to Subsection H of this section. If the vehicle has been in storage for over 30 days after written notice is given and no hearing has been requested or the vehicle has not been claimed per the provisions of this section, then the storage facility operator may sell the vehicle per the provisions of applicable state law.

(2) If any vehicle is about to be removed, relocated or is in the process of being removed or relocated and the owner thereof or his agent appears and claims the vehicle and agrees forthwith to remove it or relocate it, such vehicle shall be delivered to such owner or agent upon demand therefore and upon furnishing satisfactory evidence of identity and ownership or agency. If any such owner or agent shall fail, refuse or neglect to forthwith remove such vehicle, such vehicle shall nevertheless be impounded or relocated. Removal by such owner or agent shall not relieve the offender of liability for any towing costs already incurred or for any fine or penalty for the violation of any law or ordinance for which the vehicle was to be removed or relocated. (*)

D. Circumstances Permitting Summary Vehicle Impoundment or Relocation.

(1) Any municipal police officer, or any municipal employee who is authorized to direct traffic or enforce state or local parking or motor vehicle laws, may order the impoundment of any vehicle within the municipal corporate limits, without prior notice to the owner or operator thereof, under the following circumstances:

a) when any vehicle is left unattended upon any bridge,

viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction or hazard to traffic; (66-7-350 NMSA 1978)

b) when any vehicle is parked or left standing upon a street, alley, or public way in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic;

c) when any vehicle is found upon a street, alley, public way or private property, and an offense report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been stolen, and the owner is not available to, or cannot, immediately provide for its custody or removal; (*)

d) when any vehicle is parked so as to block the entrance to a public or private driveway; (66-7-351 NMSA 1978)

e) when any vehicle is parked within fifteen (15) feet of a fire hydrant, is illegally parked so as to prevent access by firefighting equipment to a fire hydrant, or is illegally parked in a properly designated fire lane;

h) when an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the street, alley, or public way or its physical appearance is causing traffic to be impeded; (*)

i) wherever the use of a street, alley or public way or any portion thereof is authorized by the municipality for a purpose other the normal flow of traffic, or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that a parked vehicle may be towed are erected or placed along the street, alley or public way at least 24 hours prior to the removal; (66-7-351 NMSA 1978)

j) when any vehicle is parked or left standing where stopping is prohibited by ordinance or other state or local law. No vehicle may be removed pursuant to this paragraph unless signs are posted at least 24 hours prior to the removal giving notice that the area is a tow-away zone;

k) when any vehicle is parked or standing in a manner so as to obstruct necessary emergency services, law enforcement services, the routing of traffic at the scene of a disaster, or when removal is otherwise necessary in the interest of public safety because of any emergency, and moving the vehicle to a legal parking location is impractical. However, the owner or operator of a vehicle so relocated or removed shall not be subject to any relocation, removal or storage charges, if the vehicle is otherwise lawfully parked. Such charges shall be paid by the municipality, except that in the case of emergency utility repairs such charges shall be paid by the utility company seeking removal;

l) when a vehicle is parked, left unattended or

abandoned during a fire, flood, storm or other public emergency which is apt to cause substantial damage to the vehicle, removal is in the best interest of the owner, and moving the vehicle to a safe legal location is impractical;

m) when a vehicle is either unattended or disabled and loaded with either a dangerous, flammable, combustible or explosive substance which, either by its presence or load conditions is likely to harm the health or safety of the public and moving the vehicle to a safe, legal location is impractical;

n) when any vehicle is parked in such a manner as to obstruct or interfere with any road, sidewalk or right-of-way maintenance or construction, or any non-emergency utility work, and it is impractical to relocate the vehicle to another point where parking is legal. No vehicle shall be removed unless signs are posted giving notice of the work to be done and the possibility of removal at least 24 hours prior to the removal; or

o) when a vehicle is parked: on a sidewalk; within an intersection; on a crosswalk; within twenty (20) feet of a crosswalk at an intersection; within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway; between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the municipality indicates a different length by signs or markings; within fifty (50) feet of the nearest rail of a railroad crossing; within twenty (20) feet of the driveway entrance to any fire station and if properly signposted on the side of the street opposite the fire station entrance where posted; alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic; or on the roadway side of any vehicle stopped or parked at the edge or curb of a street. (66-7-351 NMSA 1978)

(2) In lieu of towing and impoundment, a municipal police officer, or any municipal employee who is authorized to direct traffic or enforce state or local parking or motor vehicle laws, may relocate or cause to be relocated any vehicle from any street, alley or public way within the municipal corporate limits, without prior notice to the owner or operator thereof when the relocation to a safe, legal location is practical and the vehicle is found under the circumstances set forth in subparagraphs e, k, l, m or n of paragraph 1 of this subsection. (*)

(3) Whenever a vehicle could be impounded, removed or relocated pursuant to subsection D of this section and the driver of the vehicle is present, the police officer or authorized employee may order the driver to move the vehicle to another location. (66-7-350)

E. Notice and Procedure Following Summary Impoundment or Relocation.

(1) After a vehicle is towed or relocated pursuant to subsection D of this section, the Chief shall send written notice within 24 hours of the towing to the owner of the vehicle.

(2) The notice shall contain the following information:

a) the license plate number, make, type and color of the vehicle;

b) the location of the vehicle at the time of impoundment or relocation;

c) a statement that the vehicle has been taken into custody and stored, or a statement that the vehicle has been relocated;

d) the reason for impoundment or relocation;

e) the location and telephone number of the storage facility where the vehicle is being kept or the place to which the vehicle was relocated;

f) a statement that daily storage charges will be assessed in addition to a towing charge if the removal was proper;

g) a statement that the owner may obtain release of the vehicle by posting bond or paying all amounts due under this ordinance;

h) a statement that the owner has the right to contest the validity of the impoundment or relocation by requesting in writing a hearing before the municipal judge within thirty (30) days after written notice is given;

i) a statement that failure to obtain release of the vehicle if impounded will cause it to be sold or otherwise disposed of in accordance with state law; and

j) a phone number and name or title of a municipal employee from whom the owner can obtain further information.

(3) The hearing, if requested in a timely manner, shall be held within 120 hours (excluding weekends and holidays) of receipt of the request unless the hearing is continued with the agreement of the owner. The municipal judge's decision shall be limited to:

a) whether the vehicle was lawfully impounded or relocated for one or more of the reasons set forth in Subsection D of this section and

b) whether the vehicle, if lawfully impounded, should be released at the City's expense.

Upon receipt of the request for a hearing on the legality of an impoundment, the municipal judge shall notify the storage facility of the hearing and no lien shall be foreclosed by the storage facility as allowed by state law until the judge has ruled on the legality of the impoundment. If the municipal judge finds that the vehicle in question was not lawfully impounded or that the vehicle should otherwise be released at the municipality's expense, he shall issue and date a Certificate of Release, indicating the unlawful impoundment, or the release at municipal expense, or both, and a copy of the

release shall be given to the owner of the vehicle. Upon receipt of the owner's copy of such certificate, the authorized storage facility having custody of the vehicle shall release the vehicle to its owner and towing and storage fees shall be paid by the municipality in accordance with arrangements to be made between the municipality and the authorized storage facility. If the owner fails to present such certificate to the authorized storage facility having custody of the vehicle within 24 hours of its receipt, excluding days when the authorized storage facility is not open for business, the owner shall assume liability for all subsequent storage charges. The certificate shall advise the owner of such requirement.

(4) The decision of the municipal judge may be appealed to the district court. (*)

F. Abandoned Vehicles.

(1) Any municipal police officer, or any municipal employee who is authorized to direct traffic or enforce state or local parking or motor vehicle laws, may order the impoundment of any abandoned vehicle within the municipal corporate limits. A vehicle is abandoned if:

a) the vehicle is parked on or along any street, alley or public way and the vehicle displays no current license plate; or

b) the vehicle is left unattended on or along any street, alley or public way in the same place for a period of 72 hours without a valid police sticker as defined in paragraph 2 of this subsection.

(2) The Chief may issue a sticker temporarily permitting street storage, upon application of any owner or agent of an owner for any vehicle which is operable and has a current license plate. Stickers shall expire fifteen (15) days after issuance. No owner, whether an individual, business, corporation, organization, partnership or trust, is entitled to more than four stickers at any time.

(3) When a vehicle is abandoned on or along a street, alley or public way under circumstances which do not allow summary removal or relocation pursuant to subsection D of this section, a notice shall be attached to the vehicle in a manner which is readily visible containing the following information:

a) the date and time the notice is affixed to the automobile;

b) a statement that, pursuant to this section of this ordinance the vehicle will be considered abandoned and may be towed and stored at the owner's expense if it is not removed within ten (10) days of the time that the notice is affixed;

c) a statement that if the vehicle is impounded and no hearing is requested or it is not claimed, it can be sold after thirty (30) days as provided in state law;

d) a statement that the owner has the opportunity to challenge the proposed action at a hearing if a written request is submitted to the municipal judge within 72 hours after notice is given as provided in paragraph 4 of this subsection;

e) the telephone number where additional information can be obtained; and

f) the identity of the person affixing the notice.

(4) Written notice containing the same information specified in paragraph 3 of this subsection plus the location and a description of the vehicle shall be mailed to the owner of the vehicle within 24 hours after the notice is affixed. However, if written notice is not given within 24 hours after the notice is placed on the vehicle, then the ten (10) day waiting period shall be extended the amount of time between the placing of notice on the vehicle and the giving of written notice.

(5) Upon timely receipt of a request for a hearing, the municipal judge shall order a delay of the impoundment of the vehicle until after the hearing.

(6) The hearing, if requested in a timely manner, shall be held within 120 hours (excluding weekends and municipal holidays) of receipt of the request, unless the hearing is continued with the agreement of the owner. At the hearing, the municipal judge shall only determine whether the vehicle is or is not abandoned.

(7) If the municipal judge determines that the vehicle is abandoned, he shall so notify the Chief, who shall cause the impoundment of the vehicle, unless the vehicle is removed within 24 hours of the judge's decision.

(8) If the vehicle is removed pursuant to paragraph 7 of this subsection, a person challenging the impoundment shall be entitled to challenge the decision of the municipal judge by appeal to District Court.

(9) If an abandoned vehicle is impounded, and the owner has not obtained a hearing prior to the impoundment, the owner may file a request for a hearing with the municipal judge on the legality of the impoundment within thirty (30) days after impoundment. Upon receipt of the request for a hearing, the municipal judge shall notify the storage facility of the hearing and no lien shall be foreclosed by the storage facility as allowed by state law until the judge has ruled on the legality of the impoundment. If the municipal judge rules that the impoundment was illegal, then the municipal judge shall issue and date a Certificate of Release and a copy of the release shall be given to the owner of the vehicle. Upon receipt of the owner's copy of such certificate, the authorized storage facility having custody of the vehicle shall release the vehicle to its owner and towing and storage fees shall be paid by the municipality in accordance with arrangements to be made between the municipality and the authorized storage facility. If the owner fails to present such certificate to the authorized storage facility having custody of the vehicle within 24 hours of its receipt, excluding days when the authorized storage facility is not open for business, the owner shall assume liability for

all subsequent storage charges. The certificate shall advise the owner of such requirement. (*)

G. Impoundment for Investigation Evidence or Forfeiture.

The notice, hearing and bond provisions set forth in this section shall not apply to impoundment of the following vehicles for which impoundment is hereby authorized:

(1) a vehicle which is impounded for purposes of a criminal investigation or as evidence of a crime; or

(2) a vehicle which is lawfully seized pursuant to state or federal law. (*)

H. Release of Vehicles.

(1) The municipal judge or his designated representatives may order the release of an impounded vehicle if a hearing has been requested on the legality of impoundment and upon the posting of bond as set by the municipal judge or his designee. When bond is posted the vehicle shall be released into the possession of the owner or his designee.

(2) In all other cases, upon proof of ownership, an impounded vehicle shall be released only after payment of the accumulated penalties by the owner or his designee, as provided in subsection I.

(3) The owner shall forfeit the bond if the owner fails to appear at the hearing before the municipal court.

(4) The owner shall be entitled to reimbursement from the municipality for all bonds posted and penalties paid if after hearing and appeal, if any, it is determined that the impoundment or relocation was not valid.

(5) This subsection does not authorize release of any vehicle held for investigation or as evidence of a crime or seized pursuant to state or federal law. Such vehicle shall be released only upon the written order of the police officer responsible for its impoundment or upon an affirmative written statement by the Chief that such vehicle is no longer needed for investigative or evidentiary purposes or for forfeiture proceedings. The municipality shall bear the cost of towing and storage for such impoundments. (*)

I. Penalties.

(1) Each time a vehicle is lawfully towed or relocated pursuant to this section the owner shall pay a fine of fifty dollars ($50.00), unless the municipality is required to pay for removal or relocation.

(2) Each day a vehicle is stored pursuant to a lawful

impoundment, the owner shall pay a fine of ten dollars ($10.00) a day unless the municipality is required to pay for removal or relocation.

(3) Nothing in this section shall prevent a person from being found in violation of any other part of this ordinance and from being liable for any other penalty, fee or charge assessed pursuant to this ordinance. (*)

12-12-19 ABANDONED VEHICLES ON PRIVATE PROPERTY.

A. A person upon whose property or in whose possession is found an abandoned vehicle or motor vehicle, shall have authority to sell, retain, give away or dispose of the abandoned vehicle or motor vehicle to any person licensed under Sections 66-4-1 through 66-4-9 NMSA 1978 provided that he notifies a law enforcement agency prior to such disposal and obtains from that agency a written clearance stating that neither the agency's records nor the computerized records of the National Crime Information Center indicates that the vehicle or motor vehicle has been reported as stolen, and either:

(1) the vehicle or motor vehicle in question regardless of its age, is either totally wrecked or in such a state of disrepair that it is suitable only for dismantling purposes;

(2) the vehicle or motor vehicle in question is at least eight (8) years of age or older; or

(3) the vehicle in question has been placed in any storage or wrecker yard at the request of a law enforcement agency or a property owner upon whose property the vehicle or motor vehicle was abandoned and has remained unclaimed in said yard for a period of thirty (30) days, in which case the owner of the storage yard may proceed to make a claim against the motor vehicle or vehicle, as specified in Subsection C of Section 66-3-119 NMSA 1978 as though it were abandoned. Any person wishing to obtain such vehicle may not charge more than fifty cents ($.50) per day for storage unless he is licensed as a vehicle storage yard, and he must notify owners and lien-holders within thirty (30) days or lose all rights to claim such vehicle.

B. Any vehicle which is less than eight (8) years of age or in such a state of repair that it will be placed back into service or which is not to be used for dismantling purposes, or which a property owner wishes to retain for his own use or to sell to any one other than a licensed dismantler, said person shall proceed to make claim for such vehicle or motor vehicle through a lien process and obtain a new certificate of title prior to disposal. (66-3-121 NMSA 1978)

12-12-20 AUTHORIZED IMMOBILIZATION OF VEHICLE. When a driver, owner or person in charge of any vehicle has received a notice to answer to a charge against him for violation of any parking provisions of this ordinance and the driver, owner or person in charge of the vehicle has failed to appear and answer the charge, members of the police department or employees of this municipality acting in their official capacity may temporarily and for a period of 48 hours immobilize the vehicle when found upon a street by installing on or attaching to the vehicle a device designed to restrict the normal movement of the vehicle.

A. When the vehicle is so immobilized, the member of the police department or employee of this municipality installing or attaching the device shall conspicuously affix to the vehicle a notice in writing on a form to be provided by the chief of police advising the driver, owner or person in charge of the vehicle that the vehicle has been immobilized by this municipality for violation of this ordinance and also advising him of the provisions for release of the vehicle.

B. No person shall remove the immobilizing device or move the vehicle before the device is released by the police department or the clerk of the municipal court.

C. Where the vehicle has been properly immobilized as provided in this section, a fee of ten dollars ($10.00) shall be charged by the police department or clerk of the municipal court before releasing the vehicle.

D. Parking restrictions, if any, otherwise applicable shall not apply while the vehicle is immobilized as provided in this section. (*)

12-12-21 LIABILITY FOR DAMAGE.

A. The public highways in the municipality are dedicated to the reasonable use thereof by the public.

B. It shall be unlawful for any person to injure or damage any public street or any bridge, culvert, sign, signpost, or structure upon or used or constructed in connection with any public street for the protection thereof or for protection or regulation of traffic thereon by any unusual, improper or unreasonable use thereof, or by the careless driving or use of any vehicle thereon, or by willful mutilation, defacing or destruction thereof.

C. It shall be considered unreasonable use of any bridge or structure to operate or conduct upon or over the same any vehicle, tractor or engine, not in accordance with Sections 66-7-401 through 66-7-416 NMSA 1978.

D. It shall be considered unreasonable use of any improved roadway or street, to operate, drive or haul thereon any truck, tractor or engine in such manner or at times when the surface thereof is in a soft or plastic condition and the road or portion thereof has been closed pursuant to law, or by order of the administrator.

E. It shall be unlawful to erect or maintain any fence or any other structure across any street, highway or roadway without written permit from the authorities having control thereof.

F. The operator and the owner of such vehicle, truck, tractor or engine from whom the driver or operator has permitted possession at the time thereof shall be jointly and severally liable for the actual damage caused by the operation, conducting or hauling thereof over any public highway, street, bridge, culvert or structure in violation of any provision of this ordinance to be collected by suit brought in the name of this

municipality and such vehicle, truck, tractor or engine may be attached and held to satisfy any judgment for such damages.

G. The proceeds of any such judgment shall be paid to the treasurer of this municipality and placed to the credit of the fund for the construction and improvement of roads and streets. (66-7-416 NMSA 1978)

12-12-22 SUNDAY ACTIONS. Judicial proceedings under any provision of this ordinance are valid when performed on Sunday, the same as on other days of the week. (66-8-8 NMSA 1978)

ARTICLE XIII

EFFECT AND SHORT TITLE OF ORDINANCE

12-13-1 Short Title
12-13-2 Effect of Headings
12-13-3 Savings Clause
12-13-4 Act Not Retroactive
12-13-5 Repeal
12-13-6 Time of Taking Effect

12-13-1 SHORT TITLE. This ordinance may be cited as the New Mexico Uniform Traffic Ordinance.

12-13-2 EFFECT OF HEADINGS. Headings contained in this ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this ordinance.

12-13-3 SAVINGS CLAUSE. If any part or parts of this ordinance are held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this ordinance.

12-13-4 ACT NOT RETROACTIVE. 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 effective date of this ordinance.

12-13-5 REPEAL. The existing ordinances covering the same matters as embraced in this ordinance are repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are repealed.

12-13-6 TIME OF TAKING EFFECT. This ordinance shall take effect on the

5th day of September, 2016.

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TO
N.M.S.A. 1978 CITATIONS
4-2016

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CITY OF HOBBS

ORDINANCE NO. 1095

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 1st day of Aug, 2016.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

CITY OF HOBBS

ORDINANCE NO. 1134

AN ORDINANCE AMENDING THE UNIFORM TRAFFIC ORDINANCE AS SET FORTH IN CHAPTER 10.04 OF THE HOBBS MUNICIPAL CODE

WHEREAS, on September 5, 2016, the City of Hobbs adopted the Uniform Traffic Ordinance via Ordinance No. 1095; and

WHEREAS, pursuant to NMSA 1978, § 3-17-6(C) the City of Hobbs may adopt any amendments to the Uniform Traffic Ordinance in the same manner as other ordinances are adopted; and

WHEREAS, in 2017 the New Mexico Municipal League authored and disseminated amendments to Title VII of the Uniform Traffic Ordinance; and

WHEREAS, in 2019 and 2020 the New Mexico Municipal League authored and disseminated amendments to Titles VI, IX, and X of the Uniform Traffic Ordinance; and

WHEREAS, the proposed amendments seek to bring the Uniform Traffic Ordinance in compliance with the New Mexico Motor Vehicle Code following changes to the Motor Vehicle Code enacted by the New Mexico Legislature; and

WHEREAS, pursuant to Section 10.04.030 of the Hobbs Municipal Code, proposed amendments to the Uniform Traffic Ordinance shall only be adopted by ordinance through an affirmative vote of the City Commission; and

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the proposed amendments to Article VI be adopted hereby: adopting the addition of Sections 12-6-12.2A—Driving while Intoxicated with a Minor in the Vehicle; adopting the proposed changes to Section 12-6-

12.6—Unlawful use of License; Driving when Privilege to do so has been Suspended or Revoked; and adopting 12-6-12.6A—Driving while License Administratively Suspended;

BE IT FURTHER ORDAINED that the proposed amendments to Article VII be adopted, hereby adopting the proposed changes to Section 12-7-9.2—Operation of Off-Highway Motor Vehicles on Streets or Highways – Prohibited Areas;

BE IT FURTHER ORDAINED that the proposed amendments to Article IX be adopted, hereby adopting the proposed changes to Section 12-9-9—Parking in Designated Disabled Parking Spaces;

BE IT FURTHER ORDAINED that the proposed amendments to Article X be adopted, hereby adopting the proposed changes to Section 12-10-6.1—Mandatory Financial Responsibility;

BE IT FURTHER ORDAINED that the current UTO Sections UTO front cover, 2015 Intro, Article VI, Article VII, Article IX, Article X, and 2015 Index be removed and replaced with the updated UTO Sections front cover, 2018 Intro, Article VI, Article VII, Article IX, Article X, and 2019 Index and that a complete and accurate copy of the Uniform Traffic Ordinance, including the amendments adopted herein, shall be available for inspection during normal business hours in the City Clerk's Office.

PASSED, ADOPTED AND APPROVED this 4th day of October, 2021.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

CITY OF HOBBS SEAL HOBBS, NEW MEXICO

New Mexico
Uniform Traffic Ordinance
2025 Compilation

THIS DOCUMENT CONTAINS ALL REVISIONS THROUGH JULY 2025

New Mexico Municipal League
P.O. Box 846
Santa Fe, New Mexico 87504
(505) 982-5573 or 1-800-432-2036
www.nmml.org

PARALLEL TABLES

UNIFORM TRAFFIC ORDINANCE CITATIONS
TO
N.M.S.A. 1978 CITATIONS

* Indicates that there are no comparable provisions in the statutes.

Uniform Traffic Ordinance	NMSA 1978 Citation	Uniform Traffic Ordinance	NMSA 1978 Citation	Uniform Traffic Ordinance	NMSA 1978 Citation
12-1-1A	*	12-1-43	66-1-4.4	12-1-86	66-1-4.9
12-1-1B	66-1-4	12-1-44	66-1-4.4	12-1-87	66-1-4.9
12-1-2	66-1-4.1	12-1-45	66-1-4.4	12-1-88	66-1-4.9
12-1-3	66-1-4.1	12-1-46	66-1-4.4	12-1-89	*
12-1-4	66-1-4.1	12-1-47	66-1-4.4	12-1-90	66-1-4.9
12-1-5	66-1-4.1	12-1-48	66-1-4.4	12-1-91	66-1-4.9
12-1-6	*	12-1-49	66-1-4.4	12-1-92	66-1-4.10
12-1-7	66-1-4.1	12-1-50	*	12-1-93	66-1-4.10
12-1-8	*	12-1-51	66-1-4.4	12-1-94	66-1-4.10
12-1-9	66-1-4.1	12-1-52	66-1-4.4	12-1-95	66-1-4.10
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12-1-11	66-1-4.1	12-1-54	66-1-4.4	12-1-97	66-1-4.10
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12-1-17	66-1-4.2	12-1-60	66-1-4.5	12-1-103	*
12-1-18	66-1-4.2	12-1-61	66-1-4.5	12-1-104	66-1-4.11
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12-1-25	66-1-4.3	12-1-68	66-1-4.6	12-1-111	66-1-4.11
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ARTICLE III

APPLICATION OF TRAFFIC REGULATIONS

12-3-1 Obedience to Traffic Ordinance
12-3-2 Obedience to Officers
12-3-3 Authority of Police and Fire Departments
12-3-4 Authorized Emergency Vehicles
12-3-5 Application of Traffic Ordinance to Persons Propelling Push Carts, Riding Animals or Driving Animal-Drawn Vehicles
12-3-6 Use of Coaster Wagons, Roller Skates and Similar Devices Restricted
12-3-7 Public Officers and Employees to Obey Ordinance--Exceptions

12-3-1 OBEDIENCE TO TRAFFIC ORDINANCE. It is unlawful and, unless otherwise declared in this ordinance with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this ordinance. (66-7-3 NMSA 1978)

12-3-2 OBEDIENCE TO OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control, or regulate traffic. (66-7-4 NMSA 1978)

12-3-3 AUTHORITY OF POLICE AND FIRE DEPARTMENTS.

A. It is the duty of police officers, or such officers as may be assigned by the chief of police, to enforce all traffic regulations of this municipality and all applicable state vehicle laws.

B. Police officers, or such officers as may be assigned by the chief of police, are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws and regulations. However, in the event of a fire or other emergency, they may direct as conditions require, notwithstanding provisions of the traffic laws and regulations, in order to expedite traffic or to safeguard pedestrians.

C. Officers of the fire department may direct or assist police in directing traffic at the scene of a fire or in its immediate vicinity. (*)

12-3-4 AUTHORIZED EMERGENCY VEHICLE.

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section subject to the conditions stated. The chief of the New Mexico state police or the appropriate local agency may designate emergency vehicles and revoke the designation. When vehicles are so designated, they are authorized emergency vehicles.

B. The driver of an authorized emergency vehicle may:

(1) park or stand, irrespective of the provisions of this ordinance;

(2) proceed past a red or stop signal or stop sign, but only after slowing down as necessary for safe operation;

(3) exceed the maximum speed limits so long as he does not endanger life or property; and

(4) disregard regulations governing direction of movement or turning in specified directions.

C. The exemptions granted to an authorized emergency vehicle apply only when the driver of the vehicle, while in motion sounds an audible signal by bell, siren or exhaust whistle as reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor does it protect the driver from the consequences of his reckless disregard for the safety of others. (66-7-6 NMSA 1978)

12-3-5 APPLICATION OF TRAFFIC ORDINANCE TO PERSONS RIDING ANIMALS OR DRIVING ANIMAL-DRAWN VEHICLES. Every person riding an animal or driving any animal-drawn vehicle upon a roadway street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application, and except where otherwise specifically provided in this ordinance. (66-7-7 NMSA 1978)

12-3-6 USE OF COASTER WAGONS, ROLLER SKATES, SKATEBOARDS, AND SIMILAR DEVICES RESTRICTED. No person upon roller skates, or riding in or by means of any coaster wagon, skateboard, toy vehicle, or similar device, shall go upon any street except while crossing a street on a crosswalk and when so crossing, the person shall be granted all of the rights and be subject to all of the duties applicable to pedestrians as provided for in this ordinance. (*)

12-3-7 PUBLIC OFFICERS AND EMPLOYEES TO OBEY ORDINANCE--EXCEPTIONS.

A. The provisions of this ordinance, applicable to the drivers of vehicles upon the streets and highways, shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this ordinance, with reference to authorized emergency vehicles.

B. Unless specifically made applicable, the provisions of this ordinance shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work. (66-7-5 NMSA 1978)

ARTICLE I

DEFINITIONS

12-1-1 Definition of Words and Phrases

A

12-1-2 Abandoned Vehicle
12-1-3 Access Aisle
12-1-4 Actual Empty Weight
12-1-5 Additional Place of Business
12-1-6 Administrator
12-1-7 Alcoholic Beverages
12-1-8 Alley
12-1-9 Authorized Emergency Vehicle
12-1-10 Autocycles
12-1-11 Automated Driving System
12-1-12 Autonomous Commercial Motor Vehicle
12-1-13 Autonomous Motor Vehicle
12-1-14 Autonomous Motor Vehicle Operator
12-1-15 Autonomous Motor Vehicle Testing or Autonomous Commercial Motor Vehicle Testing
12-1-16 Auto Recycler

B

12-1-17 Bicycle
12-1-18 Bureau
12-1-19 Bus
12-1-20 Business District

C

12-1-21 Camping Body
12-1-22 Camping Trailer
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12-1-25 Chassis
12-1-26 Collector
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12-1-28 Combination Gross Vehicle Weight
12-1-29 Commerce
12-1-30 Commercial Motor Vehicle
12-1-31 Controlled Access Highway
12-1-32 Controlled Substance
12-1-33 Converter Gear
12-1-34 Conviction
12-1-35 Credential Holder
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12-1-37 Curb Cut
12-1-38 Curb Loading Zone

D

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12-1-45 Designated Accessible Parking Space For Persons With Significant Mobility Limitation
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12-1-47 Disqualification
12-1-48 Distinguishing Number
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E

12-1-57 Electric-Assisted Bicycle
12-1-58 Electric Mobility Device
12-1-59 Electric Personal Assistive Mobility Device
12-1-60 Electronic Credential
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12-1-64 Evidence of Registration
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12-1-66 Farm Tractor
12-1-67 Financial Responsibility
12-1-68 First Offenders
12-1-69 Flammable Liquid
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12-1-71 Foreign Jurisdiction
12-1-72 Foreign Vehicle
12-1-73 Freight Curb Loading Zone
12-1-74 Freight Trailer

G

12-1-75 Gross Combination Vehicle Weight
12-1-76 Gross Combination Weight Rating
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12-1-78 Gross Vehicle Weight
12-1-79 Gross Vehicle Weight Rating

H

12-1-80	Hazardous Material
12-1-81	Highway or Street
12-1-82	Historic or Special Interest Vehicle
12-1-83	Horseless Carriage
12-1-84	House Trailer

I

12-1-85	Identification Card
12-1-86	Implement of Husbandry
12-1-87	International Registration Plan
12-1-88	Intersection
12-1-89	Interstate Highway
12-1-90	Inventory

J

12-1-91	Jurisdiction

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12-1-92	Laned Roadway
12-1-93	Law Enforcement Agency Designated by the Division
12-1-94	Lawful Status
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12-1-96	Lien or Encumbrance
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12-1-99	Manufactured Home
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12-1-101	Manufacturer’s Certificate of Origin
12-1-102	Measurement
12-1-103	Mobile Home
12-1-104	Moped
12-1-105	Motorcycle
12-1-106	Motor Carrier
12-1-107	Motor Driven Cycle
12-1-108	Motor Home
12-1-109	Motor Scooter
12-1-110	Motor Vehicle
12-1-111	Motor Vehicle Insurance Policy

N

12-1-112	Natural Gas Vehicle
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12-1-120 Nonresident's Operating Privilege

O
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12-1-138 Platoon
12-1-139 Pneumatic Tire
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12-1-215 Any Other Term

12-1-1 DEFINITION OF WORDS AND PHRASES.

A. The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in Sections 12-1-1 through 12-1-89. (*)

B. When in a specific section of this ordinance a different meaning is given for a term defined for general purposes in this section, the specific section's meaning and application of the term shall control. (66-1-4 NMSA 1978)

12-1-2 ABANDONED VEHICLE. "Abandoned Vehicle" means a vehicle or motor vehicle that has been determined by a New Mexico law enforcement agency:

(1) to have been left unattended on either public or private property for at least thirty days;

(2) not to have been reported stolen;

(3) not to have been claimed by any person asserting ownership; and

(4) not to have been shown by normal record checking procedures to be owned by any person. (66-1-4.1 NMSA 1978)

12-1-3 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 limitation and that may be common to two such parking spaces of at least sixty inches in width or, if the

parking space is designed for van accessibility, ninety-six 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 (66-1-4.1 NMSA 1978).

12-1-4 ACTUAL EMPTY WEIGHT. "Actual Empty Weight" means the weight of a vehicle without a load. (66-1-4.1 NMSA 1978)

12-1-5 ADDITIONAL PLACE OF BUSINESS. "Additional Place of Business", for dealers and auto recyclers, means locations in addition to an established place of business as defined in Section 66-1-4.5 NMSA 1978 and meeting all the requirements of an established place of business, except Paragraph (5) of Subsection C of Section 66-1-4.5 NMSA 1978, but "additional place of business" does not mean a location used solely for storage and that is not used for wrecking, dismantling, sale or resale of vehicles. (66-1-4.1 NMSA 1978)

12-1-6 ADMINISTRATOR. "Administrator" means the chief executive employee of the municipality; including but not limited to the manager, clerk or administrator, or his designated representative. (*)

12-1-7 ALCOHOLIC BEVERAGES. "Alcoholic Beverages" means any and all distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar alcoholic beverage, including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half percent alcohol but excluding medicinal bitters. (66-1-4.1 NMSA 1978)

12-1-8 ALLEY. "Alley" means a street intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic. (*)

12-1-9 AUTHORIZED EMERGENCY VEHICLE. "Authorized Emergency Vehicle" means any fire department vehicle, police vehicle and ambulance and any emergency vehicles of municipal departments or public utilities that are designated or authorized as emergency vehicles by the director of the New Mexico state police division of the department of public safety or the administrator. (66-1-4.1 NMSA 1978)

12-1-10 AUTOCYCLE. "Autocycle" means a three-wheeled motorcycle on which the driver and all passengers ride in a completely or partially enclosed, seating area and that is manufactured to comply with all applicable federal standards, regulations and laws and is equipped with:

(1) non-straddle seating;
(2) rollover protection;
(3) safety belts for all occupants;
(4) antilock brakes;
(5) a steering wheel; and
(6) pedals. (66-1-4.1 NMSA 1978)

12-1-11 AUTOMATED DRIVING SYSTEM. "Automated Driving System" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain; "automated driving system" is used specifically to describe a level three, four or five driving automation system as defined in society of automotive engineers standard J3016, as published in the Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles. (66-1-4.1 NMSA 1978)

12-1-12 AUTONOMOUS COMMERCIAL MOTOR VEHICLE. "Autonomous Commercial Motor Vehicle" means a commercial motor vehicle, as defined in Subsection J of Section 66-1-4.3 NMSA 1978, that is being controlled by an automated driving system. (66-1-4.1 NMSA 1978)

12-1-13 AUTONOMOUS MOTOR VEHICLE. "Autonomous Motor Vehicle" means a motor vehicle that is being controlled by an automated driving system. (66-1-4.1 NMSA 1978)

12-1-14 AUTONOMOUS MOTOR VEHICLE OPERATOR. "Autonomous Motor Vehicle Operator" means the person who engages the automated driving system of an autonomous motor vehicle or autonomous commercial motor vehicle. (66-1-4.1 NMSA 1978)

12-1-15 AUTONOMOUS MOTOR VEHICLE TESTING or AUTONOMOUS COMMERCIAL MOTOR VEHICLE TESTING. "Autonomous Motor Vehicle Testing" or "Autonomous Commercial Motor Vehicle Testing" means activities taken in full or in part to evaluate and assess:

(1) the automated driving system's performance of the dynamic driving task; and

(2) the automated driving system's performance with respect to applicable safety areas as defined by the federal national highway traffic safety administration for autonomous vehicle operations. (66-1-4.1 NMSA 1978)

12-1-16 AUTO RECYCLER. "Auto Recycler" means a person engaged in this state in an established business that includes acquiring vehicles that are required to be registered under this ordinance for the purpose of dismantling, wrecking, shredding, compacting, crushing or otherwise destroying vehicles for reclaimable parts or scrap material to sell (66-1-4.1 NMSA 1978).

12-1-17 BICYCLE. "Bicycle" means every device propelled by human power, upon which any person may ride, having two tandem wheels, except scooters and similar devices. (66-1-4.2 NMSA 1978)

12-1-18 BUREAU. "Bureau" means the traffic safety bureau of the department of transportation. (66-1-4.2 NMSA 1978)

12-1-19 BUS. "Bus" means every motor vehicle designed and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. (66-1-4.2 NMSA 1978)

12-1-20 BUSINESS DISTRICT. "Business District" means the territory contiguous to and including a street and within three hundred feet along the street where there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings that occupy at least fifty percent of the frontage on one side or fifty percent of the frontage collectively on both sides of the street. (66-1-4.2 NMSA 1978)

12-1-21 CAMPING BODY. "Camping Body" means a vehicle body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities excluding recreational vehicles unless used in commerce. (66-1-4.3 NMSA 1978)

12-1-22 CAMPING TRAILER. "Camping Trailer" means a camping body, mounted on a chassis, or frame with wheels, designed to be drawn by another vehicle and that has collapsible partial side walls that fold for towing and unfold at the campsite. (66-1-4.3 NMSA 1978)

12-1-23 CANCELLATION. "Cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license, but cancellation of a license is without prejudice and application for a new license may be made at any time after cancellation. (66-1-4.3 NMSA 1978)

12-1-24 CASUAL SALE. "Casual Sale" means the sale of a motor vehicle by the registered owner of the vehicle if the owner has not sold more than four vehicles in that calendar year. (66-1-4.3 NMSA 1978)

12-1-25 CHASSIS. "Chassis" means the complete motor vehicle, including standard factory equipment, exclusive of the body and cab. (66-1-4.3 NMSA 1978)

12-1-26 COLLECTOR. "Collector" means a person who is the owner of one or more vehicles of historic or special interest who collects, purchases, acquires, trades or disposes of these vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a similar vehicle for hobby purposes. (66-1-4.3 NMSA 1978)

12-1-27 COMBINATION. "Combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers, or semitrailers converted to trailers by means of a converter gear. (66-1-4.3 NMSA 1978)

12-1-28 COMBINATION GROSS VEHICLE WEIGHT. "Combination Gross Vehicle Weight" means the sum total of the gross vehicle weights of all units of a combination. (66-1-4.3 NMSA 1978)

12-1-29 COMMERCE. "Commerce" means the transportation of persons, property or merchandise for hire, compensation, profit or in the furtherance of a commercial

enterprise in this state or between New Mexico and a place outside New Mexico, including a place outside the United States. (66-1-4.3 NMSA 1978)

12-1-30 COMMERCIAL MOTOR VEHICLE. "Commercial motor vehicle" means a self-propelled or towed vehicle, other than special mobile equipment, used on public highways in commerce to transport passengers or property when the vehicle:

(1) is operated interstate and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of four thousand five hundred thirty-six kilograms, or ten thousand one pounds or more; or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-six thousand one or more pounds;

(2) is designed or used to transport more than eight passengers, including the driver, and is used to transport passengers for compensation;

(3) is designed or used to transport sixteen or more passengers, including the driver, and is not used to transport passengers for compensation; or

(4) is used to transport hazardous materials of the type or quantity requiring placarding under rules prescribed by applicable federal or state law. (66-1-4.3 NMSA 1978)

12-1-31 CONTROLLED ACCESS HIGHWAY. "Controlled Access Highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at those points only and in the manner as may be determined by the public authority having jurisdiction over the highway, street or roadway. (66-1-4.3 NMSA 1978)

12-1-32 CONTROLLED SUBSTANCE. "Controlled Substance" means any substance defined in Section 30-31-2 NMSA 1978 as a controlled substance. (66-1-4.3 NMSA 1978)

12-1-33 CONVERTER GEAR. "Converter Gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semitrailer but not permanently attached thereto. A converter gear shall not be considered a vehicle, as that term is defined in Section 66-1-4.19 NMSA 1978, , but weight attributable thereto shall be included in declared gross weight. (66-1-4.3 NMSA 1978)

12-1-34 CONVICTION. "Conviction"

(1) means:

(a) a finding of guilt in the trial court in regard to which the violator has waived or exhausted all rights to appeal;

(b) a plea of guilty or nolo contendere accepted by the court;

(c) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court; or

(d) the promise to mail a payment on a penalty assessment; and does not include a conditional discharge as provided in Section 31-20-13 NMSA 1978 or a deferred sentence when the terms of the deferred sentence are met. (66-1-4.3 NMSA 1978)

12-1-35 CREDENTIAL HOLDER. "Credential Holder" means a person who has been issued a physical or an electronic credential. (66-1-4.3 NMSA 1978)

12-1-36 CROSSWALK. "Crosswalk" means:

(1) Part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(2) Any portion of a street at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. (66-1-4.3 NMSA 1978)

12-1-37 CURB CUT. "Curb Cut" means a short ramp through a curb or built up to the curb. (66-1-4.3 NMSA 1978)

12-1-38 CURB LOADING ZONE. "Curb Loading Zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials. (*)

12-1-39 DATA ELEMENT. "Data Element" means a distinct component of a customer's information that is found on the department's customer record. (66-1-4.4 NMSA 1978)

12-1-40 DAY. "Day" means calendar day, unless otherwise provided in this Ordinance. (66-1-4.4 NMSA 1978)

12-1-41 DAYTIME. "Daytime" means from a half hour before sunrise to a half hour after sunset. (*)

12-1-42 DEALER. "Dealer" except as specifically excluded, means any person who sells or solicits or advertises the sale of new or used motor vehicles, manufactured homes or trailers subject to registration in this state. Dealer does not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers;

(3) persons making casual sales of their own vehicles duly registered and licensed to them by the state of New Mexico;

(4) finance companies, banks and other lending institutions making sales of repossessed vehicles; or

(5) licensed brokers under the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] who, for a fee, commission or other valuable consideration engage in brokerage activities related to the sale, exchange or lease purchase of pre-owned manufactured homes on a site installed for a consumer. (66-1-4.4 NMSA 1978)

12-1-43 DECLARED GROSS WEIGHT. "Declared Gross Weight" means the maximum gross vehicle weight or gross combination vehicle weight at which a vehicle or combination will be operated during the registration period, as declared by the registrant for registration and fee purposes; the vehicle or combination shall have only one declared gross weight for all operating considerations. (66-1-4.4 NMSA 1978)

12-1-44 DEPARTMENT. "Department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary. (66-1-4.4 NMSA 1978)

12-1-45 DESIGNATED ACCESSIBLE PARKING SPACE FOR PERSONS WITH SIGNIFICANT MOBILITY LIMITATION. "Designated Accessible Parking Space For Persons With Significant Mobility Limitation" means any space, including an access aisle, that is marked and reserved for the parking of a passenger vehicle that carries registration plates or a parking placard with the international symbol of access issued in accordance with Section 66-3-16 NMSA 1978 and that is designated by a conspicuously posted sign bearing the international symbol of access and, if the parking space is paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space. (66-1-4.4 NMSA 1978)

12-1-46 DIRECTOR. "Director" means the secretary of the state taxation and revenue department. (66-1-4.4 NMSA 1978)

12-1-47 DISQUALIFICATION. "Disqualification" means a prohibition against driving a commercial motor vehicle. (66-1-4.4 NMSA 1978)

12-1-48 DISTINGUISHING NUMBER. "Distinguishing Number" means the number assigned by the department to a vehicle whose identifying number has been destroyed or obliterated or the number assigned by the department to a vehicle that has never had an identifying number. (66-1-4.4 NMSA 1978)

12-1-49 DISTRIBUTOR. "Distributor" means a person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer. (66-1-4.4 NMSA 1978)

12-1-50 DIVIDED STREET. "Divided Street" means any street containing a physical barrier, intervening space or clearly indicated dividing section so construed to impede vehicular traffic and separating vehicular traffic traveling in opposite directions. (*)

12-1-51 DIVISION. "Division" without further specification, "division of motor vehicles" or "motor vehicle division" means the department. (66-1-4.4 NMSA 1978)

12-1-52 DRIVEAWAY-TOWAWAY OPERATION. "Driveaway-Towaway Operation" means an operation in which any motor vehicle, new or used, is the item being transported, when one set or more of wheels of any such motor vehicle is on the roadway during the course of transportation, whether or not the motor vehicle furnishes the motive power. (66-1-4.4 NMSA 1978)

12-1-53 DRIVER. "Driver" means every person who drives or is in actual physical control of a motor vehicle, including a motorcycle, upon a highway, who is exercising control over, or steering, a vehicle being towed by a motor vehicle or who operates or is in actual physical control of an off-highway motor vehicle. (66-1-4.4 NMSA 1978)

12-1-54 DRIVER-ASSISTED PLATOON. "Driver-Assisted Platoon" means a series of motor vehicles platooning with a driver in each vehicle. (66-1-4.4 NMSA 1978)

12-1-55 DRIVER'S LICENSE. "Driver's License" means a license permit or driving authorization card issued by a state or other jurisdiction recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and includes a REAL ID-compliant driver's license and a standard driver's license. (66-1-4.4 NMSA 1978)

12-1-56 DYNAMIC DRIVING TASK. "Dynamic Driving Task" means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints. (66-1-4.4 NMSA 1978)

12-1-57 ELECTRIC-ASSISTED BICYCLE. "Electric-Assisted Bicycle" means a vehicle having two or three wheels, fully operable pedals and an electric motor. (66-1-4.5 NMSA 1978). Electric-assisted bicycles are classified as follows:

(1) "Class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour;

(2) "Class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour; and

(3) "Class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour. (66-1-4.5 NMSA 1978)

12-1-58 ELECTRIC MOBILITY DEVICE. "Electric Mobility Device" means a two- or three-wheel vehicle with an electric motor for propulsion that does not meet the

definition of an electric-assisted bicycle and is capable of exceeding a speed of twenty miles per hour on motor power alone. (66-1-4.5 NMSA 1978)

12-1-59 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. "Electric Personal Assistive Mobility Device" means a self-balancing device having two nontandem wheels designed to transport a single person by means of an electric propulsion system with an average power of one horsepower and with a maximum speed on a paved level surface of less than twenty miles per hour when powered solely by its propulsion system and while being ridden by an operator who weighs one hundred seventy pounds. (66-1-4.5 NMSA 1978)

12-1-60 ELECTRONIC CREDENTIAL. "Electronic Credential" means an electronic extension of the department-issued physical credential that conveys identity and driving privilege information. (66-1-4.5 NMSA 1978)

12-1-61 ELECTONIC CREDENTIAL SYSTEM. "Electronic Credential system" means a digital process that includes a method for loading electronic credentials onto a device, issuing electronic credentials, requesting and transmitting electronic credential data elements and performing tasks to maintain the system. (66-1-4.5 NMSA 1978)

12-1-62 ESSENTIAL PARTS. "Essential Parts" means all integral and body parts of a vehicle of a type required to be registered by the provisions of this ordinance, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation. (66-1-4.5 NMSA 1978)

12-1-63 ESTABLISHED PLACE OF BUSINESS. "Established Place of Business", for a dealer or auto recycler, means a place:

(1) devoted exclusively to the business for which the dealer or auto recycler is licensed and related business;

(2) identified by a prominently displayed sign giving the dealer's or auto recycler's trade name used by the business;

(3) of sufficient size or space to permit the display of one or more vehicles or to permit the parking or storing of vehicles to be dismantled or wrecked for recycling;

(4) on which there is located an enclosed building on a permanent foundation, which building meets the building requirements of the community and is large enough to accommodate the office or offices of the dealer or auto recycler and large enough to provide a safe place to keep the books and records of the dealer or auto recycler;

(5) where the principal portion of the business of the dealer or auto recycler is conducted and where the books and records of the business are kept and maintained; and

(6) where vehicle sales are of new vehicles only, such as a department store or a franchisee of a department store, as long as the department store or franchisee

keeps the books and records of its vehicle business in a general office location at its place of business; as used in this paragraph, "department store" means a business that offers a variety of merchandise other than vehicles, and sales of the merchandise other than vehicles constitute at least eighty percent of the gross sales of the business. (66-1-4.5 NMSA 1978)

12-1-64 EVIDENCE OF REGISTRATION. "Evidence of Registration" means any documentation issued by the department identifying a motor carrier vehicle as being registered with New Mexico or documentation issued by another state pursuant to the terms of a multistate agreement on registration of vehicles to which this state is a party identifying a motor carrier vehicle as being registered with that state; provided that evidence of payment of the weight distance tax and permits obtained under either the Special Fuels Supplier Tax Act [Chapter 7, Article 16A NMSA 1978] or Trip Tax Act [Chapter 7, Article 15 NMSA 1978] are not "evidence of registration". (66-1-4.21 NMSA 1978)

12-1-65 EXPLOSIVES. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. (66-1-4.5 NMSA 1978)

12-1-66 FARM TRACTOR. "Farm Tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows and mowing machines and other implements of husbandry. (66-1-4.6 NMSA 1978)

12-1-67 FINANCIAL RESPONSIBILITY. "Financial Responsibility" means the ability to respond in damages for liability resulting from traffic accidents arising out of the ownership, maintenance or use of a motor vehicle of a type subject to registration under the laws of New Mexico, in amounts not less than specified in the Mandatory Financial Responsibility Act [66-5-201 to 66-5-239 NMSA 1978] or having in effect a motor vehicle insurance policy. "Financial responsibility" includes a motor vehicle insurance policy, a surety bond or evidence of a sufficient cash deposit with the state treasurer. (66-1-4.6 NMSA 1978)

12-1-68 FIRST OFFENDER. "First Offender" means a person who for the first time under state or federal law or a municipal ordinance or a tribal law has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any other drug that renders the person incapable of safely driving a motor vehicle regardless of whether the person's sentence was suspended or deferred. (66-1-4.6 NMSA 1978)

12-1-69 FLAMMABLE LIQUID. "Flammable Liquid" means any liquid that has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device. (66-1-4.6 NMSA 1978)

12-1-70 FLEET. "Fleet" means one or more motor carrier vehicles, either commercial or noncommercial but not mixed, that are operated in this and at least one other jurisdiction. (66-1-4.21 NMSA 1978)

12-1-71 FOREIGN JURISDICTION. "Foreign Jurisdiction" means any jurisdiction other than a state of the United States or the District of Columbia. (66-1-4.6 NMSA 1978)

12-1-72 FOREIGN VEHICLE. "Foreign Vehicle" means every vehicle of a type required to be registered under the provisions of this ordinance brought into this state from another state, territory or country. (66-1-4.6 NMSA 1978)

12-1-73 FREIGHT CURB LOADING ZONE. "Freight Curb Loading Zone" means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight. (*)

12-1-74 FREIGHT TRAILER. "Freight Tailer" means any trailer, semitrailer or pole trailer drawn by a truck tractor or road tractor, and any trailer, semitrailer or pole trailer drawn by a truck that has a gross vehicle weight of more than twenty-six thousand pounds, but "freight trailer" does not include manufactured homes, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight. (66-1-4.6 NMSA 1978)

12-1-75 GROSS COMBINATION VEHICLE WEIGHT. "Gross combination Vehicle Weight" means the total of the gross vehicle weights of all units of a combination. (66-1-4.7 NMSA 1978)

12-1-76 GROSS COMBINATION WEIGHT RATING. "Gross Combination Weight Rating" means the value specified by the manufacturer as the loaded weight of a combination; however, in the absence of a value specified by the manufacturer, the gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit or units and the load on those units. (66-1-4.7 NMSA 1978)

12-1-77 GROSS FACTORY SHIPPING WEIGHT. "Gross Factory Shipping Weight" means the weight indicated on the manufacturer's certificate of origin. (66-1-4.7 NMSA 1978)

12-1-78 GROSS VEHICLE WEIGHT. "Gross Vehicle Weight" means the weight of a loaded vehicle. (66-1-4.7 NMSA 1978)

12-1-79 GROSS VEHICLE WEIGHT RATING. "Gross Vehicle Weight Rating" means the value specified by the manufacturer as the loaded weight of a single vehicle. (66-1-4.7 NMSA 1978)

12-1-80 HAZARDOUS MATERIAL. "Hazardous Material" means a substance or material in a quantity and form that may pose an unreasonable risk to health, safety or property when transported in commerce. (66-1-4.8 NMSA 1978)

12-1-81 HIGHWAY OR STREET. "Highway" or "Street" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction. (66-1-4.8 NMSA 1978)

12-1-82 HISTORIC OR SPECIAL INTEREST VEHICLE. "Historic or Special Interest Vehicle" means a vehicle of any age that, because of its significance, is being collected, preserved, restored or maintained by a collector as a leisure pursuit. (66-1-4.8 NMSA 1978)

12-1-83 HORSELESS CARRIAGE. "Horseless Carriage" means a motor vehicle at least thirty-five years old that is owned as a collector's item and used solely for exhibition and educational purposes. (66-1-4.8 NMSA 1978)

12-1-84 HOUSE TRAILER. "House Trailer" means a manufactured home. (66-1-4.8 NMSA 1978)

12-1-85 IDENTIFICATION CARD. "Identification Card" means a document issued by the department or the motor vehicle administration of a state or other jurisdiction recognized under the laws of New Mexico that identifies the holder and includes a REAL ID-compliant identification card and a standard identification card. (66-1-4.9 NMSA 1978)

12-1-86 IMPLEMENT OF HUSBANDRY. "Implement of Husbandry" means every vehicle that is designed for agricultural purposes and exclusively used by the owner thereof in the conduct of his agricultural operations. (66-1-4.9 NMSA 1978)

12-1-87 INTERNATIONAL REGISTRATION PLAN. "International Registration Plan" means the registration reciprocity agreement among the contiguous states of the United States, the District of Columbia and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions. The international registration plan is a method of registering fleets of vehicles that travel in two or more member jurisdictions and complies with the federal Intermodal Surface Transportation Efficiency Act of 1991. (66-1-4.9 NMSA 1978)

12-1-88 INTERSECTION.

A. "Intersection" means:

(1) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways or two streets that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

(2) Where a street includes two roadways thirty feet or more apart, every crossing of each roadway of that divided street by an intersecting street shall be regarded as a separate intersection in the event that the intersecting street also includes two roadways thirty feet or more apart, every crossing of two roadways of those highways shall be regarded as a separate intersection. (66-1-4.9 NMSA 1978)

B. The junction of an alley with a roadway shall not constitute an intersection. (*)

12-1-89 INTERSTATE HIGHWAY. "Interstate Highway" means any public highway which has been designated as an interstate highway by the government of the United States. (*)

12-1-90 INVENTORY. "Inventory", when referring to a vehicle dealer, means a vehicle held for sale or lease in the ordinary course of business, the cost of which is used in calculating the dealer's cost of goods sold for federal income tax purposes. (66-1-4.9 NMSA 1978)

12-1-91 JURISDICTION. "Jurisdiction", without modification, means "state". (66-1-4.9 NMSA 1978)

12-1-92 LANED ROADWAY. "Laned Roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic. (66-1-4.10 NMSA 1978)

12-1-93 LAW ENFORCEMENT AGENCY DESIGNATED BY THE DIVISION. "Law Enforcement Agency Designated by the Division" means the law enforcement agency indicated on the dismantler's notification form as the appropriate agency for the receipt of the appropriate copy of that form. (66-1-4.10 NMSA 1978)

12-1-94 LAWFUL STATUS. "Lawful Status" means the legal right to be present in the United States, as that phrase is used in the federal REAL ID Act of 2005. (66-1-4.10 NMSA 1978)

12-1-95 LICENSE OR LICENSE TO OPERATE A MOTOR VEHICLE. "License" or "License to Operate a Motor Vehicle" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state or other jurisdiction recognized under the laws of New Mexico, pertaining to the authorizing of persons to operate motor vehicles and includes a REAL ID-compliant driver's license and a standard driver's license including (66-1-4.10 NMSA 1978):

(1) any temporary license or instruction permit;

(2) the privilege of any person to drive a motor vehicle whether or not the person holds a valid license; and

(3) any nonresident's operating privilege as defined herein. (*)

12-1-96 LIEN OR ENCUMBRANCE. "Lien" or "Encumbrance" means every chattel mortgage, conditional sales contract, lease, purchase lease, sales lease, contract, security interest under the Uniform Commercial Code or other instrument in writing having the effect of a mortgage or lien or encumbrance upon, or intended to hold, the title to any vehicle in the former owner, possessor or grantor. (66-1-4.10 NMSA 1978)

12-1-97 LOCAL AUTHORITIES. "Local Authorities" means every county, municipality and any local board or body having authority to enact laws relating to traffic under the constitution and laws of this state. (66-1-4.10 NMSA 1978)

12-1-98 MAIL. "Mail" means any item properly addressed with postage prepaid delivered by the United States postal service or any other public or private enterprise primarily engaged in the transport and delivery of letters, packages and other parcels. (66-1-4.11 NMSA 1978)

12-1-99 MANUFACTURED HOME. "Manufactured Home" means a movable or portable housing structure that exceeds either a width of eight feet or a length of forty feet, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy. (66-1-4.11 NMSA 1978)

12-1-100 MANUFACTURER. "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered under this ordinance. (66-1-4.11 NMSA 1978)

12-1-101 MANUFACTURER'S CERTIFICATE OF ORIGIN. "Manufacturer's Certificate of Origin" means a certification, on a form supplied by or approved by the department, signed by the manufacturer that the new vehicle or boat described in the certificate has been transferred to the New Mexico dealer or distributor named in the certificate or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States and that such transfer is the first transfer of the vehicle or boat in ordinary trade and commerce. (66-1-4.11 NMSA 1978)

12-1-102 MEASUREMENT. "Measurement" means in reference to this ordinance or whenever any provision of the Motor Vehicle Code or regulations promulgated thereunder refers to weight, height, length, width or speed in English units of measurement, it also refers to the metric equivalent of those units or, when adopted, to the metric substitutes for those units adopted by the state highway and transportation department. (66-1-5 NMSA 1978)

12-1-103 MOBILE HOME. "Mobile Home" means a house trailer, other than one held as inventory for sale or resale, that exceeds either a width of eight feet or a length of forty feet, when equipped for the road. (*)

12-1-104 MOPED. "Moped" means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a piston displacement of less than fifty cubic centimeters, that is capable of propelling the vehicle at a maximum speed of not more than thirty miles an hour on level ground at sea level. (66-1-4.11 NMSA 1978)

12-1-105 MOTORCYCLES. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including autocycles and excluding a tractor. (66-1-4.11 NMSA 1978)

12-1-106 MOTOR CARRIER. "Motor Carrier" means any person or firm that owns, controls, operates or manages any motor vehicle with gross vehicle weight of twelve

thousand pounds or more that is used to transport persons or property on the public highways of this state. (66-1-4.21 NMSA 1978)

12-1-107 MOTOR DRIVEN CYCLE. "Motor Driven Cycle" means every motorcycle, motor scooter and moped having an engine with less than one hundred cubic centimeters displacement. (*)

12-1-108 MOTOR HOME "Motor Home" means a camping body built on a self-propelled motor vehicle chassis so designed that seating for driver and passengers is within the body itself. (66-1-4.11 NMSA 1978)

12-1-109 MOTOR SCOOTER. "Motor Scooter" means a motor-driven cycle as defined in this section. (*)

12-1-110 MOTOR VEHICLE. "Motor Vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails, including an electronic mobility device, but does not include an electric-assisted bicycle; for the purposes of the Mandatory Financial Responsibility Act [66-5-201 to 66-5-239 NMSA 1978], "motor vehicle" does not include "special mobile equipment." (66-1-4.11 NMSA 1978)

12-1-111 MOTOR VEHICLE INSURANCE POLICY "Motor Vehicle Insurance Policy" means a policy of vehicle insurance that covers self-propelled vehicles of a kind required to be registered pursuant to New Mexico law for use on the public streets and highways. A "motor vehicle insurance policy":

(1) shall include:

(a) motor vehicle bodily injury and property damage liability coverages in compliance with the Mandatory Financial Responsibility Act; and

(b) uninsured motorist coverage, subject to the provisions of Section 66-5-301 NMSA 1978 permitting the insured to reject such coverage; and

(2) may include:

(a) physical damage coverage;

(b) medical payments coverage; and

(c) other coverages that the insured and the insurer agree to include within the policy. (66-1-4.11 NMSA 1978)

12-1-112 NATURAL GAS VEHICLE "Natural Gas Vehicle" means a vehicle operated by an engine that primarily uses natural gas. (66-1-4.12 NMSA 1978)

12-1-113 NEIGHBORHOOD ELECTRIC CAR "Neighborhood Electric Car" means a four-wheeled electric motor vehicle that has a maximum speed of more than twenty miles per hour but less than twenty-five miles per hour and complies with the federal requirements specified in 49 CFR 571.500. (66-1-4.12 NMSA 1978)

12-1-114 NIGHTTIME. "Nighttime" means the hours from a half hour after sunset to a half hour before sunrise. (*)

12-1-115 NONREPAIRABLE VEHICLE "Nonrepairable Vehicle" means a vehicle of a type otherwise subject to registration that:

(1) has no resale value except as a source of parts or scrap metal or that the owner irreversibly designates as a source of parts or scrap metal or for destruction;

(2) has been substantially stripped as a result of theft or is missing all of the bolts on sheet metal body panels, all of the doors and hatches, substantially all of the interior components and substantially all of the grill and light assemblies and has little or no resale value other than its worth as a source of a vehicle identification number that could be used illegally; or

(3) is a substantially burned vehicle that has burned to the extent that there are no more usable or repairable body or interior components, tires and wheels or drive train components or that the owner irreversibly designates for destruction or as having little or no resale value other than its worth as a source of scrap metal or as a source of a vehicle identification number that could be used illegally. (66-1-4.12 NMSA 1978)

12-1-116 NONREPAIRABLE VEHICLE CERTIFICATE "Nonrepairable Vehicle Certificate" means a vehicle ownership document conspicuously labeled "NONREPAIRABLE" issued to the owner of the nonrepairable vehicle. (66-1-4.12 NMSA 1978)

12-1-117 NONRESIDENT OR NON-DOMICILED. "Nonresident" or "Non-Domiciled" means every person who is not a resident of this state. (66-1-4.12 NMSA 1978)

12-1-118 NONRESIDENT COMMERCIAL DRIVER'S INSTRUCTION PERMIT OR NON-DOMICILED COMMERCIAL DRIVER'S INSTRUCTION PERMIT. "Nonresident Commercial Driver's Instruction Permit" or "Non-Domiciled Commercial Driver's Instruction Permit" means a commercial driver's instruction permit issued by another state to a person domiciled in that state or by a foreign country to a person domiciled in that country. (66-1-4.12 NMSA 1978)

12-1-119 NONRESIDENT COMMERCIAL DRIVER'S LICENSE OR NON-DOMICILED COMMERCIAL DRIVER'S LICENSE. "Nonresident Commercial Driver's License" or "Non-Domiciled Commercial Driver's License" means a commercial driver's license issued by another state to a person domiciled in that state or by a foreign country to a person domiciled in that country. (66-1-4.12 NMSA 1978)

12-1-120 NONRESIDENT'S OPERATING PRIVILEGE. "Nonresident's Operating Privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by the nonresident of a motor vehicle, or the use of a motor vehicle owned by the nonresident, in this state. (66-1-4.12 NMSA 1978)

12-1-121 ODOMETER. "Odometer" means a device for recording the total mileage traveled by a vehicle from the vehicle's manufacture and for so long as the vehicle is operable on the highways. (66-1-4.13 NMSA 1978)

12-1-122 ONE-WAY RENTAL FLEET. "One-Way Rental Fleet" means two or more vehicles each having a gross vehicle weight of under twenty-six thousand one pounds and rented to the public without a driver. (66-1-4.21 NMSA 1978)

12-1-123 OFF-HIGHWAY MOTOR VEHICLE. "Off-Highway Motor Vehicle" means any motor vehicle operated or used exclusively off the highways of this state and that is not legally equipped for operation on the highways of this state, but does not include an electric-assisted bicycle. (66-1-4.13 NMSA 1978)

12-1-124 OFFICIAL PRINTOUT. "Official Printout" means any record supplied by the division or a similar agency or government entity that indicates the lienholders of record or owners of record of a vehicle or motor vehicle registered within that government's jurisdiction or indicates information about a driver's license or identification card, including traffic violation history or status. (66-1-4.13 NMSA 1978)

12-1-125 OFFICIAL TIME STANDARD. "Official Time Standard" means whenever certain hours are named in this ordinance they shall mean standard time or daylight-saving time as may be in current use in this municipality. (*)

12-1-126 OFFICIAL TRAFFIC-CONTROL DEVICES. "Official Traffic-Control Devices" means all signs, signals, markings and devices not inconsistent with this ordinance placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic. (66-1-14.13 NMSA 1978)

12-1-127 OPERATIONAL DESIGN DOMAIN. "Operational Design Domain" means the specific conditions under which a given automated driving system or feature of the system is designed to function. (66-1-4.13 NMSA 1978)

12-1-128 OPERATOR. "Operator" means driver, as defined in Section 66-1-4.4 NMSA 1978. (66-1-4.13 NMSA 1978)

12-1-129 OWNER. "Owner" means a person who holds the legal title of a vehicle and may include a conservator, guardian, personal representative, executor or similar fiduciary or, in the event that a vehicle is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event that a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor. (66-1-4.13 NMSA 1978)

12-1-130 PARK OR PARKING. "Park or Parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading and unloading. (66-1-4.14 NMSA 1978)

12-1-131 PARKING LOT. "Parking Lot" means a parking area provided for the use of patrons of any office of state or local government or of any public accommodation, retail or commercial establishment. (66-1-4.14 NMSA 1978)

12-1-132 PARTS CAR. "Parts Car" means a motor vehicle generally in nonoperable condition that is owned by a collector to furnish parts that are usually nonobtainable from normal sources, thus enabling a collector to preserve, restore and maintain a motor vehicle of historic or special interest. (66-1-4.14 NMSA 1978)

12-1-133 PASSENGER CURB LOADING ZONE. "Passenger Curb Loading Zone" means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers. (*)

12-1-134 PEDESTRIAN. "Pedestrian" means any natural person on foot. (66-1-4.14 NMSA)

12-1-135 PERSON. "Person" means every natural person, firm, copartnership, association, corporation, or other legal entity. (66-1-4.14 NMSA 1978)

12-1-136 PERSONAL INFORMATION. "Personal Information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address other than zip code, telephone number and medical or disability information, but "personal information" does not include information on vehicles, vehicle ownership, vehicular accidents, driving violations or driver status. (66-1-4.14 NMSA 1978)

12-1-137 PLACARD OR PARKING PLACARD. "Placard" or "Parking Placard" means a card-like device that identifies the vehicle as being currently in use to transport a person with severe mobility impairment and issued pursuant to Section 66-3-16 NMSA 1978 to be displayed inside a motor vehicle so as to be readily visible to an observer outside the vehicle. (66-1-4.14 NMSA 1978)

12-1-138 PLATOON. "Platoon" means a series of motor vehicles that are traveling in a unified manner by means of being connected with wireless communications or other technology allowing for coordinated movement. (66-1-4.14 NMSA 1978)

12-1-139 PNEUMATIC TIRE. "Pneumatic Tire" means every tire in which compressed air is designed to support the load. (66-1-4.14 NMSA 1978)

12-1-140 POLE TRAILER. "Pole Trailer" means any vehicle without motive power, designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, structures, pipes and structural members capable, generally, of sustaining themselves as beams between the supporting connections. (66-1-4.14 NMSA 1978)

12-1-141 POLICE OR PEACE OFFICER. "Police or Peace Officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of this ordinance. (66-1-4.14 NMSA 1978)

12-1-142 PRECEDING YEAR. "Preceding Year" means a period of twelve consecutive months fixed by the department, which period is within the sixteen months immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department, in fixing that period, shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles. (66-1-4.21 NMSA 1978)

12-1-143 PRIVATE ROAD OR DRIVEWAY. "Private Road or Driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner, but not other persons. (66-1-4.14 NMSA 1978)

12-1-144 PROPERLY REGISTERED. "Properly Registered" means bearing the lawfully issued and currently valid evidence of registration of this or another jurisdiction, regardless of the owner's residence, except in those cases where the evidence has been procured by misrepresentation or fraud. (66-1-4.21 NMSA 1978)

12-1-145 PROPERTY OWNER. "Property Owner" means the owner of a piece of land or the agent of that property owner. (66-1-4.14 NMSA 1978)

12-1-146 PUBLIC HIGHWAY. "Public Highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction. (66-1-4.21 NMSA 1978)

12-1-147 PUBLIC HOLIDAYS. "Public Holidays" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, or any other day designated a holiday by the governing body of this municipality. (*)

12-1-148 RAILROAD. "Railroad" means a carrier of persons or property upon cars operated upon stationary rails. (66-1-4.15 NMSA 1978)

12-1-149 RAILROAD SIGN OR SIGNAL. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (66-1-4.15 NMSA 1978)

12-1-150 RAILROAD TRAIN. "Railroad Train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails. (66-1-4.15 NMSA 1978)

12-1-151 REAL ID-COMPLIANT DRIVER'S LICENSE. "REAL ID-Compliant Driver's License" means a license or a class of license issued by a state or other jurisdiction pertaining to the authorizing of persons to operate motor vehicles and that meets federal requirements to be accepted by federal agencies for official federal purposes. (66-1-4.15 NMSA 1978)

12-1-152 REAL ID-COMPLIANT IDENTIFICATION CARD. "REAL ID-Compliant Identification Card" means an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes. (66-1-4.15 NMSA 1978)

12-1-153 RECONSTRUCTED VEHICLE. "Reconstructed Vehicle" means any vehicle assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or that, if originally otherwise assembled or constructed, has been materially altered by the removal of essential parts, new or used. (66-1-4.15 NMSA 1978)

12-1-154 RECREATIONAL TRAVEL TRAILER. "Recreational Travel Trailer" means a camping body designed to be drawn by another vehicle. (66-1-4.15 NMSA 1978)

12-1-155 RECREATIONAL VEHICLE. "Recreational Vehicle" means a vehicle with a camping body that has its own motive power, is affixed to or is drawn by another vehicle and includes motor homes, travel trailers and truck campers. (66-1-4.15 NMSA 1978)

12-1-156 REGISTRATION. "Registration" means registration certificates and registration plates issued under the laws of New Mexico pertaining to the registration of vehicles. (66-1-4.15 NMSA 1978)

12-1-157 REGISTRATION NUMBER. "Registration Number" means the number assigned upon registration by the motor vehicle division to the owner of a vehicle or motor vehicle required to be registered by this ordinance. (66-1-4.15 NMSA 1978)

12-1-158 REGISTRATION PLATE. "Registration Plate" means the plate, marker, sticker or tag assigned by the motor vehicle division for the identification of the registered vehicle. (66-1-4.15 NMSA 1978)

12-1-159 RELYING PARTY. "Relying Party" means an entity to which a credential holder is presenting an electronic credential. (66-1-4.15 NMSA 1978)

12-1-160 RESIDENCE DISTRICT. "Residence District" means the territory contiguous to and including a street not comprising a business district when the property on the street for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business. (66-1-4.15 NMSA 1978)

12-1-161 REVOCATION. "Revocation" means that the driver's license and privilege to drive a motor vehicle on the public streets are terminated and shall not be renewed or restored, except that an application for a new license may be presented to and acted upon by the division after the expiration of at least one year after date of revocation. (66-1-4.15 NMSA 1978)

12-1-162 RIGHT OF WAY. "Right of Way" means the privilege of the immediate use of the roadway. (66-1-4.15 NMSA 1978)

12-1-163 ROAD TRACTOR. "Road Tractor" means every motor vehicle designed and used primarily for drawing other vehicles and constructed not to carry a significant load

on the road tractor, either independently or as any part of the weight of a vehicle or load so drawn. (66-1-4.15 NMSA 1978)

12-1-164 ROADWAY. "Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder when a street includes two or more separate roadways, the term "roadway" refers to each roadway separately but not to all of the roadways collectively. (66-1-4.15 NMSA 1978)

12-1-165 SAFETY GLAZING MATERIALS. "Safety Glazing Materials" means glazing materials constructed, treated or combined with other materials to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they are cracked and broken. (66-1-4.16 NMSA 1978)

12-1-166 SAFETY ZONE. "Safety Zone" means the area or space that is officially set apart within a street for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. (66-1-4.16 NMSA 1978)

12-1-167 SALVAGE VEHICLE. "Salvage Vehicle" means a vehicle:

(1) other than a nonrepairable vehicle, of a type subject to registration that has been wrecked, destroyed or damaged excluding, pursuant to rules issued by the department, hail damage, to the extent that the owner, leasing company, financial institution or the insurance company that insured or is responsible for repair of the vehicle considers it uneconomical to repair the vehicle and that is subsequently not repaired by or for the person who owned the vehicle at the time of the event resulting in damage; or

(2) that was determined to be uneconomical to repair and for which a total loss payment is made by an insurer, whether or not the vehicle is subsequently repaired, if, prior to or upon making payment to the claimant, the insurer obtained the agreement of the claimant to the amount of the total loss settlement and informed the claimant that, pursuant to rules of the department, the title must be branded and submitted to the department for issuance of a salvage certificate of title for the vehicle. (66-1-4.16 NMSA 1978)

12-1-168 SCHOOL BUS. "School Bus" means a commercial motor vehicle used to transport preprimary, primary or secondary school students or from home to school, from school to home or to and from school sponsored event, but not including a vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the department of transportation but not used exclusively for the transportation of students;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the department of transportation but is not used exclusively for the transportation of students;

(3) operated as a per capita feeder as provided in Section 22-16-6 NMSA 1978; or

(4) that is a minimum six-passenger, full-size, extended-length, sport utility vehicle operated by a school district employee pursuant to Subsection D of Section 22-16-4 NMSA 1978. (66-1-4.16 NMSA 1978)

12-1-169 SEAL. "Seal" means the official seal of the taxation and revenue department as designated by the secretary. (66-1-4.16 NMSA 1978)

12-1-170 SECRETARY. "Secretary" means the secretary of taxation and revenue, and, except for the purposes of Sections 66-2-3 and 66-2-12 NMSA 1978, also includes the deputy secretary and any division director delegated by the secretary. (66-1-4.16 NMSA 1978)

12-1-171 SEMITRAILER. "Semitrailer" means a vehicle, without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some significant part of its weight and that of its load rests upon or is carried by another vehicle. (66-1-4.16 NMSA 1978)

12-1-172 SIDEWALK. "Sidewalk" means a portion of street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians. (66-1-4.16 NMSA 1978)

12-1-173 SLOW-MOVING VEHICLE. "Slow-Moving Vehicle" means a vehicle that is ordinarily moved, operated or driven at a speed less than twenty-five miles per hour. (66-1-4.16 NMSA 1978)

12-1-174 SOLID TIRE. "Solid Tire" means every tire of rubber or other resilient material that does not depend upon compressed air for the support of the load. (66-1-4.16 NMSA 1978)

12-1-175 SPECIAL MOBILE EQUIPMENT. "Special Mobile Equipment" means a vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including but not limited to farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus and concrete mixers. (66-1-4.16 NMSA 1978)

12-1-176 SPECIALLY CONSTRUCTED VEHICLE. "Specially Constructed Vehicle" means a vehicle of a type required to be registered under this ordinance not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction. (66-1-4.16 NMSA 1978)

12-1-177 STAND OR STANDING. "Stand or Standing" means the halting of vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. (*)

12-1-178 STANDARD DRIVER'S LICENSE. "Standard Driver's License" means a license or a class of license issued by a state or other jurisdiction recognized by the laws of New Mexico that authorizes the holder to operate motor vehicles and is not guaranteed to be accepted by federal agencies for official federal purposes. (66-1-4.16 NMSA 1978)

12-1-179 STANDARD IDENTIFICATION CARD. "Standard identification Card" means an identification card that is not guaranteed to be accepted by federal agencies for official federal purposes. (66-1-4.16 NMSA 1978)

12-1-180 STATE. "State" means a state, territory or possession of the United States, the District of Columbia or any state of the Republic of Mexico or the Federal District of Mexico or a province of the Dominion of Canada. (66-1-4.16 NMSA 1978)

12-1-181 STATE HIGHWAY. "State Highway" means a public highway that has been designated as a state highway by the legislature, the state transportation commission or the secretary of transportation. (66-1-4.16 NMSA 1978)

12-1-182 STOP. "Stop", when required, means complete cessation from movement. (66-1-4.16 NMSA 1978)

12-1-183 STOP, STOPPING OR STANDING. "Stop, Stopping or Standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal. (66-1-4.16 NMSA 1978)

12-1-184 STREET OR HIGHWAY. "Street or Highway" means a way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction. (66-1-4.16 NMSA 1978)

12-1-185 SUBSEQUENT OFFENDER. "Subsequent Offender" means a person who was previously a first offender and who again, under state law, federal law or a municipal ordinance or a tribal law, has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug that rendered the person incapable of safely driving a motor vehicle regardless of whether the person's sentence was suspended or deferred. (66-1-4.16 NMSA 1978)

12-1-186 SUSPENSION. "Suspension" means that a person's driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn. (66-1-4.16 NMSA 1978)

12-1-187 TANK VEHICLE. "Tank Vehicle" means a motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis and that has either a gross vehicle weight rating of twenty-six thousand one or more pounds or is used in the transportation of hazardous materials requiring placarding of the vehicle under applicable law. (66-1-4.17 NMSA 1978)

12-1-188 TAXICAB. "Taxicab" means a motor vehicle used for hire in the transportation of persons, having a normal seating capacity of not more than seven persons. (66-1-4.17 NMSA 1978)

12-1-189 TEMPORARY OFF-SITE LOCATION. "Temporary Off-Site Location" means a location other than a dealer's established or additional place of business that is used exclusively for the display of vehicles or vessels for sale or resale and for related business. (66-1-4.17 NMSA 1978)

12-1-190 THROUGH STREET OR THROUGH HIGHWAY. "Through Street" or "Through Highway" means every street or highway or portion thereof at the entrance to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing it when stop signs are erected as provided in this ordinance. (66-1-4.17 NMSA 1978)

12-1-191 TITLE SERVICE COMPANY. "Title Service Company" means a person, other than the department, an agent of the department, a licensed dealer or the motor transportation division of the department of public safety, who for consideration issues temporary registration plates or prepares and submits to the department on behalf of others applications for registration of or title to motor vehicles. (66-1-4.17 NMSA 1978)

12-1-192 TRAFFIC. "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together using any street for purposes of travel. (66-1-4.17 NMSA 1978)

12-1-193 TRAFFIC-CONTROL SIGNAL. "Traffic-Control Signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed. (66-1-4.17 NMSA 1978)

12-1-194 TRAFFIC SAFETY BUREAU. "Traffic Safety Bureau" means the traffic safety bureau of the department of transportation. (66-1-4.17 NMSA 1978)

12-1-195 TRAILER. "Trailer" means any vehicle, without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no significant part of its weight rests upon the towing vehicle. (66-1-4.17 NMSA 1978)

12-1-196 TRANSACTION. "Transaction" means all operations necessary at one time with respect to one identification card, one driver, one vessel or one vehicle. (66-1-4.17 NMSA 1978)

12-1-197 TRANSPORTATION INSPECTOR. "Transportation Inspector" means an employee of the motor transportation division of the department of public safety who has been certified by the director of the division to enter upon and perform inspections of motor carriers' vehicles in operation. (66-1-4.17 NMSA 1978)

12-1-198 TRANSPORTER OF MANUFACTURED HOMES. "Transporter of Manufactured Homes" means a commercial motor vehicle operation engaged in the business of transporting manufactured homes from the manufacturer's location to the first

dealer's location. A "transporter of manufactured homes" may or may not be associated with or affiliated with a particular manufacturer or dealer. (66-1-4.17 NMSA 1978)

12-1-199 TRAVEL TRAILER. "Travel Trailer" means a trailer with a camping body and includes recreational travel trailers and camping trailers. (66-1-4.17 NMSA 1978)

12-1-200 TRIAL COURT. "Trial Court" means the magistrate, municipal or district court which tries the case concerning an alleged violation of a provision of the Uniform Traffic Ordinance and this ordinance. (66-1-4.17 NMSA 1978)

12-1-201 TRIBAL COURT. "Tribal Court" means a court created by a tribe or a court of Indian offense created by the United States secretary of the interior. (66-1-4.17 NMSA 1978)

12-1-202 TRIBE. "Tribe" means an Indian nation, tribe or pueblo located wholly or partially in New Mexico. (66-1-4.17 NMSA 1978) For purposes of violations resulting in suspension or revocation of licenses and for DWI offenses (66-5-25, 26, 30 and 66-8-102), "tribe" is further defined as one that has executed an intergovernmental agreement with the state pursuant to Section 66-5-27.1 NMSA 1978. (66-1-4.17 and 66-5-1.2 NMSA 1978) (*)

12-1-203 TRUCK. "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property. (66-1-4.17 NMSA 1978)

12-1-204 TRUCK CAMPER. "Truck Camper" means a camping body designed to be loaded onto, or affixed to, the bed or chassis of a truck. A camping body, when combined with a truck or truck cab and chassis, even though not attached permanently, becomes a part of the motor vehicle, and together they are a recreational unit to be known as a "truck camper"; there are three general types of truck campers:

(1) "slide-in camper" means a camping body designed to be loaded onto and unloaded from the bed of a pickup truck;

(2) "chassis-mount camper" means a camping body designed to be affixed to a truck cab and chassis; and

(3) "pickup cover" or "camper shell" means a camping body designed to provide an all-weather protective enclosure over the bed of a pickup truck and to be affixed to the pickup truck. (66-1-4.17 NMSA 1978)

12-1-205 TRUCK TRACTOR. "Truck Tractor" means every motor vehicle designed and used primarily for drawing other vehicles and constructed to carry a part of the weight of the vehicle and load drawn. (66-1-4.17 NMSA 1978)

12-1-206 UNCLAIMED VEHICLE OR MOTOR VEHICLE. "Unclaimed Vehicle or Motor Vehicle" means a vehicle or motor vehicle that has been placed in an impound lot by a law enforcement agency or removed to any storage lot by a property owner, and to which no owner or lienholder of record has asserted a valid claim. (66-1-4.18 NMSA 1978)

12-1-207 UTILITY TRAILER. "Utility Trailer" means any trailer, semitrailer or pole trailer, but does not include freight trailers, manufactured homes, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight. (66-1-4.18 NMSA 1978)

12-1-208 VALIDATING STICKER. "Validating Sticker" means the tab or sticker issued by the division to signify, upon a registration plate, renewed registration. (66-1-4.19 NMSA 1978)

12-1-209 VEHICLE. "Vehicle" means every device in, upon, or by which, any person or property is or may be transported or drawn upon a street, including any frame, chassis, body or unitized frame and body of any vehicle or motor vehicle, except devices moved exclusively by human power or used exclusively upon stationary rails or tracks. (66-1-4.19 NMSA 1978)

12-1-210 VEHICLE-BUSINESS NUMBER. "Vehicle-Business Number" means the distinctive registration number given by the division to any manufacturer, auto recycler or dealer. (66-1-4.19 NMSA 1978)

12-1-211 VEHICLE PLATE. "Vehicle Plate" means a plate, marker, sticker or tag similar to a registration plate, but that is issued by the department for vehicles that are exempted from registration under this ordinance. (66-1-4.19 NMSA 1978)

12-1-212 VERIFICATION PROCESS. "Verification Process" means a method of authenticating an electronic credential through the use of secure and encrypted communication. (66-1-4.19 NMSA 1978)

12-1-213 WHOLESALER. "Wholesaler" means any person, except a person making a casual sale of the person's own vehicle, who sells or offers for sale vehicles of a type subject to registration in this state, to a vehicle dealer who is licensed under this ordinance or who is franchised by a manufacturer, distributor or vehicle dealer; provided, however, that if any person except a person making a casual sale of the person's own vehicle also sells a vehicle at retail, that person shall be deemed to be a dealer and is subject to the dealer-licensing provisions of this ordinance. (66-1-4.20 NMSA 1978)

12-1-214 WRITTEN CLEARANCE FROM A LAW ENFORCEMENT AGENCY. "Written Clearance From a Law Enforcement Agency" means any written statement signed by a full-time, salaried law enforcement officer stating that a check has been made of the law enforcement agency's records and the computerized records of the national crime information center and that the check of records indicates that the vehicle or motor vehicle in question has not been reported stolen. (66-1-4.20 NMSA 1978)

12-1-215 ANY OTHER TERM. "Any Other Term" used in this ordinance is used in its commonly accepted meaning except where such term has been defined elsewhere in this ordinance or defined in Sections 66-1-4.1 through 66-1-4.21 NMSA 1978. (*)

ARTICLE V

SIGNS, SIGNALS AND MARKINGS

12-5-1 Authority to Install Traffic-Control Devices
12-5-2 Manual and Specifications for Traffic-Control Devices
12-5-3 Obedience to Required Traffic-Control Devices
12-5-4 When Official Traffic-Control Devices Required for Enforcement Purposes
12-5-5 Official Traffic-Control Devices--Presumption of Legality
12-5-6 Lights and Their Application to Vehicles and Pedestrians
12-5-7 Pedestrian Control Signals
12-5-8 Flashing Signals
12-5-9 Lane-Direction-Control Signals
12-5-10 Display of Unauthorized Signs, Signals or Markings
12-5-11 Interference with Official Traffic-Control Devices or Railroad Signals
12-5-12 Play Streets
12-5-13 Crosswalks and Safety Zones
12-5-14 Traffic Lanes

12-5-1 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES.
The administrator shall place and maintain such traffic-control devices as necessary to carry out the provisions of this ordinance and to regulate, warn or guide traffic. (*)

12-5-2 MANUAL AND SPECIFICATIONS FOR TRAFFIC-CONTROL DEVICES.
The administrator shall place and maintain such traffic-control devices upon streets under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this ordinance or to regulate, warn or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications. (66-7-103 NMSA 1978)

12-5-3 OBEDIENCE TO REQUIRED TRAFFIC-CONTROL DEVICES. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this ordinance, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this ordinance. (66-7-104 NMSA 1978)

12-5-4 WHEN OFFICIAL TRAFFIC-CONTROL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.
No provision of this ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (66-7-104 NMSA 1978)

12-5-5 OFFICIAL TRAFFIC-CONTROL DEVICES--PRESUMPTION OF LEGALITY.

A. Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this ordinance, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

B. Any official traffic-control device placed pursuant to the provisions of this ordinance and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this ordinance, unless the contrary shall be established by competent evidence. (*)

12-5-6 LIGHTS AND THEIR APPLICATION TO VEHICLES AND PEDESTRIANS.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one (1) at a time or in combination, only the colors green, yellow and red shall be used, except for special pedestrian control signals carrying a word legend, and the lights indicate and apply to drivers of vehicles and pedestrians:

A. Green alone:

(1) vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at the place prohibits either turn. Vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited; and

(2) pedestrians facing the signal may proceed across the street within any marked or unmarked crosswalk.

B. Yellow alone when shown following the green signal:

(1) vehicular traffic facing the signal is warned that the red signal will be exhibited immediately thereafter and the vehicular traffic shall not enter the intersection when the red signal is exhibited except to turn right as hereinafter provided; and

(2) no pedestrian facing the signal shall enter the street until the green is shown alone unless authorized to do so by a pedestrian "walk" signal.

C. Red alone:

(1) vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before

entering the intersection (66-7-105 NMSA 1978), and shall remain stopped until permitted to proceed by a green light or arrow (*), or may then turn right after standing until the

intersection may be entered safely, provided that such vehicular traffic shall yield the right of way to all pedestrians and vehicles lawfully in or approaching the intersection. ; and

(2) vehicular traffic on a one-way street facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before entering the intersection, and if a left turn onto a one-way street in the proper direction is intended, may turn left after stopping until the intersection may be entered safely, provided that such vehicular traffic shall yield the right of way to all pedestrians and vehicles lawfully in or approaching the intersection;

(3) whenever the administrator determines on the basis of an engineering and traffic investigation that a turn as hereinabove provided should be prohibited at a particular intersection, such turn may be prohibited by the posting of signs at the intersection indicating that such a turn is prohibited; and

(4) no pedestrian facing the signal shall enter the street until the green is shown alone unless authorized to do so by a pedestrian "walk" signal.

D. Red with green arrow:

(1) vehicular traffic facing the signal may cautiously enter the intersection only to make the movement indicated by the arrow, but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection; and

(2) no pedestrian facing the signal shall enter the street unless he can do so safely and without interfering with any vehicular traffic.

E. If an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section apply except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.

F. When a sign is in place permitting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make the turn indicated by the sign after stopping as required by Subsection C (1). Vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection. (66-7-105 NMSA 1978)

12-5-7 PEDESTRIAN CONTROL SIGNALS.

A. Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk" are in place:

(1) "walk" indicates that pedestrians facing the signal may proceed across the street in the direction of the signal and shall be given the right of way by drivers of all vehicles; and

(2) “don't walk” indicates that no pedestrian shall start to cross the street in the direction of the signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the "don't walk" signal is showing.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-106 NMSA 1978)

12-5-8 FLASHING SIGNALS.

A. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) flashing red (stop signal)--when a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; or

(2) flashing yellow (caution signal):-when a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

B. This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Sections 12-6-7.5 - 12-6-7.8 of this ordinance.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-107 NMSA 1978)

12-5-9 LANE-DIRECTION-CONTROL SIGNALS.

When lane-direction-control signals are placed over the individual lanes of a street, vehicular traffic may travel in any lane over which a green signal is shown, but a vehicle shall not enter or travel in any lane over which a red signal is shown. (*)

12-5-10 DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS.

A. No person shall place, maintain, or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movements of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

B. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the administrator is hereby empowered to remove the same or cause it to be removed without notice.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-108 NMSA 1978)

D. The provisions of this section shall not prohibit the erection of signs upon private property adjacent to streets if the signs give useful directional information and are of a type that cannot be mistaken for official signs. (*)

12-5-11 INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES OR RAILROAD SIGNALS.

A. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. (66-7-109 NMSA 1978)

B. No person shall hide or obscure any official traffic-control device or railroad sign or signals by parking a vehicle or erecting any object or by allowing bushes, hedges, trees or other vegetation to grow so as to obscure traffic-control devices or railroad signals. An obstruction includes, but is not limited to, any sign, fence, ornament, hedge, shrub, tree or display, but it does not include a building.

C. Unobstructed vision for traffic safety shall be maintained by the property owner or occupant on all corner lots regardless of the zone classification. No obstruction between three and eight feet above the street level shall be placed or maintained within a triangular area bounded by the street property lines of the corner lot and a line connecting the points 25 feet distant from the intersection of the property lines of such lot.

D. Every obstruction interfering with official traffic-control devices or railroad signals is a public nuisance, and the administrator may remove the obstruction or cause it to be removed without notice and assess costs involved to the violator. (*)

12-5-12 PLAY STREETS.

A. The administrator has authority to declare any street or part of a street a temporary play street and to place appropriate signs or devices in the street to indicate and help protect the street.

B. Whenever authorized signs are erected to indicate a play street, no person shall drive on the street except drivers of vehicles whose residences are within the closed area. Such drivers shall exercise the greatest care in driving on the play street. (*)

12-5-13 CROSSWALKS AND SAFETY ZONES.

The administrator, upon the basis of engineering and traffic study investigations, may:

(1) designate and maintain crosswalks by appropriate devices, marks or lines on the surface of the street where, in his opinion, there is particular danger to pedestrians crossing the street; and

(2) establish safety zones of the kind and character and at places he deems necessary for the protection of pedestrians. (*)

12-5-14 TRAFFIC LANES.

A. The administrator, upon the basis of engineering and traffic study investigations, may mark traffic lanes upon any street where a regular alignment of traffic is necessary.

B. Where such traffic lanes have been marked, it is unlawful for the operator of a vehicle to fail to keep the vehicle within the boundaries of the lane except when lawfully passing another vehicle or when making a lawful turning movement. (*)

ARTICLE IV

ACCIDENT AND ACCIDENT REPORTS

12-4-1 Accidents Involving Death or Personal Injury
12-4-2 Accidents Involving Damage to Vehicle
12-4-3 Duty to Give Information and Render Aid
12-4-4 Duty upon Striking Unattended Vehicle
12-4-5 Duty upon Striking Fixtures or Other Property upon a Street
12-4-6 Immediate Notice of Accidents
12-4-7 Written Reports of Accidents
12-4-8 Garages, Dealers and Wreckers of Vehicles to Report
12-4-9 False Reports
12-4-10 Written Accident Reports Confidential--Exceptions

12-4-1 ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY.

A. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 12-4-3. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person failing to stop or comply with the requirements of Section 66-7-203 NMSA 1978 where the accident does not result in great bodily harm or death is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Subsection A of Section 31-19-1 NMSA 1978.

C. All motor vehicle accidents involving a school bus that result in a fatality or life-threatening injury shall be investigated by a law enforcement officer certified as an accident reconstructionist. (66-7-207.1 NMSA 1978)

12-4-2 ACCIDENTS INVOLVING DAMAGE TO VEHICLE. The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 12-4-3. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor. (66-7-202 NMSA 1978)

12-4-3 DUTY TO GIVE INFORMATION AND RENDER AID. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving and shall upon request exhibit his driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such

person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. (66-7-203 NMSA 1978)

12-4-4 DUTY UPON STRIKING UNATTENDED VEHICLE. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. (66-7-204 NMSA 1978)

12-4-5 DUTY UPON STRIKING FIXTURES OR OTHER PROPERTY UPON A STREET. The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request exhibit his driver's license and shall make report of such accident when and as required in Section 12-4-7. (66-7-205 NMSA 1978)

12-4-6 IMMEDIATE NOTICE OF ACCIDENTS.

A. The driver of a vehicle, the autonomous motor vehicle operator or the autonomous commercial motor vehicle operator, if applicable, involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of five hundred dollars ($500) or more, shall immediately, by the quickest means of communication, give notice of such accident to the police department if the accident occurs within a municipality; otherwise to the office of the county sheriff or the nearest office of the New Mexico state police. In the case of an autonomous motor vehicle or autonomous commercial motor vehicle operating without a human driver, the owner of that motor vehicle or person working on behalf of the vehicle owner shall be responsible for providing the notice required by this section. (66-7-206 NMSA 1978)

B. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in subsection A and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver. (66-7-208 NMSA 1978)

C. Whenever the driver is physically incapable of making a written report of an accident as required in subsection A and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after learning of the accident make such report not made by the driver. (66-7-208 NMSA 1978)

12-4-7 WRITTEN REPORTS OF ACCIDENTS.

A. The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of five hundred dollars ($500) or more shall, within five days after such accident, forward a written report of such

accident to the police department and state department of transportation. (66-7-207 NMSA 1978)

B. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while the driver was present.

C. The provisions of this section may be met by submission to the police department of a copy of any accident report required under state law. (*)

D. The police department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports concerning the accident to the department of transportation.

E. Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within twenty-four hours after completing such investigation, forward a written report of such accident to the police department and state department of transportation. A law enforcement officer shall also, within twenty-four hours after completing the investigation, forward the written report of the accident to the motor transportation division of the department of public safety~~1~~ if the accident involves a commercial motor vehicle and results in:

(1) bodily injury to any person and the person is transported to a medical facility for immediate medical attention;

(2) the death of any person; or

(3) any vehicle involved in the accident being towed from the scene due to disabling damage caused by the accident. (66-7-207 NMSA 1978)

12-4-8 GARAGES, DEALERS AND WRECKERS OF VEHICLES TO REPORT. The person in charge of any garage or repair shop, dealers, or wreckers of vehicles, to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided in this ordinance, or struck by any bullet, shall report to the police department and transportation department within twenty-four hours after such motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or operator of the vehicle. (66-7-212 NMSA 1978)

12-4-9 FALSE REPORTS. No person shall give information to the police department in oral or written reports of accidents, knowing or having reason to believe that the information is false. (*)

12-4-10 WRITTEN ACCIDENT REPORTS CONFIDENTIAL--EXCEPTIONS.

A. All accident reports made by persons involved in accidents or by persons in charge of garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department and state department of transportation or state agencies having use for the records for accident prevention purposes or for the administration of the laws of this state relating to the deposits of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the police department and state department of transportation may disclose:

(1) the identity of a person involved in an accident when his identity is not otherwise known or when the person denies his presence at the accident; or

(2) the fact that the owner or operator of a motor vehicle involved in the accident is or is not insured and if he is insured, the name and address of his insurance carrier.

B. Except as otherwise provided in this section, no accident report shall be used as evidence in any trial, civil or criminal, arising out of an accident.

C. The police department and state department of transportation shall furnish upon demand of any person who has or claims to have made a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the police department and state department of transportation solely to prove a compliance or a failure to comply with the requirement that a report be made to the police department.

D. A certified copy of the investigating officer's accident report may be introduced into evidence in any arbitration or civil action involving the insurer's liability under a motor vehicle or automobile liability policy containing uninsured motorist coverage as required by Section 66-5-301 NMSA 1978 to prove that the owner or operator of the other motor vehicle involved in the accident is either insured or uninsured. The police department and investigating agency shall furnish a certified copy of the investigating officer's accident report to either party to the arbitration or civil action or to the court on request. The certified copy of the investigating officer's report is prima facie evidence that the owner or operator of the other motor vehicle is either insured or uninsured. (66-7-213 NMSA 1978)

ARTICLE VI

TRAFFIC REGULATIONS

12-6-1 Speed Regulations
12-6-1.1 Basic Rule
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12-6-6 Stopping, Standing and Parking
12-6-6.1 Stopping, Standing or Parking Prohibited in Specified Places
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12-6-1 SPEED REGULATIONS

12-6-1.1 BASIC RULE

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when

approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding street and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. (*)

12-6-1.2 SPEED LIMITS

A. No person shall drive a vehicle on a street or detour at a speed greater than:

(1) fifteen (15) miles per hour on all streets when passing a school while children are going to, or leaving school, and when the school zone is properly posted:

(2) thirty (30) miles per hour in any business or residence district; or

(3) the posted speed limit in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department, provided that the posted speed limit be determined by an engineering study performed by the state highway and transportation department (66-7-301 NMSA 1978); and

(4) the lawfully posted speed limit when signs are erected giving notice of the speed limit. (*)

B. In every event, speed shall be so controlled as may be necessary:

(1) to avoid colliding with any person, vehicle or other conveyance on, or entering the street;

(2) to comply with legal requirements as may be established by the municipality, the state highway department or the New Mexico state police, and the duty of all persons to use due care; and

(3) to protect workers in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department. (66-7-301 NMSA 1978)

12-6-1.3 ESTABLISHMENT OF SPEED ZONES

A. Whenever the administrator determines, upon the basis of an engineering survey and traffic investigation, a detailed report of which is filed with the traffic safety bureau of the state highway and transportation department, that any speed limit permitted under state law or local ordinance is greater or less than is reasonable or safe under the conditions found to exist upon any part of a street within his jurisdiction, he may declare a speed limit for that part, and that speed limit shall be authorized and effective when appropriate signs giving notice thereof are erected at the particular part of the street; provided that no speed limit shall be declared greater than seventy-five miles per hour. The declaration of speed limits by the secretary of highway and transportation shall not be considered rules for purposes of the State Rules Act.

B. Speed zones may be marked by a sign containing a flashing yellow light and, when the light is in operation, the speed limit, instructions or regulations on the sign are in effect.

C. The provisions of Subsection A of this section shall not apply to changes of speed limit in construction zones authorized pursuant to 12-6-1.3 G through K of this section.

D. Alteration of speed limits on state highways by the administrator are not effective until approved by the state highway commission. (66-7-303 NMSA 1978)

E. The administrator shall adhere to and abide by all applicable state statutes in making his determination of speed limits in the municipality.

F. Whenever the administrator declares a speed limit, he shall submit a schedule of the speed limit to the police department, the municipal judge, the municipal clerk and the municipal attorney. (*)

G. When construction, repair or reconstruction of any street or highway is being done, the administrator or other governmental authority with jurisdiction over that street or highway is authorized to designate as a construction zone that portion of the street or highway where construction, reconstruction or repair is being done and to close the construction zone to traffic or to provide for a single lane of traffic on any two-lane or four-lane highway in the construction zone.

H. The administrator or other governmental authority closing all or a portion of a street or highway or providing for a single lane of traffic on any two-lane or four-lane street or highway pursuant to Subsection G of this section shall erect or cause to be erected traffic-control devices or barricades to warn and notify the public of any change in speed limit and that such street or highway is closed or limited to a single lane of traffic.

I. Every pedestrian or person who operates a vehicle on any street or highway shall obey all signs, signals, markings, flagmen or other traffic-control devices which are placed to regulate, control and guide traffic through a construction zone.

J. No person shall remove, change, modify, deface or alter any traffic-control device or barricade which has been erected on any street or highway pursuant to this section.

K. Any person who violates any provision of Subsection I or J of this section is guilty of a petty misdemeanor and upon conviction shall be sentenced in accordance with this code. (66-7-303.1NMSA 1978)

12-6-1.4 REGULATION OF SPEED BY TRAFFIC SIGNALS

The administrator is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the

speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof. (*)

12-6-1.5 MINIMUM SPEED REGULATION

A. No person shall drive a motor vehicle at such slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with this ordinance.

B. Whenever the administrator determines on the basis of an engineering and traffic investigation that slow speeds on any part of a street consistently impede the normal and reasonable movement of traffic, the administrator may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with this law. (66-7-305 NMSA 1978)

C. Police officers may enforce this section by directions to drivers. In the event of apparent willful disobedience to this section and refusal to comply with directions of an officer in accordance herewith, the continued slow operation by a driver is a violation of this section. (*)

12-6-1.6 CHARGING VIOLATIONS

A. In every charge of violation of any speed regulation under this ordinance, the complaint and the uniform traffic citation shall specify the speed at which the defendant is alleged to have driven and the maximum speed applicable within the district or at the location.

B. Provisions of this ordinance for maximum speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident. (66-7-307 NMSA 1978)

12-6-1.7 SPECIAL SPEED LIMITATIONS

A. Subject to the requirements of Section 12-10-1.15 E of this ordinance, no person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of ten miles per hour.

B. No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in Section 66-7-306 NMSA 1978. (66-7-306 NMSA 1978)

12-6-2 DRIVING ON RIGHT SIDE OF STREET--OVERTAKING AND PASSING--USE OF STREET

12-6-2.1 DRIVE ON RIGHT SIDE OF STREET--EXCEPTIONS

A. Upon all streets of sufficient width, a vehicle shall be driven upon the right half of the street, and where practicable, entirely to the right of the center thereof, except as follows:

(1) when overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement (66-7-308 NMSA 1978);

(2) when an obstruction exists making it necessary to drive to the left of the center of the street, provided that any person driving to the left shall yield the right of way to all vehicles traveling in the proper direction on the unobstructed portion of the street (*);

(3) when the right half of the street is closed to traffic while under construction or repair

(4) upon a street divided into three marked lanes for traffic under the rules applicable thereon; or

(5) upon a street designated and signposted for one-way traffic.

B. Upon all streets any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the street except when overtaking and passing another car proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. (66-7-308 NMSA 1978)

C. Upon any street having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the street, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the street for use by traffic not otherwise permitted to use such lanes, or except as permitted under Subsection 12-6-2.1A(2). However, this section shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway. (*)

12-6-2.2 PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTION

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon streets having width for not more than one (1) line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the street as nearly as possible. (66-7-309 NMSA 1978).

12-6-2.3 OVERTAKING A VEHICLE ON THE LEFT

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle; and

(2) except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (66-7-310 NMSA 1978)

12-6-2.4 LIMITATIONS ON OVERTAKING ON THE LEFT

No vehicle shall be driven to the left side of the center of the street in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the street before coming within one hundred feet of any vehicle approaching from the opposite direction. (66-7-312 NMSA 1978)

12-6-2.5 FURTHER LIMITATIONS ON DRIVING ON LEFT OF CENTER OF STREET

A. No vehicle shall at any time be driven to the left side of the street under the following conditions:

(1) when approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) when approaching within one hundred feet of or traversing any intersection or railroad grade crossing; or

(3) when the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel. (66-7-313 NMSA 1978)

B. The foregoing limitations shall not apply:

(1) upon a one-way street;

(2) under the conditions described in 12-6-2.1A(2); nor

(3) to the driver of a vehicle turning left into or from an alley, private road or driveway. (*)

12-6-2.6 WHEN OVERTAKING ON THE RIGHT IS PERMITTED

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) when the vehicle overtaken is making or about to make a left turn;

(2) upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction; or

(3) upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the street is free from obstructions and of sufficient width for two or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the street. (66-7-311 NMSA 1978)

12-6-2.7 NO PASSING ZONES AND RESTRICTIONS ON PASSING

A. The state transportation commission and administrator may determine those portions of any street or highway under his jurisdiction where overtaking and passing or driving on the left of the street would be especially hazardous and may, by appropriate signs or markings on the street indicate the beginning and end of such zones. When the signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the direction thereof.

B. Where signs or markings are in place to define a no-passing zone as set forth in Subsection A of this section, no driver shall at any time drive on the left side of the street within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length. This section does not apply under the conditions described in Section 12-6-2.1A(3) or to the driver of a vehicle turning left into or from an alley, private road or driveway. (66-7-315 NMSA 1978)

C. When double yellow lines are painted on a pavement, no driver shall drive any vehicle across the lines except the driver of a vehicle turning left into or from an alley, private road or driveway.

D. No driver shall overtake and pass any other vehicle proceeding in the same direction in a school zone when the school zone signs are in place.

E. Whenever a vehicle is stopped at a marked crosswalk or an unmarked crosswalk at an intersection to permit a pedestrian to cross the street, the driver of the vehicle approaching from the rear shall not overtake and pass the stopped vehicle. (*)

12-6-2.8 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS

A. The administrator may designate and sign streets and alleys as one-way streets and alleys and shall erect appropriate signs giving notice of that designation. (66-7-315 NMSA 1978). The designation shall be made only upon the basis of engineering and traffic investigation.

B. Signs indicating the direction of lawful traffic movement shall be placed at every intersection, where movement of traffic in the opposite direction is prohibited. No regulation as to one-way traffic shall be effective unless signs are in place indicating the direction of the flow of traffic.

C. The administrator shall maintain a schedule of all streets and alleys which have been established as one-way and shall provide copies of the schedule to the police department, municipal clerk, municipal judge and municipal attorney. (*)

12-6-2.9 OBEDIENCE TO SIGNS DESIGNATING ONE-WAY STREETS AND ALLEYS

A. Upon those streets and parts of streets and in those alleys restricted to movement in one direction, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

B. Failure to comply with such signs is a violation of this ordinance. (*)

12-6-2.10 ROTARY TRAFFIC ISLANDS.

A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (66-7-316 NMSA 1978)

12-6-2.11 RESTRICTED DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS.

A. The administrator may determine and designate streets, parts of streets or specific lanes upon which vehicular traffic shall proceed in one direction during one period of the day and the opposite direction during another period of the day. This designation shall be made only upon the basis of engineering and traffic investigation.

B. Appropriate markings, signs, barriers or other devices shall be placed to give notice of the restricted movement.

C. Signs may be placed temporarily designating lanes to be used by traffic moving in particular direction, regardless of the center line of the street. (*)

12-6-2.12 DRIVING ON STREETS LANED FOR TRAFFIC

Whenever any street has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

A. a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

B. upon a street which is divided into three lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the street is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation;

C. official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the street and drivers of vehicles shall obey the directions of every such sign (66-7-317 NMSA 1978); and

D. official traffic-control devices may be installed prohibiting the changing of lanes on sections of streets, and drivers of vehicles shall obey the directions of every such device. (*)

12-6-2.13 FOLLOWING TOO CLOSELY

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

B. The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a street or roadway outside of a business or residence district shall not follow another motor truck or motor vehicle drawing another vehicle within three hundred (300) feet, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

C. Motor vehicles being driven upon any street or roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall not follow the preceding vehicle closer than three hundred (300) feet. This provision shall not apply to

(1) funeral processions, nor shall it apply within or outside of a business or residence district to motor vehicle escort vehicles of a motor vehicle escort service, which may, if necessary to maintain the continuity of the escorted unit or units, precede or follow at a distance closer than three hundred (300) feet to the escorted unit or units.

(2) a vehicle that is part of a driver-assisted platoon and that is not the lead motor vehicle (66-7-318 NMSA 1978)

12-6-2.14 DRIVING ON DIVIDED STREETS

A. Whenever any street has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so

constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand segment of the divided street (66-7-319 NMSA 1978), unless directed or permitted to use another segment by official traffic-control devices or police officers. (*)

B. No vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority. (66-7-319 NMSA 1978)

C. Where recessed cut-outs are provided in dividers to facilitate left turns, all vehicles, except those having a turning radius precluding use of such recessed cut-outs, shall execute a left turn by occupying the recess or cut-out prior to entering the intersection. (*)

12-6-2.15 CONTROLLED ACCESS

No person shall drive a vehicle onto or from any controlled-access street except at such entrances and exits as are established by public authority. (66-7-320 NMSA 1978)

12-6-2.16 RESTRICTIONS ON USE OF CONTROLLED-ACCESS STREETS

A. No pedestrian, bicycle or other non-motorized traffic shall use any controlled-access street, but notwithstanding this provision, drivers of vehicles using the controlled-access street are not relieved of responsibility for exercising due care.

B. In addition to the provisions of paragraph A, the local governing body may, by ordinance, regulate or prohibit the use of any controlled-access street within its jurisdiction by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

C. No driver shall stop a vehicle upon any controlled-access street for the purpose of taking on or discharging passengers, freight or merchandise.

D. The administrator has the authority to erect and maintain official traffic-control devices on the controlled-access street on which the restrictions are applicable, and when such traffic-control devices are in place, no person shall disobey the restrictions stated on the devices. (66-7-321 NMSA 1978)

12-6-3 DESIGNATING STOP AND YIELD INTERSECTIONS

12-6-3.1 THROUGH STREETS DESIGNATED

A. The administrator, upon traffic and engineering study and investigation, may designate which streets shall be through streets and erect stop signs or yield signs at specified entrances thereto or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to the intersection. (66-7-345 NMSA 1978)

B. A schedule of the through streets shall be prepared by the administrator with copies furnished to the police department, municipal clerk, municipal judge and municipal attorney. (*)

12-6-3.2 AUTHORITY TO ERECT STOP AND YIELD SIGNS AT THROUGH STREETS

A. Whenever the administrator designates and describes a through street, the city traffic engineer shall place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting the through street unless traffic at any such intersection is controlled at all times by traffic-control signals.

B. However, at the intersection of two through streets or at the intersection of a through street and heavy traffic street not so designated, stop signs shall be erected at the approaches to both of said streets in a manner determined by the administrator upon the basis of an engineering and traffic study. (*)

12-6-3.3 AUTHORITY TO ERECT STOP OR YIELD SIGNS AT OTHER INTERSECTIONS

The administrator may determine and designate intersections other than through streets where particular hazards exist and determine:

(1) whether vehicles shall stop at one or more entrances to the intersection, in which event he shall have erected a stop sign at every place where a stop is required; or

(2) whether vehicles shall yield the right of way to vehicles on a different street at the intersection, in which event he shall have erected a yield sign at every place where obedience thereto is required. (*)

12-6-4 RIGHT OF WAY

12-6-4.1 VEHICLE APPROACHING OR ENTERING INTERSECTION

A. The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different street.

B. When two vehicles enter an intersection from different streets at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

C. The right of way rules declared in Subsections A and B are modified at through streets and otherwise as provided in this ordinance. (66-7-328 NMSA 1978)

12-6-4.2 VEHICLES TURNING LEFT AT INTERSECTION

The driver of a vehicle within an intersection intending to turn to the left shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this ordinance, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right of way to the vehicle making the left turn. (66-7-329 NMSA 1978)

12-6-4.3 VEHICLE ENTERING STOP OR YIELD INTERSECTION

A. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in this ordinance.

B. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by Section 12-6-4.3(D) and after having stopped shall yield the right of way to any vehicle which has entered the intersection from another street or which is approaching so closely on the street as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.

C. The driver of a vehicle approaching a yield sign shall, in obedience to the sign, slow down to a speed reasonable for the existing conditions, and shall yield the right of way to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection. If the driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his failure to yield right of way. (66-7-330 NMSA 1978)

D. The State Transportation Commission, with reference to state and county highways, and local authorities, with reference to other highways under their jurisdiction, may designate through highways and erect stop signs or yield signs at specified entrances thereto or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to the intersection.

E. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in the Motor Vehicle Code.

F. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle, other than a person riding bicycle, approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting street before entering the intersection.

G. The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street.

H. Except when directed to proceed by a police officer, every person riding a bicycle and approaching:

(1) a stop intersection indicated by a red traffic control signal shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway before entering the intersection. After stopping, if there is no approaching pedestrian, bicycle or vehicle traffic with the right of way, the person riding a bicycle may proceed through the intersection without waiting for the traffic control signal to turn green; and

(2) an intersection with a stop sign or a yield sign, if there is no approaching pedestrian, bicycle or vehicle traffic with the right of way, the person riding a bicycle may proceed through the intersection without stopping. If required for safety to stop, the person riding a bicycle shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the person riding a bicycle has a view of approaching traffic on the intersecting roadway. (66-7-345 NMSA 1978)

12-6-5 TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

12-6-5.1 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTION

The driver of a vehicle intending to turn at an intersection shall do so as follows:

A. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the street.

B. At any intersection where traffic is permitted to move in both directions on each street entering the intersection, an approach for a left turn, except where left-turn provisions are made, shall be made in that portion of the right half of the street nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the street being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

C. Upon a street with two (2) or more lanes for through traffic in each direction, where a center lane has been provided by distinctive pavement markings for the use of vehicles turning left from both directions, no vehicle shall turn left from any other lane. A

vehicle shall not be driven in this center lane for the purpose of overtaking or passing another vehicle proceeding in the same direction. Any maneuver other than a left turn from this center lane will be deemed a violation of this section.

D. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the streets, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the street being entered. (66-7-322 NMSA 1978)

E. No person shall drive across any private or public property, including but not limited to parking areas, driveways and service station areas, for the purpose of avoiding any traffic control device or sign. (*)

12-6-5.2 AUTHORITY TO PLACE DEVICES ALTERING NORMAL COURSE FOR TURNS

The administrator may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in Section 12-6-5.1 be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons or signs. (66-7-322 NMSA 1978)

12-6-5.3 AUTHORITY TO PLACE RESTRICTED TURN SIGNS

A. The administrator may determine those intersections at which drivers of vehicles shall not make a right, left or U-turn and shall place proper signs at the intersections.

B. The making of the turns may be prohibited between certain hours of the day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when the turns are permitted. (*)

12-6-5.4 OBEDIENCE TO NO-TURN SIGNS

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of the sign. (*)

12-6-5.5 LIMITATIONS ON TURNING AROUND

The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless the movement can be made in safety and without interfering with other traffic. (*)

12-6-5.6 TURNING ON CURVE OR CREST OF GRADE PROHIBITED

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within one thousand feet. (66-7-323 NMSA 1978)

12-6-5.7 STARTING PARKED VEHICLE

A. No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety. (66-7-324 NMSA 1978)

B. No person shall move any parked vehicle without giving appropriate signals as prescribed in Sections 12-6-5.8 through 12-6-5.10. (*)

12-6-5.8 TURNING AND STOPPING MOVEMENTS AND REQUIRED SIGNALS

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the street as required in Section 12-6-5.1 or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a street unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

B. A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. (66-7-325 NMSA 1978)

D. The signals provided for in this section shall be used to indicate an intention to turn, change lanes or start from a parked position and shall not be flashed on one side only on a parked or disabled car or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear. (*)

12-6-5.9 SIGNALS BY HAND AND ARM OR SIGNAL DEVICE

A. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamp or lamps or mechanical signal device except as otherwise provided in Subsection B.

B. Any motor vehicle in use on a street shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body,

cab or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles. (66-7-326 NMSA 1978)

12-6-5.10 METHOD OF GIVING HAND AND ARM SIGNALS

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signal shall indicate as follows:

A. left turn: hand and arm extended horizontally;

B. right turn: hand and arm extended upward; and

C. stop or decrease speed: hand and arm extended downward. (66-7-327 NMSA 1978)

12-6-6 STOPPING, STANDING AND PARKING

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

A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(1) on a sidewalk;

(2) in front of a public or private driveway;

(3) within an intersection;

(4) within fifteen feet of a fire hydrant;

(5) on a crosswalk;

(6) within twenty feet of a crosswalk at an intersection;

(7) within thirty feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a street;

(8) between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless the traffic authority indicates a different length by signs or markings;

(9) within fifty feet of the nearest rail of a railroad crossing;

(10) within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance, when properly signposted;

(11) alongside or opposite any excavation or obstruction when stopping, standing or parking would obstruct traffic;

(12) on the street side of any vehicle stopped or parked at the edge or curb of a street;

(13) upon any bridge or other elevated structure upon a street or within a street tunnel;

(14) at any place where official signs prohibit stopping (66-7-351 NMSA 1978);

(15) on any railroad track; or

(16) between a curb and sidewalk or between a curb or lateral line of a roadway, and the adjacent property line. (*)

B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful. (66-7-351 NMSA 1978)

C. The foregoing provisions may be modified by the administrator or his designated representative upon the basis of an engineering and traffic investigation study by the use of appropriate markings, signs or parking meters. (*)

12-6-6.2 ADDITIONAL PARKING REGULATIONS

A. Except as otherwise provided in this ordinance every vehicle stopped or parked upon a street where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen inches of the right-hand curb. (66-7-352 NMSA 1978)

B. Except when otherwise provided in this ordinance, every vehicle stopped or parked on a one-way street shall be so stopped or parked parallel to the curb or edge of the street with its right-hand wheels within 18 inches of the right-hand curb or edge of the street or its left-hand wheels within 18 inches of the left-hand curb or edge of the street. (*)

12-6-6.3 STOPPED OR PARKED VEHICLES NOT TO INTERFERE WITH OTHER TRAFFIC

No motor vehicle shall be stopped, parked, or left standing, whether attended or unattended, upon the traveled portion of any street outside of a business or residence district, when it is practicable to stop, park, or leave such vehicle off the traveled portion of the street. In the event that conditions make it impracticable to move such motor vehicle from the traveled portion of the street, the driver shall make every effort to leave all possible width of the

highway opposite the standing vehicle for the free passage of other vehicles and he shall take care to provide a clear view of the standing vehicles as far as possible to the front and rear. (66-3-852 NMSA 1978)

12-6-6.4 PARKING IN ALLEYS

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the alley for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. (*)

12-6-6.5 ALL-NIGHT PARKING PROHIBITED

No person shall park a vehicle on any street in a non-residential area for a period of time longer than 30 minutes between the hours of 2:00 A.M. and 5:00 A.M. of any day, except physicians on emergency calls. (*)

12-6-6.6 PARKING FOR CERTAIN PURPOSES PROHIBITED

No person shall park a vehicle on any street for the principal purpose of:

(1) displaying the vehicle for sale; or

(2) washing, greasing or repairing the vehicle except repairs necessitated by an emergency. (*)

12-6-6.7 PARKING ADJACENT TO SCHOOLS PROHIBITED

A. The administrator may erect signs indicating no parking on either or both sides of any street adjacent to any school property when parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected indicating no parking on either side of a street adjacent to any school property as authorized in this section, no person shall park a vehicle in any such designated place. (*)

12-6-6.8 PARKING PROHIBITED ON NARROW STREETS

A. The administrator may erect signs indicating no parking on any street when the width of the street does not exceed 24 feet or no parking upon one side of a street as indicated by such signs when the width of the street does not exceed 32 feet.

B. When official signs prohibiting parking are erected on narrow streets as authorized in this section, no person shall park a vehicle on any such street in violation of the sign. (*)

12-6-6.9 STANDING OR PARKING ON ONE-WAY STREETS

A. The administrator may erect signs on the left-hand side of any one-way street to prohibit the standing or parking of vehicles.

B. When such signs are in place, no person shall stand or park a vehicle on such left-hand side in violation of any such sign. (*)

12-6-6.10 STANDING OR PARKING ON DIVIDED STREETS

A. In the event a divided street includes two or more segments for vehicular traffic, and traffic is restricted to one direction on any such segment, no person shall stand or park a vehicle on the left-hand side of the one-way segment unless signs are erected to permit such standing or parking.

B. The administrator may determine where standing or parking may be permitted on the left-hand side of any such one-way portion of a divided street and to erect signs giving notice thereof. (*)

12-6-6.11 NO STOPPING, STANDING OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES

A. The administrator may determine and designate by proper signs, places at intervals not exceeding 100 feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places as authorized in paragraph A, no person shall stop, stand or park a vehicle in any such designated place. (*)

12-6-6.12 STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS

A. The provisions of this section prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

B. The provisions of this section imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

C. The administrator may impose restrictions or prohibitions on standing, stopping or parking and they shall apply as follows:

(1) when signs are erected prohibiting parking at all times on certain streets, no person shall park a vehicle at any time upon any of the streets so designated;

(2) when signs are erected in each block giving notice that stopping, standing or parking is prohibited during certain hours on certain streets, no person shall stop, stand or park a vehicle between the hours specified on the sign on any day, except Sundays and public holidays, within the district or on any of the streets so designated; or

(3) when signs are erected in each block giving notice that parking time is limited on certain streets, no person shall park a vehicle for longer than the time indicated on such signs between the hours of 8:00 A.M. and 6:00 P.M. of any day, except Sundays and public holidays, within the district or on any of the streets so designated.

D. Whenever by this or any other ordinance of this municipality, any parking time limit is imposed or parking is prohibited on designated streets, it is the duty of the administrator to erect appropriate signs giving notice of the restrictions or limitations.

E. No regulation authorized in this section shall be effective unless signs giving notice of prohibitions or limitations are erected and in place at the time of any alleged offense. (*)

12-6-6.13 ANGLE PARKING AND PERMITS FOR LOADING OR UNLOADING AT AN ANGLE TO THE CURB

A. The administrator may determine upon what streets angle parking is permitted and shall mark or sign such streets:

(1) any designation of angle parking shall be made on the basis of engineering and traffic study and investigation; (*)

(2) the administrator may permit angle parking on any street, except that angle parking shall not be permitted on any federal-aid or state highway unless the state highway commission has determined by resolution or order entered in its minutes that the street is of sufficient width to permit angle parking without interfering with the free movement of traffic; (66-7-352 NMSA 1978)

(3) angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive on the left side of the street; and

(4) on those streets which have been signed or marked by the administrator for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the street indicated by signs or markings. (*)

12-6-6.14 STOPPING, STANDING OR PARKING OUTSIDE OF BUSINESS OR RESIDENCE DISTRICTS

A. Upon any street outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the street when it is practicable to stop, park, or leave such vehicle

off such part of said street, but in every event an unobstructed width of the street opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such street.

B. This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

C. The state department of transportation, unless otherwise directed by an investigating police officer, or a police officer may remove or cause to be removed a vehicle or other obstruction from the paved or main-traveled part of a highway to the nearest place of safety if the vehicle or other obstruction obstructs traffic or poses a traffic hazard. (66-7-349 NMSA 1978)

12-6-7 SPECIAL STOPS REQUIRED

12-6-7.1 EMERGING FROM ALLEY, BUILDING, DRIVEWAY OR PRIVATE ROAD

A. The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or the sidewalk area extending across any alleyway or driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the street shall yield the right of way to all vehicles approaching on said street. (66-7-346 NMSA 1978)

B. The driver of a vehicle about to enter or cross a street from a private road or driveway shall yield the right of way to all vehicles approaching on said street. (66-7-331 NMSA 1978)

12-6-7.2 STOP WHEN TRAFFIC OBSTRUCTED

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (*)

12-6-7.3 STOPPING FOR SCHOOL BUS

A. The driver of a vehicle upon approaching or overtaking from either direction any school bus which has stopped on the street, with special school bus signals in operation, for the purpose of receiving or discharging any school children, shall stop the vehicle at least ten feet before reaching the school bus and shall not proceed until the special school bus signals are turned off, the school bus resumes motion or until signaled by the driver to proceed.

B. Every bus used for the transportation of school children shall bear upon the front and rear thereof a plainly visible sign containing the words “School Bus” in letters not less than eight inches in height.

C. The driver of a vehicle upon a street with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled access street and the school bus is stopped in a loading zone which is a part of or adjacent to such street and where pedestrians are not permitted to cross the roadway. (66-7-347 NMSA 1978)

D. It is unlawful to operate any flashing warning signal light on any school bus on any street except when the school bus is stopped or is about to stop on a street for the purpose of permitting school children to board or alight from the school bus. (66-7-348 NMSA 1978)

12-6-7.4 OPERATION OF VEHICLE ON APPROACH OF MOVING AUTHORIZED EMERGENCY VEHICLE; OF ONCOMING VEHICLE--YIELD RIGHT OF WAY

A. Upon the immediate approach of an authorized emergency vehicle displaying flashing emergency lights or when the driver is giving audible signal by siren, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the street clear of any intersection and shall stop and remain in that position, until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

B. Upon approaching a stationary authorized emergency vehicle or a recovery or repair vehicle displaying flashing emergency or hazard lights, unless otherwise directed, the driver of the vehicle shall:

(1) if reasonably safe to do so, drive in a lane not adjacent to the stationary vehicle, decrease the speed of the vehicle to a speed that is reasonable and prudent under the circumstances and proceed with caution; or

(2) if it is not reasonably safe to drive in a lane not adjacent to the stationary vehicle, decrease the speed of the vehicle to a speed that is reasonable and prudent under the circumstances, proceed with caution and be prepared to stop. (66-7-332 NMSA 1978)

C. Notwithstanding any other provision of law, upon the immediate approach of an oncoming vehicle overtaking or attempting to overtake a vehicle proceeding in the same direction, the driver of that vehicle shall yield the right of way and shall drive to a position to and as close as possible to the right hand edge or curb of the roadway and shall remain as close as possible to the right hand edge or curb of the roadway until the oncoming vehicle has passed. (66-7-332.1 NMSA 1978)

D. This section shall not operate to relieve the driver of an authorized emergency vehicle or the driver of any other vehicle from the duty to drive with due regard for the safety of all persons using the highway. (66-7-322 and 66-7-322.1 NMSA 1978)

12-6-7.5. RAILROAD-HIGHWAY GRADE CROSSING VIOLATIONS--ALL DRIVERS

A. A person driving a vehicle approaching a railroad-highway grade crossing shall:

(1) obey traffic control devices, crossing gates or barriers or the directions of an enforcement official at the crossing;

(2) stop not more than fifty feet and not less than fifteen feet from the nearest rail of a crossing if:

(a) a train is moving through or blocking the crossing;

(b) a train is plainly visible and approaching the crossing within hazardous proximity to the crossing;

(c) the sound of a train's warning signal can be heard; or

(d) a traffic control device, crossing gate, barrier or light or an enforcement official signals the driver to stop; and

(3) proceed through the railroad-highway grade crossing only if it is safe to completely pass through the entire railroad-highway grade crossing without stopping.

B. A person shall not:

(1) drive a vehicle through, around or under a crossing gate or barrier at a railroad-highway grade crossing while the gate or barrier is closed or being opened or closed;

(2) drive onto the railroad-highway grade crossing and stop; or

(3) enter a crossing if the vehicle being driven has insufficient undercarriage clearance to pass over the crossing.

C. The penalty assessment for violation of this section is included in the penalty assessment schedule. (66-7-341 NMSA 1978)

12-6-7.6 ALL VEHICLES MUST STOP AT CERTAIN RAILROAD GRADE CROSSINGS

The administrator, with the approval of the state highway commission, may designate particularly dangerous highway grade crossings of railroads and erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (66-7-342 NMSA 1978)

12-6-7.7 RAILROAD-HIGHWAY GRADE CROSSING VIOLATIONS--CERTAIN VEHICLES REQUIRED TO ALWAYS STOP--EXCEPTIONS

A. Except as set forth in Subsection D of this section, a driver of a vehicle carrying passengers for hire, a school bus carrying school children or a vehicle carrying hazardous materials, radioactive or explosive substances or flammable liquids as cargo or as part of its cargo, before entering a railroad-highway grade crossing, is required to stop no more than fifty feet and no less than fifteen feet from the nearest rail of the railroad.

B. While stopped, the driver shall:

(1) look and listen in both directions along the track for an approaching train and for signals indicating that a train is approaching;

(2) determine it is safe to proceed completely through the railroad-highway grade crossing before entering it; and

(3) set the vehicle in a gear sufficiently low that gears will not need to be shifted before exiting the railroad-highway grade crossing.

C. A driver shall not shift gears while in a railroad-highway grade crossing.

D. A driver of a vehicle carrying passengers for hire, a school bus carrying school children or a vehicle carrying hazardous materials, radioactive or explosive substances or flammable liquids as cargo or as part of its cargo is not required to stop at:

(1) a railroad-highway grade crossing where a police officer directs traffic to proceed;

(2) a railroad-highway grade crossing where a stop-and-go traffic light controls movement of traffic;

(3) a railroad-highway grade crossing used exclusively for industrial switching purposes, within a business district as defined in Section 66-1-4.2 NMSA 1978;

(4) a railroad-highway grade crossing where use of the railroad has been abandoned and there is a sign indicating that the railroad has been abandoned; or

(5) an industrial or spur line railroad-highway grade crossing marked with a sign reading “exempt crossing” that has been designated as exempt by appropriate state or local authorities.

E. Penalties for violation of this section are included in the penalty assessment schedule. (66-7-343 NMSA 1978)

12-6-7.8 MOVING HEAVY EQUIPMENT AT RAILROAD GRADE CROSSINGS

A. No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a street, upon or across any tracks at a railroad grade crossing without first complying with this section.

B. Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

C. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

D. No such crossing shall be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

E. This section shall not apply to the normal movement of farm equipment in the regular course of farm operation. (66-7-344 NMSA 1978)

12-6-8 PASSENGER AND FREIGHT CURB LOADING ZONES

12-6-8.1 AUTHORITY TO DESIGNATE CURB LOADING ZONES

The administrator may determine the location of passenger and freight curb loading zones, and he shall place and maintain appropriate signs indicating the zones and stating the hours during which the provisions of sections 12-6-8.1 through 12-6-8.4 are applicable. (*)

12-6-8.2 PERMITS FOR CURB LOADING ZONES

A. The administrator shall not designate or sign any curb loading zone upon special request of any person unless the person makes application for a permit for the zone and for two signs to indicate the ends of each zone.

B. After the administrator has granted a permit and before signs and markings as may be necessary are installed, the applicant shall pay to the city treasurer a

service fee of twenty-five dollars ($25) per 22-foot stall plus twenty-five cents ($ .25) per foot for additional space per year or fraction thereof.

C. The administrator may impose conditions and general regulations for the use of the signs and for reimbursement of the city for the value thereof in the event of loss or damage and their return in the event of misuse or upon expiration of permit.

D. Every permit shall expire at the end of each calendar year. (*)

12-6-8.3 STOPPING, STANDING OR PARKING IN PASSENGER CURB LOADING ZONES

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to the curb loading zone are effective and then only for a period not to exceed three minutes. (*)

12-6-8.4 STOPPING, STANDING OR PARKING IN FREIGHT CURB LOADING ZONES

A. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to freight curb loading zones are in effect. In no case shall the stop for loading and unloading of material exceed 30 minutes.

B. The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter the zone. (*)

12-6-9 PUBLIC CARRIER STOPS AND STANDS

12-6-9.1 AUTHORITY TO DESIGNATE PUBLIC CARRIER STOPS AND STANDS

A. The administrator may establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public.

B. Every designated bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. (*)

12-6-9.2 FEES AND PERMITS FOR PUBLIC CARRIER STOPS AND STANDS

The following fees shall be charged to each person, firm or corporation for the use of taxicab stands, and permits for the stands shall expire at the end of each calendar year:

(1) one hundred dollars ($100.00) per year or fraction thereof for each stand located within the central business district; and

(2) twenty-five dollars ($25.00) per year or fraction thereof for each stall located in any area outside the central business district. (*)

12-6-9.3 STOPPING, STANDING AND PARKING OF BUSES AND TAXICABS REGULATED

The stopping, standing and parking of buses and taxicabs is regulated as follows:

A. The operator of a bus shall not stand or park the vehicle on any street at any place other than a bus stand so designated as provided in this ordinance.

B. The operator of a bus shall not stop the vehicle on any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in cases of emergency.

C. The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of the vehicle not farther than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

D. The operator of a taxicab shall not stand or park the vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. (*)

12-6-9.4 RESTRICTED USE OF BUS AND TAXICAB STANDS

A. No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed.

B. However, the driver of a passenger vehicle may temporarily stop in a bus stop or taxicab stand for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (*)

12-6-10 SCHOOL CROSSINGS

A. Crosswalks may be established over streets abutting a school or the grounds adjacent thereto, and all children crossing the streets shall be required to do so within the marked crosswalks. The administrator, with advice of the local superintendent of schools, shall establish and mark, or cause to be marked, these street crossings.

B. Crosswalks over streets not abutting on school grounds may be established by the administrator, with advice of the local superintendent of schools and after adequate assurance has been given that proper safety precautions, pursuant to regulations of the administrator, will be maintained at the crossings by the school authorities to enforce their use by children.

C. At all school crossings except as provided in this section, appropriate signs shall be provided as prescribed by the administrator indicating the crossings and regulating traffic movement within the school zones.

D. School crossings are not required to be specifically posted when they are located:

(1) at a signalized intersection;

(2) at an intersection where traffic is controlled by a stop sign; or

(3) at a point where a pedestrian tunnel or overhead crossing is provided. (66-7-336 NMSA 1978)

12-6-11 EXCESSIVE SIZE AND WEIGHT, SLOW-MOVING AND HAZARDOUS VEHICLES

12-6-11.1 PERMIT FOR EXCESSIVE SIZE AND WEIGHT---SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES

A. The department and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on any highway under the jurisdiction of the state transportation commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection by any peace officer. It is a misdemeanor for any person to violate any of the conditions or terms of the special permit.

B. The department shall promulgate regulations in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier himself and for escort vehicles provided by a private business in this state; provided that:

(1) The department of public safety or the department of transportation shall provide the escort personnel with a copy of applicable rules and shall inspect the escort vehicles for the safety equipment required by the rules. If the escort vehicles and personnel meet the requirements set forth in the rules, the department of public safety shall issue the special permit;

(2) The movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraphs (1) and (2) of this subsection is subject to department authority and inspection at all times and

(3) The state transportation department shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the state transportation department shall hold public hearings in the area of the state affected by the determination, after which it may adopt regulations designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If any portion of such a four-lane highway lies within the boundaries of a municipality, the state highway and transportation department, after obtaining the approval of the municipal governing body, shall include such portions in its regulations.

C. Except for the movement of manufactured homes, special permits may be issued for a single vehicle or combination of vehicles by the department for a period not to exceed one year for a fee of two hundred fifty dollars ($250). The permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the operation is to be within the vicinity of a municipality. Utility service vehicles, operating with special permits pursuant to this subsection, shall be exempt from prohibitions or restrictions relating to hours or days of operation or restrictions on movement because of poor weather conditions.

D. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued by the department of transportation for a single vehicle for a fee of twenty-five dollars ($25.00) plus the product of two and one-half cents ($.025) for each two thousand pounds in excess of eighty-six thousand four hundred pounds or major fraction thereof multiplied by the number of miles to be traveled by the vehicle or combination of vehicles on the highways of this state.

E. If the vehicle for which a permit is issued under this section is a manufactured home, the department or local highway authority issuing the permit shall furnish the following information to the property tax division of the department, which shall forward the information:

(1) to the county assessor of any county from which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to if within the same county, the name of the owner of the manufactured home and the identification and registration numbers of the manufactured home;

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

(3) to the owner of a manufactured home having a destination in this state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that manufactured homes are subject to property tax.

F. Except as provided in Subsection G of this section, if the movement of a manufactured home originates in this state, no permit shall be issued under Subsection E of this section until the owner of the manufactured home or his authorized agent obtains and presents to the department proof that a certificate has been issued by the county assessor or treasurer of the county in which the manufactured home movement originates showing that either:

(1) all property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or

(2) liability for property taxes on the manufactured home does not exists for the current tax year or any past tax years, except for manufactured homes located on an Indian reservation.

G. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection F of this section if the manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of his inventory prior to the sale to the owner-purchaser; however, the movement of a manufactured home by a dealer or his authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection F of this section whether the destination is the business location of a dealer or some other destination.

I. No permit shall be issued under this section for movement of a manufactured home whose width exceeds eighteen feet with no more than a six-inch roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

J. The secretary may by regulation provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes; however, in no case may the cost of each permit be less than twenty-five dollars ($25.00).

K. The secretary may provide by regulation for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department shall charge a fee for each self-issued permit not to exceed fifteen dollars ($15.00).

L. Any private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

(1) bodily injury liability, providing;

(a) fifty thousand dollars ($50,000) for each person; and

(b) one hundred thousand dollars ($100,000) for each accident; and

(2) property damage liability, providing twenty-five thousand dollars ($25,000) for each accident.

M. Any motor carrier requesting an oversize permit shall produce a warrant or a single state registration receipt as evidence that the motor carrier maintains the insurance minimums prescribed by the public regulation commission. (66-7-413 NMSA 1978)

N. A vehicle used to transport loads of hay greater than one hundred two inches wide may be issued a special permit to transport loads pursuant to Section 66-7-413 NMSA 1978; provided that the vehicle is marked on the front and the rear with "OVERSIZED LOAD" signs. The area covered by the special permit shall be specified on the permit. (66-7-413.1 NMSA 1978)

O. No permit or fee required under this section is necessary for implements of husbandry, including farm tractors and farm trailers when not more than two such farm trailers are towed in tandem, being moved during daylight hours within a county or an adjacent county for a total distance, one way, of not more than fifty miles on any highway:

(1) crossing the farm property of the owner; or

(2) running between separate farm property of the owner.

Any person responsible for the movement of implements of husbandry under the provisions of this section shall comply with all safety precautions set forth in this ordinance and in regulations of the state highway commission. (66-7-414 NMSA 1978)

12-6-11.2 SLOW-MOVING VEHICLE IDENTIFICATION

A. As used in this section, "slow-moving vehicle" means any vehicle which is ordinarily moved, operated or driven at a speed less than twenty-five miles an hour.

B. Each slow-moving vehicle moved, operated or driven on a highway which is open for vehicular travel shall display a slow-moving vehicle emblem or flashing amber light as required by Section 66-3-887 NMSA 1978.

C. Use of the emblem is confined to slow-moving vehicles, and its use on any other type of vehicle or on any stationary object is prohibited. This section does not prohibit the use on slow-moving vehicles of red flags or lawful lighting devices in addition to the slow-moving vehicle emblem.

D. No person shall sell, lease, rent or operate any slow-moving vehicle unless the slow-moving vehicle is equipped with a slow-moving vehicle emblem.

E. Any person who violates any provision of this section is guilty of a misdemeanor (66-3-887 NMSA 1978)

12-6-11.3 ESCORT TO BE FURNISHED FOR MOVEMENT OF HAZARDOUS VEHICLES

A. When, in the judgment of the administrator, the movement of any vehicle is deemed a hazard to traffic upon a street over which the vehicle is to travel, the granting of permission for the movement thereof may be conditioned upon a special escort accompanying the hazardous vehicle. (66-7-314 NMSA 1978)

B. The special police car escort to safeguard traffic during the movement of the hazardous vehicle shall conform to the provisions of Section 66-7-314 NMSA 1978. (*)

12-6-12 DRIVING REGULATIONS AND OFFENSES

12-6-12.1 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; CHEMICAL TESTING; OFFICER TO FILE STATEMENT; IMMEDIATE LICENSE REVOCATION

A. It is unlawful for a person who is under the influence of intoxicating liquor to drive a vehicle within this municipality.

B. It is unlawful for a person who is under the influence of any drug to a degree that renders the person incapable of safely driving a vehicle to drive a vehicle within this state.

C. It is unlawful for:

(1) a person to drive a vehicle in this state if the person has an alcohol concentration of eight one-hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle; or

(2) a person to drive a commercial motor vehicle in this state if the person has an alcohol concentration of four one-hundredths or more in the person's blood or breath within three hours of driving the commercial motor vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle.

D. Aggravated driving while under the influence of intoxicating liquor or drugs consists of a person who:

(1) drives a vehicle in this state and has an alcohol concentration of sixteen one-hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle;

(2) has caused bodily injury to a human being as a result of the unlawful operation of a motor vehicle while driving under the influence of intoxicating liquor or drugs; or

(3) refused to submit to chemical testing, as provided for in the Implied Consent Act (66-8-105 to 66-8-112 NMSA 1978), and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor or drugs. (66-8-102 NMSA 1978).

E. Any person who operates a motor vehicle within this municipality shall be deemed to have given consent, subject to the provisions of the Implied Consent Act, to chemical tests of his breath or blood or both, approved by the scientific laboratory division of the Department of Health pursuant to the provision of Section 24-1-22 NMSA 1978 as determined by a law enforcement officer, or for the purpose of determining the drug or alcoholic content of his blood, if arrested for any offense arising out of the acts alleged to have been committed while the person was driving a motor vehicle while under the influence of an intoxicating liquor or any drug.

F. A test of blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to Section 24-1-22 NMSA 1978, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle within this municipality, while under the influence of intoxicating liquor or drug. (66-8-107 NMSA 1978)

G. Any person who is dead, unconscious or otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by Section 12-6-12.1E, and the test or tests designated by the law enforcement officer may be administered. (66-8-108 NMSA 1978)

H. Only the persons authorized by Section 66-8-103 NMSA 1978 shall withdraw blood from any person for the purpose of determining its drug or alcoholic content. This limitation does not apply to the taking of samples of breath.

I. The person tested shall be advised by the law enforcement officer of the person's right to be given an opportunity to arrange for a physician, licensed professional or practical nurse, or laboratory technician or technologist who is employed by a hospital or physician, of his own choosing to perform a chemical test in addition to any test performed at the direction of a law enforcement officer.

J. Upon the request of the person tested, full information concerning the test or tests performed at the direction of the law enforcement officer shall be made available to him as soon as it is available from the person performing the test.

K. The law enforcement agency represented by the law enforcement officer at whose direction the chemical test is performed shall pay for the chemical test.

L. If a person exercises his right under Subsection J to have a chemical test performed upon him by a person of his own choosing, then the cost of that test shall be paid by the law enforcement agency represented by the law enforcement officer at whose direction a chemical test was administered under Subsection E. (66-8-109 NMSA 1978)

M. The results of a test performed pursuant to the Implied Consent Act may be introduced into evidence in any civil action or criminal action arising out of the acts alleged to have been committed by the person tested for driving a motor vehicle while under the influence of intoxicating liquor or drug.

N. When the blood or breath of the person tested contains:

(1) an alcohol concentration of less than four one-hundredths or less, it shall be presumed that the person was not under the influence of intoxicating liquor;

(2) an alcohol concentration of at least four one-hundredths but less than eight one-hundredths:

(a) no presumption shall be made that the person either was or was not under the influence of intoxicating liquor unless the person is driving a commercial motor vehicle; and

(b) The amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether or not the person was under the influence of intoxicating liquor; or

(3) an alcohol concentration of eight one-hundredths or more, the arresting officer shall charge him with a violation of this section; or

(4) an alcohol concentration of four one-hundredths or more, and the person is driving a commercial vehicle, it shall be presumed that the person is under the influence of intoxicating liquor.

O. The arresting officer shall charge the person tested with a violation of Section 66-8-102 NMSA 1978 when the blood or breath of the person contains an alcohol concentration of:

(1) eight one-hundredths or more; or

(2) four one-hundredths or more if the person is driving a commercial motor vehicle.

P. When a person is less than twenty-one years of age and the blood or breath of the person contains an alcohol concentration of two one-hundredths or more, the person's driving privileges shall be revoked pursuant to the provisions of the Implied Consent Act.

Q. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Section 12-6-12.1 NMSA 1978.

R. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

S. The presumptions in Subsection O of this section do not limit the introduction of other competent evidence concerning whether or not a person was under the influence of intoxicating liquor. (66-8-110 NMSA 1978)

T. Nothing in this section is intended to authorize any police officer, or any judicial or probation officer, to make any arrest or to direct the performance of chemical blood test, except in the performance of his official duties and as otherwise authorized by law. (66-8-104 NMSA 1978)

U. If a person under arrest for violation of an offense enumerated in the Motor Vehicle Code refuses upon request of a law enforcement officer to submit to chemical tests designated by the law enforcement agency as provided in Section 66-8-107 NMSA 1978, none shall be administered, except when a municipal judge, magistrate or district judge issues a search warrant authorizing chemical tests as provided in Section 66-8-107 NMSA 1978, upon finding in a law enforcement officer's written affidavit that there is probable cause to believe that the person has driven a motor vehicle while under the influence of alcohol or a controlled substance thereby causing the death or great bodily injury of another person, or there is probable cause to believe that the person has committed a felony or misdemeanor while under the influence of alcohol or a controlled substance and that chemical tests as provided in Section 66-8-107 NMSA 1978 will produce material evidence in a criminal prosecution. (66-8-111 NMSA 1978)

V. If a law enforcement officer has reasonable grounds to believe that a person arrested for violation of Subsections A, B, C or D of this section had been driving a motor vehicle within this municipality while under the influence of intoxicating liquor or drug and that upon his request, the person refused to submit to a chemical test, after being advised that failure to submit could result in revocation of his privilege to drive, then the law enforcement officer shall transmit to the director a statement signed under penalty of perjury stating what such reasonable grounds were and stating that the person refused to submit to a chemical test after being advised of the consequences of such refusal.

W. On behalf of the department, a law enforcement officer requesting a chemical test or directing the administration of a chemical test pursuant to 66-8-107 NMSA 1978 shall serve immediate written notice of revocation and of right to a hearing before the administrative hearings office pursuant to the Implied Consent Act on a person who:

(1) refuses to permit chemical testing; or

(2) submits to a chemical test the results of which indicate an alcohol concentration in the person's blood or breath of

(a)eight one-hundredths or more if the person is twenty-one years of age or older;

(b)four one-hundredths or more if the person is driving a commercial vehicle; or

(c)two one-hundredths or more if the person is less than twenty-one years of age.

X. The written notice of revocation and of a right to a hearing served on the driver shall be a temporary license valid for twenty days or, if the driver requests a hearing pursuant to Section 66-8-112 NMSA 1978, valid until the date the administrative hearings office issues the order following that hearing; provided that a written notice of revocation and right to a hearing shall not be a temporary license for a driver without any otherwise valid driving privileges in this state.

Y. The law enforcement officer shall send to the department the signed statement required pursuant to Section 66-8-111 NMSA 1978. (66-8-111.1 NMSA 1978)

12-6-12.2 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PENALTIES; SENTENCING; FEES

A. If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor or drug (12-6-12.1A through D) the trial judge shall be required to inquire into the past driving record of the person before sentence is entered in the matter. (66-8-110 NMSA 1978)

B. When a person is charged with a violation of 12-6-12.1A through D, any plea of guilty thereafter entered in satisfaction of the charges shall include at least a

plea of guilty to violation 12-6-12.1 A, B, C or D and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized if:

(1) the results of a test performed pursuant to the Implied Consent Act discloses that the blood of the person charged contains an alcohol concentration of eight one-hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle; (66-8-102 NMSA 1978 as amended)

(2) four one-hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle if the person is driving a commercial vehicle; or

(3) the defendant has refused to submit to a chemical test or tests of his breath or blood. (66-8-102 NMSA 1978)

C. A person under first conviction pursuant to this section shall be punished by imprisonment for not more than ninety days or by a fine of not more than five hundred ninety-nine dollars ($500.00), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first conviction pursuant to this section, an offender shall be sentenced to not less than twenty-four hours of community service. In addition, the offender may be required to pay a fine of three hundred dollars ($300.00). The offender shall be ordered by the court to participate in and complete a screening program described in Subsection F of this section and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school," approved by the traffic safety bureau of the state transportation department and also may be required to participate in other rehabilitative services as the court shall determine to be necessary. In addition to those penalties, when an offender commits aggravated driving while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail. If an offender fails to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or fails to comply with any other condition of parole, the offender shall be sentenced to not less than an additional forty-eight consecutive hours in jail. Any jail sentence imposed pursuant to this section for failure to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or for aggravated driving while under the influence of intoxicating liquor or drugs shall not be suspended, deferred or taken under advisement. On a first conviction pursuant to this section, time spent in jail for the offense prior to the conviction for that offense shall be credited to any to any term of imprisonment fixed by the court. A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions.

D. A second or third conviction pursuant to this section shall be punished by imprisonment for not more than three hundred sixty-four days or by a fine of not more than one thousand dollars ($999.00), or both; provided that if the sentence is suspended in whole or part, the period of probation may extend beyond one hundred

seventy-nine days but shall not exceed one year. Notwithstanding any provision of law to the contrary for suspension or deferment of execution of a sentence:

(1) upon a second conviction, each offender shall be sentenced to a jail term of not less than ninety-six consecutive hours, not less than forty-eight hours of community service and a fine of five hundred dollars ($500.00). In addition to those penalties, when an offender commits aggravated driving while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than ninety-six consecutive hours. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement; and

(2) upon a third conviction, an offender shall be sentenced to a jail term of not less than thirty consecutive days, not less than ninety-six hours of community service and a fine of seven hundred fifty dollars ($750.00). In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

E. Fourth and subsequent offenses shall be prosecuted under state law in magistrate or district court. (66-8-102 NMSA 1978)

F. Upon any conviction pursuant to this section and 12-6-12.1A, B, C or D, an offender shall be required to participate in and complete, with a time specified by the court, an alcohol or drug abuse screening program approved by the Department of Finance and Administration and if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

G. Upon a second or third conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court:

(1) not less than a twenty-eight-day inpatient, residential or in-custody substance abuse program approved by the court;

(2) not less than a ninety-day outpatient treatment program approved by the court;

(3) a drug court program approved by the court; or

(4) any other substance abuse treatment approved by the court.

The requirement imposed pursuant to this section shall not be suspended, deferred or taken under advisement. (66-8-102 NMSA 1978)

H. Upon a conviction pursuant to section 12-6-12.1, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the Traffic Safety Bureau of the Department of Transportation. Unless determined by the Traffic Safety Bureau to be indigent, the offender shall pay all costs associated with having an ignition interlock device installed on the appropriate motor vehicles. The offender shall operate only those vehicles equipped with ignition interlock devices for:

(1) a period of one year, for a first offender;

(2) a period of two years, for a second conviction pursuant to this section;

(3) a period of three years, for a third conviction pursuant to this section; or

(4) the remainder of the offender's life, for a fourth or subsequent conviction pursuant to this section.

I. A person who is issued an ignition interlock license and operates a vehicle that is not equipped with an ignition interlock device is driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act and may be subject to the penalties provided in section 12-6-12.6.

J. A person who is issued an ignition interlock license and who knowingly and deliberately tampers or interferes or causes another to tamper or interfere with the proper and intended operation of an ignition interlock device may be subject to the penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act as provided in Section 12-6-12.6. (66-5-504 NMSA 1978)

K. Five years from the date of conviction and every five years thereafter, a fourth or subsequent offender may apply to a district court for removal of the ignition interlock device requirement provided in this section and for restoration of a driver's license. A district court may, for good cause shown, remove the ignition interlock device requirement and order restoration of the license; provided that the offender has not been subsequently convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs. Good cause may include an alcohol screening and proof from the interlock vendor that the person has not had violations of the interlock device.

L. An offender who obtains an ignition interlock license and installs an ignition interlock device prior to conviction shall be given credit at sentencing for the time period the ignition interlock device has been in use. (66-8-102 NMSA 1978)

M. Except as otherwise prohibited in this section, a municipal judge may suspend in whole or in part the execution of sentence or place the defendant on probation for a period not exceeding one year on terms and conditions that municipal judge deems best, or both, or defer sentence. If the municipal judge decides to defer the execution of a sentence, such deferral shall be granted only as allowed in Subsection N of this section. A suspension of execution of sentence or probation, or both, as allowed pursuant to this section, 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.

N. If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of 12-6-12.1A, B, C or D, a first offender, at the discretion of a trial court after a presentence investigation, including an inquiry to the motor vehicle division of the transportation department concerning the driver's driving record, may receive a deferred sentence on the condition that the driver attend a driver rehabilitation program, also known as the "driving-while-intoxicated-school," approved by the court and the division and such other rehabilitative services as the court may determine to be necessary; however, imposition of a deferred sentence shall classify the person as a first offender. The municipal court shall forward to the division the abstract of all proceedings and the report of the disposition of the case. For the purpose of this subsection, marijuana, as defined in the Controlled Substances Act, shall be classified as a drug. (*)

O. A person convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of 12-6-12.1A, B, C or D shall be assessed, in addition to any other fee or fine, a fee of eighty-five dollars ($85.00) to defray the cost of chemical and other tests used to determine the influence of alcohol or drugs. Additionally, the person shall be assessed 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 municipal court shall collect the fees and maintain the fees in separate funds and transfer the fees along with other funds collected by the court per 35-14-7 NMSA 1978. The municipality shall maintain the fees pursuant to this subsection in separate funds and transfer the fees collected pursuant to this subsection to the administrative office of the courts for credit to the crime laboratory fund and the traffic safety fund. (31-12-7 through 31-12-9 NMSA 1978)

P. With respect to this section and notwithstanding any provision of law to the contrary, if an offender’s sentence was suspended or deferred in whole or in part and the offender violates any condition of probation, the court may impose any sentence that the court could have originally imposed and credit shall not be given for time served by the offender on probation.

Q. As used in this section and in 12-6-12.1:

(1) “bodily injury” means an injury to a person not likely to cause death or great bodily harm to the person, but does cause painful temporary disfigurement

or temporary loss or impairment of the functions of any member or organ of the person's body; and

(2) "conviction" means adjudication of guilt and does not include imposition of a sentence.

(3) "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;

(b) has a gross vehicle weight rating of more than twenty-six thousand pounds;

(c) is designed to transport sixteen or more passengers, including the driver; or

(d) is of any size and is used in the transportation of hazardous materials, which requires the motor vehicle to be placarded under applicable law.

R. A conviction pursuant to a municipal or county ordinance in New Mexico or a law of any other jurisdiction, territory, or possession of the United States or of a tribe where that ordinance is equivalent to New Mexico law for driving while under the influence of intoxicating liquor or drugs, prescribing penalties for driving while under the influence of intoxicating liquor or drugs shall be deemed to be a conviction pursuant to this section for purposes of determining whether a conviction is a second or subsequent conviction. (66-8-102. NMSA 1978)

S. A law enforcement officer making an arrest for a violation of the provisions of 12-6-12.2 or of similar municipal or county ordinances shall use standard arrest reports and procedures developed and approved by the Department of Public Safety in accordance with Section 8 of Laws of 2005, Chapter 269.

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 Section 66-8-102 NMSA 1978 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 Section 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. (66-8-102.5 NMSA 1978)

12-6-12.4 RECKLESS DRIVING

A. Any person who drives any vehicle carelessly and heedlessly in willful or wanton disregard of the rights or safety of others and without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property is guilty of reckless driving.

B. Every person convicted of reckless driving shall be punished:

(1) Upon a first conviction by imprisonment for not less than five days nor more than ninety days, or by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00), or both; and

(2) On a second or subsequent conviction by imprisonment for not less than ten days nor more than six months, or by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00), or both.

C. Upon conviction of violation of this section, the administrator may suspend the license or permit to drive and any nonresident operating privilege for not to exceed ninety days. (66-8-113 NMSA, 1978)

12-6-12.5 CARELESS DRIVING

A. Any person operating a vehicle on the street shall give his full time and entire attention to the operation of the vehicle.

B. Any person who operates a vehicle in a careless, inattentive or imprudent manner, without due regard for the width, grade curves, corners, traffic, weather and road conditions and all other attendant circumstances is guilty of a misdemeanor. (66-8-114 NMSA 1978)

12-6-12.6 OPERATORS AND CHAUFFEURS MUST BE LICENSED

A. Except those expressly exempted by Section 66-5-4 NMSA 1978, no person shall drive any motor vehicle, neighborhood electric car or moped upon a street in this municipality unless he:

(a) holds a valid license issued under the provisions of the New Mexico Motor Vehicle Code; and

(b) has surrendered to the division any other license previously issued to the person by this state or by another state or country or has filed an affidavit with the division that the person does not possess such other license; however, the applicant need not surrender a motorcycle license duly obtained under Paragraph (4) of Subsection A of Section 66-5-5 NMSA 1978.

B. Any person licensed under the provisions of the New Mexico Motor Vehicle Code, or expressly exempted from licensure, may exercise the privilege granted upon all streets and highways in this municipality and shall not be required to obtain any other license to exercise the privilege by any county, municipality or any other local body having authority to adopt local police regulations.

C. A person charged with violating the provisions of this section shall not be convicted if the person produces, in court, a driver's license issued to the person that was valid at the time of the person's arrest (66-5-2 NMSA 1978)

D. No person, whether a resident or non-resident of the State of New Mexico, shall operate a motor vehicle or moped upon a street in this municipality in violation of any restrictions with respect to the type of, or special mechanical devices required on, a motor vehicle which the licensee may operate or any other restrictions applicable to the licensee. (*)

E. Every licensee shall have the licensee's driver's license in the licensee's immediate possession at all times when operating a motor vehicle, and shall display the license in its physical form upon demand of a magistrate or peace officer or a field deputy or inspector of the division. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor; however, a person charged with violating this section shall not be convicted if the person produces in court a driver's license in its physical form issued to the person and valid at the time of the person's citation. (66-5-16 NMSA 1978)

12-6-12.9 UNLAWFUL USE OF LICENSE; DRIVING WHEN PRIVILEGE TO DO SO HAS BEEN SUSPENDED OR REVOKED

A. It is a misdemeanor for any person to:

(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) permit any unlawful use of the driver's license issued to, or received by, him;

(4) display or represent as one's own any driver's license or permit not issued to him;

(5) do any other act forbidden or fail to perform any other act required by Sections 66-5-1.1 through 66-5-47 NMSA 1978 or the provisions of the New Mexico Commercial Driver's License Act; (66-5-37 NMSA 1978)

(6) to drive a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended and who knows or should have known that the person's license was suspended is guilty of a misdemeanor and may be punished pursuant to Subsection B of Section 66-8-7 NMSA 1978 or for no more than ninety days of participation 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 (90) 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)

(9) drive a motor vehicle on any public highway of this state at a time when the person's privilege to do so is administratively suspended is guilty of a penalty assessment misdemeanor and may be punished in accordance with the provisions of Section 66-8-116 NMSA 1978. (66-5-39.2 NMSA 1978)

C. 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 NMSA 1978)

D. As used in this ordinance or in the Motor Vehicle Code and the Boat Act, “penalty assessment misdemeanor” means violation of any of the listed sections in 66-8-116 NMSA 1978 or of the NMSA 1978 for which, except as provided in 66-8-116 NMSA 1978 Subsections D through F, the listed penalty assessment is established in 66-8-116 NMSA 1978 Section A. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person. 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 Paragraph (5) of Subsection A of Section 66-7-301 NMSA 1978 is twice the penalty assessment established in Subsection A 66-8-116 NMSA 1978 for the equivalent miles per hour over the speed limit.

F. Upon a second conviction for operation without a permit for excessive size or weight pursuant to Section 66-7-413 NMSA 1978, the penalty assessment shall be two hundred fifty dollars ($250). Upon a third or subsequent conviction, the penalty assessment shall be five hundred dollars ($500). Upon a second conviction for transport of a reducible load with a permit for excessive size or weight pursuant to Subsection N of Section 66-7-413 NMSA 1978 more than six miles from a port-of-entry facility on the border with Mexico, the penalty assessment shall be five hundred dollars ($500). Upon a third or subsequent conviction, the penalty assessment shall be one thousand dollars ($1,000). (66-8-116 NMSA 1978).

12-6-12.10 DRIVING WHILE LICENSE ADMINISTRATIVELY SUSPENDED

A. The division may suspend 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:

(1) has been convicted of an offense for which mandatory revocation of license is required upon conviction;

(2) has been convicted as a driver in an accident resulting in the death or personal injury of another or serious property damage;

(3) has been convicted with such frequency of offenses against traffic laws or rules governing motor vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) is a habitually reckless or negligent driver of a motor vehicle;

(5) is incompetent to drive a motor vehicle;

(6) has permitted an unlawful or fraudulent use of the license;

(7) has been convicted of an offense in another state or tribal jurisdiction that if committed within this state's jurisdiction would be grounds for suspension or revocation of the license;

(8) has violated provisions stipulated by a district court in limitation of certain driving privileges; or

(9) has accumulated at least seven points, but less than eleven points, and when the division has received a recommendation from a municipal or magistrate judge that the license be suspended for a period not to exceed three months.

B. 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 comply with the terms of a citation issued in a foreign jurisdiction that is a party to the Nonresident Violator Compact [66-8-137.1 NMSA 1978] and that has notified the department of the failure in accordance with the Nonresident Violator Compact.

C. 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 may initiate a license suspension action in accordance with the provisions of Article IV of the Nonresident Violator Compact.

D. Upon suspending the license of a person as authorized in this section, the division shall immediately notify the licensee in writing of the licensee's right to a hearing before the administrative hearings office and, upon the licensee's request, shall notify the administrative hearings office. The administrative hearings office shall schedule the hearing to take place as early as practicable, but not later than twenty days, not counting Saturdays, Sundays and legal holidays, after receipt of the request. The hearing shall be held in the county in which the licensee resides unless the hearing officer and the licensee agree that the hearing may be held in some other county; provided that the hearing request is received within twenty days from the date that the suspension was deposited in the United States mail. The hearing officer may, in the hearing officer's discretion, extend the twenty-day period. The hearing shall be held as provided in the Administrative Hearings Office Act [Chapter 7, Article 1B NMSA 1978]. After the hearing, the hearing officer shall either rescind the order of suspension or continue, modify or extend the suspension of the license or revoke the license. (66-5-30 NMSA 1978)

12-6-12.12 UNATTENDED MOTOR VEHICLE

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake, or placing the transmission in parking position, thereon and, when standing upon any grade, turning the front wheels in such a manner that the vehicle will be held by the curb or will leave the street if the brake fails. (66-7-353 NMSA 1978)

12-6-12.13 LIMITATIONS ON BACKING

A. The driver of a vehicle shall not back it:

(1) unless the movement can be made with reasonable safety and without interfering with other traffic;

(2) upon any shoulder or roadway of any controlled-access street, or upon the exit or entry road of any controlled-access street; (66-7-354 NMSA 1978)

(3) into an intersection or around a corner unless preceded by an observer to safely direct the movement; or

(4) from a private driveway into any street unless the movement can be made with safety and without interfering with other traffic on the street.

B. In no case shall a vehicle be backed more than 60 feet unless preceded by an observer to safely direct the movement. (*)

12-6-12.14 OBSTRUCTION TO DRIVER'S VIEW OR DRIVING MECHANISM

A. No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such position as to interfere with driver’s view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle. (66-7-357 NMSA 1978)

12-6-12.15 RESTRICTION ON USE OF VIDEO IN MOTOR VEHICLES

A. It is unlawful to operate in this municipality any motor vehicle equipped with a video screen, of whatever type, upon which images may be projected or shown, if the screen is within the normal view of the driver of the motor vehicle unless the video screen is solely used as an aid to the driver in the operation of the vehicle.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor.

C. As used in this section "video screen" does not include closed circuit monitors or computer terminal monitors used by law enforcement agencies in law enforcement motor vehicles. (66-7-358 NMSA 1978)

12-6-12.16 COASTING PROHIBITED

A. The driver of any motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-360 NMSA 1978)

12-6-12.17 FOLLOWING FIRE APPARATUS PROHIBITED

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (66-7-361 NMSA 1978)

12-6-12.18 CROSSING FIRE HOSE PROHIBITED

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, without the consent of the fire department official in command. (66-7-362 NMSA 1978)

12-6-12.19 DRIVING THROUGH SAFETY ZONES PROHIBITED

No vehicle shall at any time be driven through or within a safety zone. (66-7-361 NMSA 1978)

12-6-12.20 VEHICLES SHALL BE DRIVEN ONLY ON STREETS, PRIVATE ROADS AND DRIVEWAYS

No driver of a vehicle shall operate or be in control of a vehicle on other than the portions of streets improved, designed and ordinarily used for vehicular traffic, private roads, driveways or alleys in this municipality, except as otherwise provided by this ordinance or as otherwise authorized or designated by the administrator or his designated representative. (*)

12-6-12.21 DRIVING ON SIDEWALK AND PRIVATE PROPERTY

A. No person shall drive any vehicle on, or across a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

B. No person shall drive on private property, except upon a permanent or authorized temporary driveway or parking area, without the express authorization of the owner, lessee or other person authorized by the owner to control the use of the private property. (*)

12-6-22 PROHIBITED ACTIVITIES WHILE DRIVING

No person shall:

(1) drive a vehicle while engaged in any activity which interferes with the safe operation of the vehicle;

(2) drive while having in his lap any person, adult or minor, or any animal;

(3) drive while seated in the lap of another person while the vehicle is in motion;

(4) drive a vehicle while having either arm around another person; or

(5) operate a motor vehicle's equipment, including but not limited to the vehicle horn or lights, in such manner as to distract other motorists on the public way or in such a manner as to disturb the peace. (*)

12-6-12.23 RACING ON STREETS

A. Unless written permission setting out pertinent conditions is obtained from the chief of the municipal police, and then only in accordance with such conditions (*) no person shall drive a vehicle on a street in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, whether or not the speed is in excess of the maximum speed prescribed by law, and no person shall in any manner participate in any such race, drag race, competition, contest, test or exhibition.

B. As used in this section:

(1) “drag race” means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit;

(2) “race” means the use of one (1) or more vehicles in a manner to outgain or outdistance another vehicle, prevent another vehicle from passing, arrive at a given destination ahead of another vehicle or test the physical stamina or endurance of drivers over long-distance routes. (66-8-115 NMSA 1978)

(3) “exhibition driving” consists of intentionally fish-tailing, peeling-out, losing traction, and burning of rubber while operating a motorcycle or motor-driven vehicle,, includes intentionally operating the vehicle on a single tire (commonly known as a “wheelie”); operating a vehicle from a standing position; or operating the vehicle without at least one hand gripping the handlebars. (*)

12-6-12.24 PROCESSIONS

A. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while the procession is in motion and when the vehicles in the procession are conspicuously designated as required in this section. This provision shall not apply at intersections where traffic is controlled by police officers.

B. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the street as practicable and shall follow the vehicle ahead as closely as is practicable and safe.

C. A funeral composed of a procession of vehicles shall be identified by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division.

D. No funeral, procession or parade containing 200 or more persons or 50 or more vehicles, except the Armed Forces of the United States, the military forces of this state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply. (*)

12-6-12.25 DRIVER TO TAKE PRECAUTIONS APPROACHING THE BLIND

A. The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or with out a red tip, or using a guide dog shall take all necessary precautions to avoid injury to the blind pedestrian. Any driver who fails to take necessary precautions shall be liable in damages for any injury caused to the pedestrian.

B. A totally blind or partially blind pedestrian not carrying a cane or using a guide dog shall have all the rights and privileges conferred by law on other persons, and the failure of a totally blind pedestrian to carry a cane or to use a guide dog shall not be held to constitute nor be evidence of contributory negligence. (28-7-4 NMSA 1978)

12-6-12.26 OFFENSES BY PERSONS OWNING OR CONTROLLING VEHICLES

It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or to permit the operation of such vehicle upon a street in this municipality in any manner contrary to law or this ordinance. (66-8-121 NMSA 1978)

12-6-12.27 PERMITTING UNAUTHORIZED PERSONS TO DRIVE

A. No person shall cause or knowingly permit his child or ward under the age of eighteen years to drive a motor vehicle upon any street when such minor is not authorized under state law or is in violation of any of the provisions of the New Mexico Motor Vehicle Code. (66-5-40 NMSA 1978)

B. No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street by any person who is not authorized under state law or is in violation of any of the provisions of the New Mexico Motor Vehicle Code. (66-5-41 NMSA 1978)

12-6-12.28 PARTIES TO UNLAWFUL ACTS

Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be unlawful, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this ordinance or of the Motor Vehicle Code is likewise guilty of such offense. (66-8-120 NMSA 1978)

12-6-13 MISCELLANEOUS TRAFFIC REGULATIONS

12-6-13.1 OFFENSES RELATING TO DRIVING UNDER THE INFLUENCE

A. No owner or person in control of a motor vehicle shall permit it to be driven or operated by any person who is a habitual user of narcotic drugs or by any person who is under the influence of intoxicating liquor, narcotic drugs or any other drug to a degree which renders him incapable of safely driving the vehicle.

B. No person under the influence of intoxicating liquor, narcotic drug or other drug to a degree which renders him incapable of driving safely shall start or attempt to operate a vehicle. (*)

12-6-13.2 UNLAWFUL RIDING

A. No person shall ride or permit another person to ride in or on any portion of a vehicle not designated or intended for the use of passengers.

B. This provision shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise. (*)

12-6-13.3 UNHITCHED TRAILER ON STREET

No person shall leave any type of trailer unhitched upon a street. (*)

12-6-13.4 MOVING OR MOLESTING UNATTENDED VEHICLES

A. No person shall individually or in association with one or more others do any of the following:

(1) purposely, and without authority from the owner, start or cause to be started the engine of any motor vehicle;

(2) purposely and maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which they were left by the owner or driver of said motor vehicle;

(3) purposely scratch or damage the chassis, running gear, body, sides, tip covering or upholstering of a motor vehicle which is the property of another;

(4) purposely destroy any part of a motor vehicle or purposely cut, mash, mark, or in any other way, destroy or damage any part, attachment, fastening or appurtenance of a motor vehicle, without the permission of the owner;

(5) purposely drain or start the drainage of any radiator, oil tank or gas tank upon a motor vehicle, without the permission of the owner;

(6) purposely put any metallic or other substance or liquid in the radiator, carburetor, oil tank, grease cup, oilers, lamps, gas tanks or machinery of the motor vehicle with the intent to injure or damage the same or impede the working of the machinery thereof;

(7) maliciously tighten or loosen any bracket, bolt, wire, nut, screw or other fastening on a motor vehicle; or

(8) purposely release the brake upon a standing motor vehicle with the intent to injure said machine. (30-16D-5 NMSA 1978)

B. The foregoing provisions shall not apply to a police officer or member of the fire department or street maintenance department who in discharge of his duty legally moves or causes to be moved any unattended vehicle, nor to any person who moves the vehicle at the direction of or in compliance with orders from a police officer or member of the fire department or street maintenance department who in the discharge of his duties legally orders or directs the moving of the unattended vehicle. (*)

12-6-13.5 DESTRUCTIVE OR INJURIOUS MATERIAL ON STREET

A. No person shall throw or deposit upon any street any trash, glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street.

B. Any person who drops, or permits to be dropped or thrown, upon any street any destructive or injurious material or trash shall immediately remove the same or cause it to be removed.

C. Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

D. As used in this section, "trash" means any article or substance that when discarded creates or contributes to an unsanitary, offensive or unsightly condition. "Trash" includes waste food; paper products; cans, bottles and other containers; household furnishings and equipment; parts or bodies of vehicles and other metallic junk or scrap; and collections of ashes, dirt, yard trimmings and other rubbish. (66-7-364 NMSA 1978)

E. No vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a street in cleaning or maintaining such street.

F. No person shall operate on any street any vehicle or combination of vehicles with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the street. (66-7-407 NMSA 1978)

12-6-13.6 TRAINS AND BUSES NOT TO OBSTRUCT STREETS

No person or corporation shall direct the operation of or operate any railroad train or bus in such manner to prevent the use of any street for purposes of travel for a period of time longer than five minutes. (*)

12-6-13.7 BOARDING OR ALIGHTING FROM VEHICLES

A. No person shall board or alight from any moving vehicle or any vehicle which is stopped in traffic.

B. No person shall alight or enter a vehicle except when it is stopped at a curb or in a passenger loading zone. (*)

12-6-13.8 IMPROPER OPENING OF DOORS.

It is a misdemeanor for any person to:

A. open the door of a vehicle on the side near moving traffic unless

(1) it is reasonably safe to do so, and

(2) the door can be opened without interfering with the movement of traffic; or

B. leave a door of a vehicle open on the side of the vehicle near moving traffic for a period of time longer than necessary to load or unload passengers. (66-7-367 NMSA 1978)

12-6-13.9 OCCUPIED MOVING HOUSE TRAILER

It is a misdemeanor for any person to:

A. occupy a house trailer while it is being towed upon a street; or

B. tow a house trailer on any street when the house trailer is occupied by any person. (66-7-366 NMSA 1978)

12-6-13.10 ANIMALS ON STREET

A. It is unlawful for any person, during the hours of darkness to ride a horse or other animal upon the traveled portion of any street which is normally used by motor vehicles.

B. It is unlawful for any person negligently to permit livestock to wander or graze upon any fenced street at any time or, during the hours of darkness, to drive livestock along or upon any street which is normally used by motor vehicles.

C. Owners of livestock ranging in pastures through which unfenced roadways pass shall not be liable for damages by reason of injury or damage to persons or property occasioned by collisions of vehicles using said roadways and livestock or animals ranging in said pastures unless such owner of livestock is guilty of specific negligence other than allowing his animals to range in said pasture.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-363 NMSA 1978)

12-6-13.11 DRIVING ON MOUNTAIN STREETS

A. The driver of a motor vehicle traveling through defiles or canyons or on mountain streets shall hold such motor vehicle under control and as near the right-hand edge of the street as reasonably possible.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-359 NMSA 1978)

12-6-13.12 CHILD PASSENGER RESTRAINT; PENALTY; ENFORCEMENT

A. A person shall not operate a passenger car, van or pickup truck in this state except for an authorized emergency vehicle, public transportation or school bus unless all passengers less than eighteen years of age are properly restrained.

B. Each person less than eighteen years of age shall be properly secured in a child passenger restraint device or by a seat belt, unless all seating positions equipped with seat belts are occupied, as follows:

(1) children less than one year of age shall be properly secured in a rear-facing child passenger restraint device that meets federal standards, in the rear seat

of a vehicle that is equipped with a rear seat. If the vehicle is not equipped with a rear seat, the child may ride in the front seat of the vehicle if the passenger-side air bag is deactivated or if the vehicle is not equipped with a deactivation switch for the passenger-side air bag:

(2) children one year of age through four years of age, regardless of weight, or children who weigh less than forty pounds, regardless of age, shall be properly secured in a child passenger restraint device that meets federal standards;

(3) children five years of age through six years of age, regardless of weight, or children who weigh less than sixty pounds, regardless of age, shall be properly secured in either a child booster seat or an appropriate child passenger restraint device that meets federal standards; and

(4) children seven years of age through twelve years of age shall be properly secured in a child passenger device or by a seat belt.

C. A child is properly secured in an adult seat belt when the lap belt properly fits across the child's thighs and hips and not the abdomen. The shoulder strap shall cross the center of the child's chest and not the neck, allowing the child to sit all the way back against the vehicle seat with knees bent over the seat edge.

D. Failure to be secured by a child passenger restraint device or by a safety belt as required by this section shall not in any instance constitute fault or negligence and shall not limit or apportion damages. (66-7-369 NMSA 1978)

12-6-13.13 MANDATORY USE OF SEATBELTS

A. Except as provided by Section 12-6-13.12 and in Subsection B of this section, each occupant of a motor vehicle having a gross vehicle weight of ten thousand pounds or less manufactured with safety belts in compliance with federal motor vehicle safety standard number 208 shall have a safety belt properly fastened about his body at all times when the vehicle is in motion on any street or highway.

B. This section shall not apply to an occupant of a motor vehicle having a gross vehicle weight of ten thousand pounds or less who possesses a written statement from a licensed physician that he is unable for medical reasons to wear a safety belt or to a rural letter carrier of the United States postal service while performing the duties of a rural letter carrier. (66-7-372 NMSA 1978)

C. Each person violating Subsection A of Section 12-6-13.13 shall be fined an amount not less than twenty-five dollars ($25.00) or more than fifty dollars ($50.00) including court costs.(*)

D. Failure to be secured by a child passenger restraint device or by a safety belt as required in this Section shall not in any instance constitute fault or negligence and shall not limit or apportion damages.

E. The provisions of this Section shall be enforced whether or not associated with the enforcement of any other statute. (66-7-373 NMSA 1978)

12-6-13.14 CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES IN OPEN CONTAINERS IN A MOTOR VEHICLE PROHIBITED--EXCEPTIONS

A. No person shall knowingly drink any alcoholic beverage while in a motor vehicle upon any street within this municipality.

B. No person shall have in his possession on his person, while in a motor vehicle upon any street within this municipality, any bottle, can or other receptacle containing any alcoholic beverage which has been opened or had its seal broken or the contents of which have been partially removed.

C. It is unlawful for the registered owner of any motor vehicle, to knowingly keep or allow to be kept in a motor vehicle, when the vehicle is upon any street within this municipality, any bottle, can or other receptacle containing any alcoholic beverage which has been opened or had its seal broken or the contents of which have been partially removed, unless the container is kept in:

(1) the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers;

(2) the living quarters of a motor home or recreational vehicle;

(3) a truck camper;

(4) the bed of a pick-up truck when the bed is occupied by passengers.

This section does not apply to the driver or owner of or any passenger in a bus, taxicab or limousine for hire licensed to transport passengers pursuant to the Motor Carrier Act or proper legal authority.

D. The provisions of this section do not apply to:

(1) any person who, upon the recommendation of a doctor, carries alcoholic beverages in that persons motor vehicle for medicinal purposes;

(2) any clergyman or his agent who carries alcoholic beverages for religious purposes in the clergyman's or his agent's motor vehicle; or

(3) any person who is employed by a person licensed by the Alcoholic Beverage Control Act, while discharging his duties as an employee (66-8-138 NMSA 1978)

E. Penalties

(1) Whoever is guilty of a second or subsequent violation of any provision of this ordinance shall be sentenced pursuant to this code.

(2) In addition to any other penalty or disposition ordered pursuant to law, upon conviction for a second or subsequent violation of the provisions of Section 12-6-13.14, the convicted person shall have his driver's license revoked for a period of three months upon a second violation and for one year upon a third or subsequent violation. (66-8-139 NMSA 1978)

F. "Alcoholic Beverages" Defined. As used in this ordinance "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whisky, rum, gin, aromatic bitters bearing the federal internal revenue strip stamps or any similar alcoholic beverage, including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol but excluding medicinal bitters. (66-1-4.1 NMSA 1978)

12-6-13.15 LITTERING

A. Littering consists of discarding refuse:

(1) on public property in any manner other than by placing the refuse in a receptacle provided for the purpose by the responsible governmental authorities, or otherwise in accordance with lawful direction; or

(2) on private property not owned or lawfully occupied or controlled by the person, except with the consent of the owner, lessee or occupant thereof. (30-8-4 NMSA 1978).

B. Whoever commits littering is guilty of a petty misdemeanor. The use of uniform traffic citations is authorized for the enforcement of this section. The court may to the extent permitted by law, as a condition to suspension of any other penalty provided by law, require a person who commits littering to pick up and remove from any public place or any private property, with prior permission of the legal owner, any litter deposited thereon.

C. Any jail sentence imposed pursuant to Subsection B of this section may be suspended, in the discretion of the magistrate or judge, upon conditions that the offender assist in litter clean-up in the jurisdiction for a period not to exceed the length of the suspended sentence. (*)

12-6-14 PEDESTRIANS' RIGHTS AND DUTIES

12-6-14.1 PEDESTRIAN OBEDIENCE TO TRAFFIC-CONTROL DEVICES AND TRAFFIC REGULATIONS

A. Pedestrians shall be subject to traffic-control signals at intersections as provided in Section 12-5-6, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions provided in this ordinance.

B. Local authorities are hereby empowered by ordinance to require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk. (66-7-333 NMSA 1978)

12-6-14.2 PEDESTRIANS RIGHT OF WAY IN CROSSWALKS

A. When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the street within a crosswalk when the pedestrian is in the crosswalk.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

C. Subsection A shall not apply under the conditions stated in Section 12-6-14.4.

D. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the street, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

E. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-334 NMSA 1978)

12-6-14.3 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK

A. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-338 NMSA 1978)

12-6-14.4 CROSSING AT OTHER THAN CROSSWALKS

A. A pedestrian crossing a street at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the street.

B. Any pedestrian crossing a street at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the street.

C. Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk. (66-7-335 NMSA 1978)

D. No pedestrian shall cross a street intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements. (*)

E. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-335 NMSA 1978)

12-6-14.5 PEDESTRIANS ON STREETS

A. Where sidewalks are provided it is unlawful for a pedestrian to walk along and upon an adjacent street.

B. Where sidewalks are not provided any pedestrian walking along and upon a street shall when practicable walk only on the left side of the street or its shoulder facing traffic which may approach from the opposite direction.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-7-339 NMSA 1978)

12-6-14.6 PEDESTRIANS SOLICITING RIDES OR BUSINESS

A. No person shall stand in a street for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

B. No person shall stand on or in proximity to a street for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street. (66-7-340 NMSA 1978)

12-6-14.7 OBEDIENCE OF PEDESTRIANS TO BRIDGE AND RAILROAD SIGNALS

A. No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

B. No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed. (*)

12-6-14.8 DRIVERS TO EXERCISE DUE CARE

Notwithstanding the foregoing provisions of this ordinance and Sections 66-7-333 through 66-7-340 NMSA 1978 every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a street. (66-7-337 NMSA 1978)

12-6-15 REFERENCE TO VEHICLES UPON THE STREETS

A. The provisions of Article 6 of this ordinance and Chapter 66, Article 7 NMSA 1978 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 4 of this ordinance and Sections 12-6-12.1 through 12-6-12.3 of this ordinance shall apply upon the streets and highways and elsewhere throughout this municipality. (66-7-2 NMSA 1978)

12-6-16 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

A. As used in this section, "electric personal assistive mobility device" means a self-balancing device having two non-tandem wheels designed to transport a single person by means of an electric propulsion system with an average power of one horsepower and with a maximum speed on a paved level surface of less than twenty miles per hour when powered solely by its propulsion system and while being ridden by an operator who weighs one hundred seventy pounds.

B. An electric personal assistive mobility device shall be equipped with:

(1) front, rear and side reflectors;

(2) a braking system that enables the operator to bring the device to a controlled stop; and

(3) if operated at any time from one-half hour after sunset to one-half hour before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the device.

C. The secretary of the state department of transportation shall by rule prescribe motor vehicle safety standards applicable to electric personal assistive mobility devices.

D. An operator of an electric personal assistive mobility device traveling on a sidewalk, roadway or bicycle path shall have the rights and duties of a pedestrian, and shall exercise due care to avoid colliding with pedestrians. An operator shall yield the right of way to pedestrians.

E. Except as provided in this section, no other provisions of the Uniform Traffic Ordinance shall apply to electric personal assistive mobility devices.

F. An operator who violates a provision of Subsection B, C or D of this section shall receive a warning for the first offense. For a second offense, the operator shall be punished by a fine of ten dollars ($10.00). For a third or subsequent offense, in addition to the fine, the electric personal assistive mobility device shall be impounded for up to thirty days.

G. This section does not apply to personal assistive mobility devices used by persons with disabilities. (66-3-1102 NMSA 1978)

12-6-16.1 NEIGHBORHOOD ELECTRIC CARS

A. A neighborhood electric car means a four-wheeled electric motor vehicle that has a maximum speed of more than twenty miles per hour but less than twenty-five miles per hour, complies with the federal requirements specified in 49 CFR 571.500 and shall be equipped with head lamps, stop lamps, front and rear turn signals lamps, tail lamps, reflex reflectors, a parking brake, at least one interior and one exterior rear view mirror, a windshield, windshield wipers, a speedometer, an odometer, braking for each wheel, seat belts and a vehicle identification number.

B. Except as provided for in Subsection C or D of this section, a neighborhood electric car, properly registered pursuant to provisions of the Motor Vehicle Code, in compliance with the Mandatory Financial Responsibility Act and driven by an individual with a valid driver's license, may be operated on any street, roadway or highway under the jurisdiction of either the state or a local authority if the posted maximum speed limit is thirty-five miles per hour or less; provided, a neighborhood electric car may cross at an intersection or permitted crossing point at any street, roadway or highway that has a maximum speed limit higher than thirty-five miles an hour.

C. A local authority may prohibit the operation of neighborhood electric cars on any road under its jurisdiction if the governing body of the local authority determines that the prohibition is necessary in the interest of safety.

D. The department of transportation may prohibit the operation of neighborhood electric cars on any road under its jurisdiction if it determines that the prohibition is necessary in the interest of safety.

E. Neighborhood electric cars are exempt from the following provisions:

(1) the emblems or flashing light requirements for slow-moving vehicles in Section 66-3-887 NMSA 1987;

(2) any requirement for vehicle emission inspections adopted by a local authority pursuant to Subsection C of Section 74-2-4 NMSA 1978; and

(3) the minimum motor displacement requirements of Paragraph (2) of Subsection A of Section 66-7-405 NMSA 1978. (66-3-1103 NMSA 1978)

12-6-17 BOATING REGULATIONS AND OFFENSES BOATING WHILE INTOXICATED ACT

12-6-17.1 DEFINITIONS

A. "bodily injury" means an injury to a person that is not likely to cause death or great bodily harm to the person, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the person's body;

B. "conviction" means an adjudication of guilt and does not include imposition of a sentence;

C. "motorboat" means any boat, personal watercraft or other type of vessel propelled by machinery, whether or not machinery is the principle source of propulsion. "Motorboat" includes a vessel propelled or designed to be propelled by a sail, but does not include a sailboard or a windsurf board. "Motorboat" does not include a houseboat or any other vessel that is moored on the water, but not moving on the water; and

D. "operate" means to physically handle the controls of a motorboat that is moving on the water. (66-13-2 NMSA 1978)

12-6-17.2 OPERATING A MOTORBOAT WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

A. It is unlawful for a person who is under the influence of intoxicating liquor to operate a motorboat.

B. It is unlawful for a person who is under the influence of any drug to a degree that renders him incapable of safely operating a motorboat to operate a motorboat.

C. It is unlawful for a person who has an alcohol concentration of eight one hundredths or more in his blood or breath to operate a motorboat.

D. Aggravated boating while under the influence of intoxicating liquor or drugs consists of a person who:

(1) has an alcohol concentration of sixteen one hundredths or more in his blood or breath while operating a motorboat;

(2) has caused bodily injury to a human being as a result of the unlawful operation of a motorboat while under the influence of intoxicating liquor or drugs; or

(3) refused to submit to chemical testing, as provided for in the Boating While Intoxicated Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor or drugs.

E. Every person under first conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than five hundred dollars ($500), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. The offender shall be ordered by the court to attend a boating safety course approved by the national association of state boating law administrators. An offender ordered by the court to attend a boating safety course shall provide the court with proof that the offender successfully completed the course within seven months of his conviction or prior to completion of his probation, whichever period of time is less. In addition to those penalties, when an offender commits aggravated boating while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail and may be fined not more than seven hundred fifty dollars ($750). On a first conviction under this section, any time spent in jail for the offense prior to the conviction for that offense shall be credited to any term of imprisonment fixed by the court. A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions.

F. A second or subsequent conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than seven hundred fifty dollars ($750), or both; provided that if the sentence is suspended in whole or in part, the period of probation shall not exceed one year. In addition to those penalties, when an offender commits aggravated boating while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail and may be fined not more than one thousand dollars ($1,000). (66-13-3 NMSA 1978)

12-6-17.3 GUILTY PLEAS--LIMITATIONS

A. When a complaint or information alleges a violation of 12-6-17.2 any plea of guilty thereafter entered in satisfaction of the charges shall include at least a plea of guilty to the violation of one of the subsections of 12-6-17.2, and no other disposition by plea of guilty to any other charge in satisfaction of the charge shall be authorized if the results of a test performed pursuant to that act disclose that the blood or breath of the person charged contains an alcohol concentration of eight one hundredths or more. (66-13-4 NMSA 1978)

12-6-17.4 BLOOD-ALCOHOL TESTS--PERSONS QUALIFIED TO PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY

Only a physician, licensed professional or practical nurse, emergency medical technician or certified phlebotomist or a technologist who withdraws blood from a person in the performance of a chemical blood test. No such physician, nurse, technician, phlebotomist or technologist who withdraws blood from a person in the performance of a chemical blood test that has been directed by a police officer or by a judicial or probation officer, shall be held liable in a civil or criminal action for assault, battery, false imprisonment or any conduct of a police officer, except for negligence, nor shall a person assisting in the performance of the test, or a hospital wherein blood is withdrawn in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or any conduct except for negligence. (66-8-103 NMSA 1978)

12-6-17.5 BLOOD-ALCOHOL TEST--LAW ENFORCEMENT, JUDICIAL OR PROBATION OFFICER UNAUTHORIZED TO MAKE ARREST OR DIRECT TEST EXCEPT IN PERFORMANCE OF OFFICIAL DUTIES AUTHORIZED BY LAW

Nothing in the Boating While Intoxicated Act is intended to authorize a law enforcement officer, or a judicial or probation officer, to make an arrest or direct the performance of a blood-alcohol or drug test, except in the performance of his official duties or as otherwise authorized by law. (66-13-7 NMSA 1978)

12-6-17.6 IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST

A. A person who operates a motorboat within this state shall be deemed to have given consent, subject to the provisions of the Boating While Intoxicated Act, to chemical tests of his blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978 as determined by a law enforcement officer, or for the purposes of determining the drug or alcohol content of his blood if arrested for any offense arising out of acts alleged to have been committed while the person was operating a motorboat while under the influence of an intoxicating liquor or drug.

B. The arrested person shall be advised by a law enforcement officer that failure to submit to a chemical test may be introduced into evidence in court and that the court, upon conviction, may impose increased penalties for the person's failure to submit to a chemical test.

C. A test of blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating a motorboat while under the influence of an intoxicating liquor or drug.

D. A person who operates a motorboat in this state and who is involved in a fatal boating incident shall be deemed to have given consent, subject to the provisions of the Boating While Intoxicated Act, to mandatory chemical tests of his blood or breath or both, as determined by a law enforcement officer and approved by the scientific laboratory

division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978. (66-13-8 NMSA 1978)

12-6-17.7 CONSENT OF PERSON INCAPABLE OF REFUSAL NOT WITHDRAWN

A person who is dead, unconscious or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by the Boating While Intoxicated Act, and the test designated by the law enforcement officer may be administered. (66-13-9 NMSA 1978)

12-6-17.8 ADMINISTRATION OF CHEMICAL TEST--PAYMENT OF COSTS--ADDITIONAL TESTS.

A. Only the persons authorized by the Boating While Intoxicated Act shall withdraw blood from a person for the purpose of determining its alcohol or drug content. This limitation does not apply to the taking of samples of breath.

B. The person tested shall be advised by the law enforcement officer of the person's right to be given an opportunity to arrange for a physician, licensed professional or practical nurse or laboratory technician or technologist who is employed by a hospital or physician of his own choosing to perform a chemical test in addition to a test performed at the direction of a law enforcement officer.

C. Upon the request of the person tested, full information concerning the test performed at the direction of the law enforcement officer shall be made available to him as soon as it is available from the person performing the test.

D. The agency represented by the law enforcement officer at whose direction the chemical test is performed shall pay for the chemical test.

E. If a person exercises his right under Subsection B of this section to have a chemical test performed upon him by a person of his own choosing, the cost of that test shall be paid by the agency represented by the law enforcement officer at whose direction a chemical test was administered pursuant to 12-6-17.6. (66-13-10 NMSA 1978)

12-6-17.9 USE OF TESTS IN CRIMINAL OR CIVIL ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING

A. The results of a test performed pursuant to the Boating While Intoxicated Act may be introduced into evidence in a civil action or criminal action arising out of the acts alleged to have been committed by the person tested for operating a motorboat while under the influence of intoxicating liquor or drugs.

B. When the blood or breath of the person tested contains:

(1) an alcohol concentration of five one hundredths or less, it shall be presumed that the person was not under the influence of intoxicating liquor; or

(2) an alcohol concentration of more than five one hundredths but less than eight one hundredths, no presumption shall be made that the person either was or was not under the influence of intoxicating liquor. However, the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

C. When the blood or breath of the person tested contains an alcohol concentration of eight one hundredths or more, the arresting officer shall charge him with a violation of 12-7-17.2.

D. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

E. The alcohol concentration in a person's blood or breath shall be determined by a chemical test administered to the person within three hours of the alleged boating while under the influence of intoxicating liquor. In a prosecution pursuant to the provisions of the Boating While Intoxicated Act, it is a rebuttable presumption that a person is in violation of the provisions of that act if he has an alcohol concentration of eight one hundredths or more in his blood or breath as determined by a chemical test administered to the person within three hours of the alleged boating while under the influence of intoxicating liquor. If the chemical test is administered more than three hours after the alleged boating while under the influence of intoxicating liquor, the test result is admissible as evidence of the alcohol concentration in the person's blood or breath at the time of the alleged boating and the trier of fact shall determine what weight to give the test result.

F. The presumptions in Subsection B of this section do not limit the introduction of other competent evidence concerning whether the person was under the influence of intoxicating liquor.

G. If a person is convicted of operating a motorboat while under the influence of intoxicating liquor or drugs, the trial judge shall be required to inquire into past convictions of the person for operating a motorboat while under the influence of intoxicating liquor or drugs before sentence is entered in the matter. (66-13-11 NMSA 1978)

12-6-17.10 MOTORBOATS--INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--FEE UPON CONVICTION

A. A person convicted of a violation of the Boating While Intoxicated Act shall be assessed by the court, in addition to any other fee or fine, a fee of sixty-five dollars ($65.00) to defray the costs of chemical and other tests used to determine the influence of intoxicating liquor or drugs.

B. All fees collected pursuant to the provisions of this section shall be transmitted monthly to the crime laboratory fund. All balances in the crime laboratory fund collected pursuant to this section are appropriated to the administrative office of the courts for payment upon invoice to the scientific laboratory division of the department of health

for the costs of chemical and other tests used to determine the influence of intoxicating liquor or drugs.

C. Payment of funds out of the crime laboratory fund of fees collected pursuant to this section shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the department of finance and administration. (63-13-12 NMSA 1978)

12-6-18 TEXTING WHILE DRIVING

A. A person shall not read or view a text message or manually type on a handheld mobile communication device for any purpose while driving a motor vehicle, except to summon medical or other emergency help or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.

B. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a handheld mobile communications device. Unless otherwise provided by law, the handheld mobile communication device used in the violation of the provisions of this section is not subject to search by a law enforcement officer during a traffic stop made pursuant to the provisions of this section.

C. As used in this section:

(1) "driving" means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but "driving" excludes operating a motor vehicle when the vehicle has pulled over to the side of or off an active roadway and has stopped at a location in which it can remain safely stationary;

(2) "handheld mobile communication device" means a wireless communications device that is designed to receive and transmit text or image messages, but "handheld mobile communications device" excludes global positioning or navigation systems, devices that are physically or electronically integrated into a motor vehicle and voice-operated or hands-free devices that allow the user to compose, send or read a text message without the use of a hand except to activate, deactivate or initiate a feature or function; and

(3) "text message" means a digital communication transmitted or intended to be transmitted between communication devices and includes electronic mail, an instant message, a text or image communication and a command or request to an internet site; but "text message" excludes communications through the use of a computer-aided dispatch service by law enforcement or rescue personnel. (66-7-375 NMSA 1978)

D. A violation of provisions of this section is punishable by a fine of $25 for a first violation and $50 for a second or subsequent violation. Violations of provisions of this section may be included in a local penalty assessment ordinance. (*)

12-6-22 DRIVER'S LICENSES AND IDENTIFICATION CARDS ACCEPTANCE

A. A standard driver's license or identification card shall be accepted by every state and local public agency and every public accommodation for all of the purposes for which such public agency or public accommodation would accept a REAL ID-compliant driver's license or identification card.

B. It is unlawful for a public accommodation to refuse to accept a standard driver's license or identification card for any purpose for which it would accept a REAL ID-compliant driver's license or identification card. A person harmed by a violation of this subsection may maintain an action for damages or appropriate injunctive or declaratory relief to redress the violation in a district court of the judicial district in which the violation occurred or in which the plaintiff or defendant resides or the defendant may be found.

C. As used in this section, "public accommodation" means any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not mean a bona fide private club or other place or establishment that is by its nature and use distinctly private. (66-5-15.4 NMSA 1978)

ARTICLE VII

SPECIAL RULES FOR MOTORCYCLES AND OFF-HIGHWAY VEHICLES

12-7-1	Traffic Regulations Apply to Persons Operating Motorcycles
12-7-2	Operating Motorcycles on Streets Laned for Traffic
12-7-3	Clinging to Other Vehicles
12-7-4	Riding on Motorcycles
12-7-5	Eye-Protective Devices or Windshields
12-7-6	Safety Helmets
12-7-7	Footrests and Handlebars
12-7-8	Motorcycle Maneuverability
12-7-8.1	Motorcycle Endorsement Not Needed for Autocycle Operation
12-7-9	Off-Highway Motor Vehicles - Definitions
12-7-9.1	Off-Highway Motor Vehicles--Registration; Plate Requirement
12-7-9.2	Operation of Off-Highway Motor Vehicles on Streets or Highways - - Prohibited Areas
12-7-9.3	Driving Off-Highway Motor Vehicles Adjacent to Streets
12-7-9.4	Operation of Off-Highway Motor Vehicles on Private Lands
12-7-9.5	Accidents and Accident Reports
12-7-9.6	Enforcement of Off-Highway Motor Vehicle Regulations
12-7-9.7	Exemptions
12-7-9.8	Off-Highway Motor Vehicle Safety Permit; Requirements, Issuance
12-7-9.9	Operation and Equipment - -Safety Requirements
12-7-9.10	Penalties
12-7-10	Mopeds--Standards--Operator Requirements--Application of Motor Vehicle Code

12-7-1 TRAFFIC REGULATIONS APPLY TO PERSONS OPERATING MOTORCYCLES.

Every person operating a motorcycle shall be granted all the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this ordinance, except as to special regulations in Sections 12-7-1 through 12-7-8 and except as to those provisions of this ordinance which by their nature can have no application. (*)

12-7-2 OPERATING MOTORCYCLES ON STREETS LANED FOR TRAFFIC.

A. All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This section shall not apply to motorcycles operated two abreast in a single lane.

B. The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken, except that this provision shall not apply to police officers in the performance of their official duties.

C. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles, except that this provision shall not apply to police officers in the performance of their official duties.

D. Motorcycles shall not be operated more than two abreast in a single lane. (*)

12-7-3 CLINGING TO OTHER VEHICLES.

No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on a street. (*)

12-7-4 RIDING ON MOTORCYCLES.

A. A person operating a motorcycle, other than an autocycle, shall ride only upon the permanent and regular seat attached thereto, shall have the person's feet upon the footrests provided on the machine.

B. The operator shall not carry any other person nor shall any other person ride on a motorcycle, other than an autocycle, unless it is designed to carry more than one person. If a motorcycle, other than an autocycle, is designed to carry more than one person, the passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the motorcycle. The passenger shall have his feet upon the footrests attached for passenger use. (66-7-355 NMSA 1978)

C. No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars.

D. No operator of a motorcycle shall carry any person nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator. (*)

12-7-5 EYE-PROTECTIVE DEVICES OR WINDSHIELDS.

Any person operating a motorcycle not having a fixed windshield of a type approved by regulation of the secretary, shall wear an eye-protective device which may be a faceshield attached to a safety helmet, goggles or safety eyeglasses. All eye-protective devices or windshields shall be of a type approved by regulations authorized by 66-7-355 NMSA 1978. (66-7-355 NMSA 1978)

12-7-6 MANDATORY USE OF PROTECTIVE HELMET.

A. No person under the age of eighteen shall operate a motorcycle unless he is wearing a safety helmet securely fastened on his head in a normal manner as

headgear and meeting the standards authorized by 66-7-356 NMSA 1978. No dealer or person who leases or rents motorcycles shall lease or rent a motorcycle to a person under the age of eighteen unless the lessee or renter shows such person a valid driver's license or permit and possesses the safety equipment required of an operator who is under the age of eighteen. No person shall carry any passenger under the age of eighteen on any motorcycle unless the passenger is wearing a securely fastened safety helmet, as specified in this section, meeting the standards specified by the director.

B. Failure to wear a safety helmet as required in this section shall not constitute contributory negligence.

C. Autocycles are exempted from the helmet provisions of this section. (66-7-356 NMSA 1978)

12-7-7 FOOTRESTS AND HANDLEBARS.

Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for the passenger. (*)

12-7-8 MOTORCYCLE MANEUVERABILITY.

A. No motorcycle shall be equipped in a manner such that it is incapable of turning a ninety-degree angle with a circle having a radius of not more than fourteen feet. Evidence of a motorcycle being unable to turn a ninety-degree angle within a circle having a radius of not more than fourteen feet shall be prima facie evidence of an unsafe vehicle as described in Section 12-10-1.1.

B. For the purposes of this section, a police officer may require the driver of a motorcycle to demonstrate the ability of any motorcycle to be ridden as described in Subsection A of this section. Failure or refusal of any operator to demonstrate the ability of any motorcycle being operated upon the highways shall be prima facie evidence of an unsafe vehicle as described in Section 12-10-1.1. (66-3-842 NMSA 1978)

12-7-8.1 MOTORCYCLE ENDORSEMENT NOT REQUIRED FOR AUTOCYCLE OPERATION.

Autocycles shall be registered as motorcycles and proof of financial responsibility may characterize them as motorcycles, but a driver shall not be required to have a motorcycle endorsement to operate an autocycle. (66-3-1.4 NMSA 1978)

12-7-9 OFF-HIGHWAY MOTOR VEHICLES - DEFINITIONS

As used in this section:

A. "board" means the off-highway motor vehicle advisory board;

B. "department means the Department of Game and Fish;

C. "division" means the motor vehicle division of the Taxation and Revenue Department;

D. "fund" means the trail safety fund;

E. "off-highway motor vehicle" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

(1) "all-terrain vehicle," which means a motor vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;

(2) "off-highway motorcycle," which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control; or

(3) "snowmobile," which means a motor vehicle designed to travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires;

(4) "recreational off-highway vehicle," which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons and having;

(a) a steering wheel for steering control;
(b) non-straddle seating;
(c) maximum speed capability greater than 35 miles per hour;
(d) gross vehicle weight rating no greater than 1,750 pounds;
(e) less than 80 inches in overall width, exclusive of accessories;
(f) engine displacement of less than 1,000 cubic centimeters; and
(g) identification by means of a 17-character vehicle identification number; or
(h) by rule of the department, any other vehicles that may enter the market that fit the general profile of vehicles operated off-highway for recreational purposes;

F. "staging area" means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation; and

G. "unpaved public roadway" means a dirt graveled street or road that is constructed, signed and maintained for regular passenger-car use by the general public. (66-3-1001.1 NMSA 1978)

12-7-9.1 OFF-HIGHWAY MOTOR VEHICLES—REGISTRATION; PLATE

REQUIREMENT

Unless exempted from the provisions of this section, a person shall not operate an off-highway motor vehicle unless the off-highway motor vehicle has been registered in accordance with Chapter 66, Article 3 NMSA 1978. The owner shall affix the validating sticker as provided in Chapter 66, Article 3 NMSA 1978. (66-3-1003 NMSA 1978)

12-7-9.2 OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON STREETS OR HIGHWAYS -- PROHIBITED AREAS.

A. No person shall operate an off-highway motor vehicle on any limited access street at any time or any paved street or highway except as provided in Subsection B, C, D or E of this section.

B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the street. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then crossing in the most direct manner, as close to a perpendicular angle as possible.

C. If authorized by ordinance or resolution of a local authority or the State Transportation Commission, a recreational off-highway vehicle or an all-terrain vehicle may be operated on a paved street or highway owned and controlled by the authorizing authority if:

(1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;

(2) the vehicle has brakes, mirrors and mufflers;

(3) the operator has valid driver's licenses or permits as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-Highway Motor Vehicle Act;

(4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act; and

(5) the operator of the vehicle is using eye protection that comply with the Off-Highway Motor Vehicle Act; and

(6) if the operator is under eighteen years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act.

D. Except for sections of the Motor Vehicle Code that are in conflict with the licensing and equipment requirements of the Off-Highway Motor Vehicle Act, any operator using an off-highway motor vehicle on a paved street or highway shall be subject to the requirements and penalties for operators of moving or parked vehicles under the Motor Vehicle Code.

E. By ordinance or resolution, a local authority or the State Transportation Commission may establish separate speed limits and operating restrictions for off-highway vehicles where they are authorized to operate on paved streets or highways pursuant to Subsection C of this section.

F. A person shall not operate an off-highway motor vehicle on state game commission-owned,-controlled or –administered land except as specifically allowed pursuant to Chapter 17, Article 6 NMSA 1978.

G. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the Energy, Minerals and Natural Resources Department, pursuant to Chapter 16, Article 2 NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of Energy, Minerals and Natural Resources.

H. Unless authorized, a person shall not:

(1) remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or

(2) install any off-highway motor vehicle-related sign. (66-3-1011 NMSA)

12-7-9.3 DRIVING OF OFF-HIGHWAY MOTOR VEHICLES ADJACENT TO STREETS.

A. Off-highway motor vehicles issued a validating sticker or nonresident permit may be driven adjacent to a street, yielding to all vehicles entering or exiting the street, in a manner so as not to interfere with traffic upon the street, only for the purpose of gaining access to, or returning from areas designed for the operation of off-highway motor vehicles, by the shortest route possible and when no other route is available or when the area adjacent to a street is being used as a staging area. Such use must occur between the street and fencing that separates the street from private or public lands.

B. When snow conditions permit, an off-highway motor vehicle may be operated on the right-hand side of a street, parallel, but not closer than ten feet, to the inside of the plow bank. (66-3-1012 NMSA 1978)

12-7-9.4 OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON PRIVATE LANDS.

A. A landowner shall not be held liable for damages arising out of off-highway motor vehicle-related accidents or injuries occurring on the landowner's lands in which the landowner is not directly involved unless the entry on the lands is subject to payment of a fee.

B. It is unlawful to operate an off-highway motor vehicle on private lands except with the express permission of the owner of the lands. (66-3-1013 NMSA 1978)

12-7-9.5 ACCIDENTS AND ACCIDENT REPORTS.

The driver of an off-highway motor vehicle involved in an accident resulting in injuries to, or the death of, any person, or resulting in damage to public or private property to the extent of five hundred dollars ($500) or more, shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the driver is under the age of eighteen, the driver's parent or legal guardian shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. (66-3-1014 NMSA)

12-7-9.6 ENFORCEMENT OF OFF-HIGHWAY MOTOR VEHICLE REGULATIONS.

A wildlife conservation officer, state police officer or peace officer of this state or any of its political subdivisions, upon displaying his badge of office, has the authority to enforce the provisions of Sections 12-7-9.1 through 12-7-9.5 of this ordinance and may:

A. require the operator of any off-highway motor vehicle to produce:

(1) the registration certificate or nonresident permit;

(2) proof of successful completion of an off-highway motor vehicle training course conducted by an off-highway safety training organization approved and certified by the department, when required by Section 12-7-9.8; and

(3) the personal identification of the operator; and

B. issue citations for violations of the provisions of Sections 12-7-9.1 through 12-7-9.9 of this ordinance. (66-3-1015 NMSA 1978)

12-7-9.7 EXEMPTIONS

The provisions of the this Section shall not apply to persons who operate off-highway motor vehicles on privately held lands or to off-highway motor vehicles that are:

A. owned and operated by an agency or department of the United States, this state or a political subdivision of this state;

B. operated exclusively on lands privately held; provided that the appropriate tax or fee has been paid in lieu of the motor vehicle registration fees;

C. owned by nonresidents and used in this state only for organized and endorsed competition purposes; provided that the use is not on a rental basis;

D. brought into this state by manufacturers or distributors for wholesale purposes and not used for demonstrations;

E. in the possession of dealers as stock-in-trade and not used for demonstration purposes;

F. farm tractors, as defined in Section 66-1-4.6 NMSA 1978, special mobile equipment, as defined in Section 66-1-4.16 NMSA 1978, or off-highway motor vehicles being used for agricultural operations; or

G. used exclusively on private closed courses, whether owned by the rider or another person; provided that, if applicable, the excise tax and registration fees have been paid and are current. (66-3-1005 NMSA 1978)

12-7-9.8 OFF-HIGHWAY MOTOR VEHICLE SAFETY PERMIT; REQUIREMENTS, ISSUANCE.

A person under the age of eighteen shall be required to successfully complete an off-highway motor vehicle safety training course for which the person shall have parental permission. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the department. Upon successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization. (66-3-1010.2 NMSA 1978)

12-7-9.9 OPERATION AND EQUIPMENT – SAFETY REQUIREMENTS

A. A person shall not operate an off-highway motor vehicle:

(1) in a careless, reckless or negligent manner so as to endanger the person or property of another;

(2) while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;

(3) while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;

(4) in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;

(5) on or within an earthen tank or other structure meant to water livestock or wildlife, unless the off-highway motor vehicle is on a route designated by the landowner or land management agency as an off-highway motor vehicle route:

(6) in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;

(7) in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian or occupied dwelling, unless the person operates the vehicle on a closed course or track or a public roadway;

(8) unless in possession of the person's registration certificate or nonresident permit;

(9) unless the vehicle is equipped with a spark arrester approved by the United States forest service; provided that a snowmobile is exempt from this provision;

(10) when conditions such as darkness limit visibility to five hundred feet or less, unless the vehicle is equipped with:

(a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet; and

(b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet under normal atmospheric conditions; or

(11) that produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287; or

(12) where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations.

B. A person under the age of eighteen shall not operate an off-highway motor vehicle:

(1) or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear and that meets the standards established by the department ;

(2) without an off-highway motor vehicle safety permit; or

(3) while carrying a passenger.

C. A person under the age of eighteen but at least ten years of age shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of eighteen who has a valid driver's license. This subsection shall not apply to a person who is at least:

(1) thirteen years of age and has a valid motorcycle license and off-highway motor vehicle safety permit; or

(2) fifteen years of age and has a valid driver's license, instructional permit or provisional license and off-highway motor vehicle safety permit.

D. A person under the age of ten shall not operate an off-highway motor vehicle unless:

(1) the all-terrain vehicle or recreational off-highway vehicle is an age-appropriate size-fit vehicle established by rule of the department; and

(2) the person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course certified by the department.

E. An off-highway motor vehicle may not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition. (66-3-1010.3 NMSA 1978)

12-7-9.10 PENALTIES

A. A person who violates the provisions of this Section is guilty of a penalty assessment misdemeanor. A parent, guardian or custodian who causes or knowingly permits a child under the age of eighteen years to operate an off-highway motor vehicle in violation of the provisions of this Section is in violation of this Section and subject to the same penalty as the child operating the off-highway motor vehicle in violation of this section.

B. As used in the Off-Highway Motor Vehicle Act, "penalty assessment misdemeanor" means violation of any provision of the Off-Highway Motor Vehicle Act for which a violator may be subject to the following:

CLASS 1 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to possess a registration certificate or nonresident permit	66-3-1010.3	$10.00
violations involving headlights or taillights	66-3-1010.3	10.00
failure to possess an off-highway motor vehicle safety permit	66-3-1010.3	10.00
selling a vehicle that produces noise in excess of ninety-six decibels	66-3-1010.3	10.00
any violation of the Off-Highway Motor Vehicle Act not otherwise specifically defined elsewhere in this section	66-3-1010.3	10.00

CLASS 2 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to complete a required off-highway motor vehicle safety training course	66-3-1010.2	$50.00

operating a vehicle in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling	66-3-1010.3	50.00
a person under the age of eighteen but at least fifteen years of age who operates an off-highway motor vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	50.00
operating an off-highway motor vehicle that produces noise that exceeds ninety-six decibels	66-3-1010.3	50.00
unauthorized installation, removal, destruction or defacing of a motor vehicle sign	66-3-1011	50.00

CLASS 3 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating a vehicle that is not equipped with an approved spark arrester	66-3-1010.3	$100.00
operating an off-highway motor vehicle while in pursuit of and with intent to hunt or take a species of animal or bird protected by law, unless otherwise authorized by the state game commission	66-3-1010.3	100.00
operating an off-highway motor vehicle in pursuit of or harassment of livestock in any manner that negatively affects the livestock's		

condition	66-3-1010.3	100.00
operating an off-highway motor vehicle on or within an earthen tank or other structure meant to water livestock or wildlife	66-3-1010.3	100.00
operating a motor vehicle in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle without wearing eye protection and a safety helmet	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle while carrying a passenger	66-3-1010.3	100.00
a person under the age of fifteen but at least ten years of age who operates an off-highway motor vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	100.00
a person under the age of ten operating an all-terrain vehicle or recreational off-highway motor vehicle that is not an age-appropriate size-fit or who operates an off-highway motor vehicle in violation of the supervision requirements of this section	66-3-1010.3	100.00

CLASS 4 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating an off-highway motor vehicle in a		

careless, reckless or negligent manner so as to endanger the person or property of another	66-3-1010.3	$200.00
operating an off-highway motor vehicle on any road or area closed to off-highway motor vehicle traffic under local, state or federal regulations	66-3-1010.3	200.00
operating an off-highway motor vehicle on a limited-access highway or freeway.	66-3-1011	200.00

C. The penalty for second, third and subsequent violations within a three-year time period shall be increased as follows:

(1) a second violation in a class 1 penalty category involving failure to possess a registration certificate or nonresident permit shall be increased to a Class 2 penalty category;

(2) any class 2 or class 3 violation for a second or greater infraction within a three-year period shall be increased to the next-highest penalty assessment category; and

(3) each subsequent violation in a Class 4 penalty category will result in an additional penalty of two hundred dollars ($200).

D. Multiple violations for the same incident shall be treated as a single event and shall not result in graduated penalties.

E. The term “penalty assessment misdemeanor” does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

F. 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. (66-3-1020 NMSA 1987)

12-7-10 MOPEDS--STANDARDS--0PERATOR REQUIREMENTS--APPLICATION OF MOTOR VEHICLE CODE.

A. Mopeds shall comply with those motor vehicle safety standards deemed necessary and prescribed by the director of motor vehicles.

B. Operators of mopeds shall have in their possession while operating a moped a valid operator's or restricted operator's license of any class issued to them.

C Except as provided in Subsections A and B of this section, none of the provisions of the New Mexico Motor Vehicle Code or of this ordinance relating to motor vehicles or motor-driven cycles as defined in these codes shall apply to a moped.

D. As used in this section, “moped” means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a piston displacement of less than fifty cubic centimeters, which is capable of propelling the vehicle at a maximum speed of not more than thirty miles per hour on level ground at sea level. (66-3-1101 NMSA 1978).

ARTICLE VIII

OPERATION OF BICYCLES

12-8-1 Effect of Regulations
12-8-2 Traffic Ordinance Applies to Persons Riding Bicycles
12-8-3 Riding on Bicycles
12-8-4 Clinging to Vehicles
12-8-5 Riding on Streets and Bicycle Paths
12-8-6 Carrying Articles
12-8-7 Lamps and Other Equipment on Bicycles
12-8-8 Obedience to Traffic-Control Devices
12-8-9 Parking
12-8-10 Speed
12-8-11 Emerging from Alley, Driveway, Private Road or Building
12-8-12 Riding on Sidewalks
12-8-13 License Required
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12-8-22 Impounding Unlicensed and Unattended Bicycles
12-8-23 Penalties
12-8-24 Electric-Assisted Bicycles; Labels; Standards
12-8-25 Operation of Electric-Assisted Bicycles

12-8-1 EFFECT OF REGULATIONS.

A. It is a penalty assessment misdemeanor for a person to do any act forbidden or fail to perform any act required by Sections 12-8-1 through 23 or the Uniform Traffic Ordinance.

B. The parent of any child and the guardian of any ward shall not authorize or permit any such child or ward to violate any of the provisions of this ordinance.

C. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (66-3-701 NMSA 1978)

12-8-2 TRAFFIC ORDINANCE APPLIES TO PERSONS RIDING BICYCLES.

Every person riding a bicycle upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle except in regard to the:

(A) Equipment, maintenance and operation of the bicycle pursuant to Sections 12-8-1 through 12-8-23 or

(B) Operation of the bicycle at an intersection pursuant to Section 66-7-645 NMSA 1978. (66-3-702 NMSA 1978)

12-8-3 RIDING BICYCLES.

A. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (66-3-703 NMSA 1978)

12-8-4 CLINGING TO VEHICLES.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a street. (66-3-704 NMSA 1978)

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. (66-3-705 NMSA 1978) 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.

C. Notwithstanding any provision of this section, no bicycle shall be operated on any roadway in a manner that would create a public safety hazard. (66-3-705 NMSA 1978)

12-8-6 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebar. (66-3-706 NMSA 1978)

12-8-7 LAMPS AND OTHER EQUIPMENT ON BICYCLES.

A. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the division which shall be visible from all distances from fifty feet to three hundred feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

B. No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle shall not be equipped with, nor shall any person use upon a bicycle any siren or whistle.

C. Every bicycle shall be equipped with a brake which will enable the operator to make the brake wheels skid on dry, level, clean pavement. (66-3-707 NMSA 1978)

12-8-8 OBEDIENCE TO TRAFFIC-CONTROL DEVICES.

A. Any person operating a bicycle shall obey the instructions of official traffic-control devices applicable to vehicles, unless otherwise directed by a police officer.

B. Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event the person shall then obey the regulations applicable to pedestrians. (*)

12-8-9 PARKING.

No person shall park a bicycle upon a street other than upon the street against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic. (*)

12-8-10 SPEED.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.(*)

12-8-11 EMERGING FROM ALLEY, DRIVEWAY, PRIVATE ROAD OR BUILDING.

A. The operator of a bicycle emerging from an alley, private road, driveway or building shall yield the right of way to all pedestrians on the sidewalk or sidewalk area.

B. Upon entering the street, the driver of a bicycle shall yield the right of way to all vehicles approaching on the street.(*)

12-8-12 RIDING ON SIDEWALKS.

A. No person shall ride a bicycle upon a sidewalk within a business district.

B. No person shall ride a bicycle on any sidewalk or street when signs are posted prohibiting bicycles on the sidewalk or street.

C. When signs are posted requiring bicycles to use sidewalks or paths adjacent to a street, no person shall ride a bicycle on the street adjacent to the sidewalks or paths.

D. Whenever any person is riding a bicycle upon a sidewalk, the person shall yield the right way to any pedestrian and shall give audible signal before overtaking and passing a pedestrian.(*)

12-8-23 PENALTIES.

Every person convicted of a violation of any provision of Sections 12-8-1 through 12-8-23 shall be punished by a fine of not more than twenty-five dollars ($25.00), or by removal and detention of the license plate or decal from the person's bicycle for a period not to exceed thirty days or by any combination thereof.(*)

12-8-24 ELECTRIC-ASSISTED BICYCLES; LABELS; STANDARDS.

A. Every manufacturer or distributor of new electric-assisted bicycles intended for sale or distribution in New Mexico shall permanently affix to each electric-

assisted bicycle, in a prominent location, a label that contains the classification number, top assisted speed and motor wattage of the electric-assisted bicycle. The label shall be printed in arial font in at least nine-point type.

B. A person shall not knowingly modify an electric-assisted bicycle so as to change the speed capability or motor engagement of the electric-assisted bicycle without also appropriately replacing, or causing to be replaced, the label indicating the classification required by Subsection A of this section.

C. An electric-assisted bicycle shall comply with the equipment and manufacturing requirements for bicycles adopted by the United States consumer product safety commission and codified at 16 CFR 1512 or its successor regulation.

D. A class 2 electric-assisted bicycle shall operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied. Class 1 and class 3 electric-assisted bicycles shall be equipped with a mechanism or circuit that cannot be bypassed and that causes the electric motor to disengage or cease to function when the rider stops pedaling.

E. A class 3 electric-assisted bicycle shall be equipped with a speedometer that displays, in miles per hour, the speed that the electric-assisted bicycle is traveling. (66-3-708 NMSA 1978)

12-8-25 OPERATION OF ELECTRIC-ASSISTED BICYCLES.

A. A person may ride a class 1 electric-assisted bicycle on a bicycle or pedestrian path where bicycles are authorized to travel; provided that a political subdivision of the state may prohibit the operation of a class 1 electric-assisted bicycle on a bicycle or pedestrian path within its jurisdiction.

B. A person shall not ride a class 2 or class 3 electric-assisted bicycle on a bicycle or pedestrian path unless:

(1) the path is within a street or highway;
(2) The pathway is at least eight (8) feet wide or
(3) a political subdivision of the state permits the operation of a class 2 or class 3 electric-assisted bicycle on a path under its jurisdiction.

C. A person under sixteen years of age shall not operate a class 3 electric-assisted bicycle upon any street, highway or bicycle or pedestrian path, except that a person under sixteen years of age may ride as a passenger on a class 3 electric-assisted bicycle that is designed to accommodate passengers.

D. This section does not apply to a trail that is specifically designated as non-motorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A political subdivision of the state or a state

agency having jurisdiction over a trail described in this subsection may regulate the use of an electric-assisted bicycle on that trail. (66-3-709 NMSA 1978)

ARTICLE IX

PARKING REGULATIONS

12-9-9 Parking in Designated Disabled Parking Spaces
12-9-10 Parking Lots - Standards

12-9-9 PARKING IN DESIGNATED DISABLED PARKING SPACES.

A. It is unlawful for any person to park a motor vehicle not displaying a special registration plate or a parking placard indicating disability in accordance with Section 66-3-16 NMSA 1978 in a designated accessible parking space for persons with significant mobility limitation.

B. It is unlawful for any person to park a motor vehicle in such a manner so as to block access to:

(1) any part of a curb cut designed for access by persons with significant mobility limitations; or

(2) a designated accessible parking space for persons with significant mobility limitation.

C. Any person who violates Subsection A or B of this section shall be subject to a fine of not less than two hundred fifty dollars ($250) or more than five hundred dollars ($500). 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 or B of this section. (66-7-352.5 NMSA 1978)

D. 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. (*)

E. A vehicle parked in violation of Subsection A or B 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. (66-7-352.5 NMSA 1978).

F. 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. (*)

G. 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 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).

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

12-9-10 PARKING LOTS – STANDARDS

A. Every parking lot coming under the provisions of the Accessible Parking Standards and Enforcement Act (66-7-352.1 NMSA 1978) shall have designated and maintained accessible parking spaces for persons with significant mobility limitation as provided in Subsection B of this section. No building permit shall be issued by any local government for the construction or substantial renovation of a commercial building inviting public access unless the parking lot has designated accessible parking spaces for persons with significant mobility limitation as delineated in Subsection B of this section.

B. The minimum number of designated accessible parking spaces for persons with significant mobility limitation are as follows:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF PARKING SPACES FOR PERSONS WITH SIGNIFICANT MOBILITY LIMITATIONS
1 to 25	1
26 to 35	2
36 to 50	3
51 to 100	4
101 to 300	8
301 to 500	12
501 to 800	16
801 to 1,000	20
More than 1,000	20, plus 1 for each 100 over 1,000.

The designated accessible parking spaces for persons with significant mobility limitation shall be located so as to provide the most convenient access to entranceways or to the nearest curb cut. Every parking lot shall have at least one designated accessible parking space for

persons with significant mobility limitation designed to accommodate a motor vehicle passenger van, and there shall be a minimum of one such space for every eight designated accessible parking spaces for persons with significant mobility limitations.

C. A sign or other designation posted after July 1, 2010 at an accessible parking space pursuant to this section shall include the language “Violators are subject to a fine and/or towing.” (66-7-352.4 NMSA 1978)

ARTICLE X

VEHICLE REGULATIONS

12-10-1	Equipment
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12-10-1.39 Additional Lighting Equipment
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12-10-1.44 Number of Driving Lamps Required or Permitted
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12-10-1.47 Meaning of the Term "Motor Vehicle" as Used Sections 12-10-1.47 through 12-10-1.51 of This Ordinance--Unattended Vehicles
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12-10-1.49 Emergency Signals--Disabled Vehicle
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12-10-2 Transporting or Handling Explosives or Dangerous Articles

12-10-3 Regulating the Kinds and Classes of Traffic on the Streets
12-10-3.1 Restrictions Upon Use of Streets by Certain Vehicles
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12-10-4 Display of Current Valid Registration Plate

12-10-5 Evidence of Registration to Be Signed and Exhibited on Demand

12-10-6 Mandatory Financial Responsibility

12-10-1 EQUIPMENT

12-10-1.1 PROHIBITED ACTS

A. Except as otherwise provided in this section, it is a penalty assessment misdemeanor for any person to drive or move, or for the owner to cause or permit to be driven or moved, on any street, any vehicle, or combination of vehicles, which is in such unsafe condition as to endanger any person, or which does not contain those parts, or is not at all times equipped with such lamps and other equipment, in proper condition and adjustment, as is required by Sections 12-10-1.1 through 12-10-1.51, or which is equipped in any manner that is in violation of those sections, or for any person to do any act forbidden, or fail to perform any act required under those sections.

B. Nothing contained in Sections 12-10-1.1 through 12-10-1.51 shall be construed to prohibit the use of additional parts and accessories on any vehicle which are not inconsistent with the provisions of such sections.

C. The provisions of Sections 12-10-1.1 through 12-10-1.51, with respect to equipment on vehicles, shall not apply to implements of husbandry, road machinery, road rollers or farm tractors, except as made applicable in those sections.

D. The provisions of Sections 12-10-1.1 through 12-10-1.51 apply to vehicles subject to the provisions of the Motor Carrier Safety Act only to the extent that the provisions of Sections 12-10-1.1 through 12-10-1.51 do not conflict with the provisions of the Motor Carrier Safety Act and regulations promulgated under that act. (66-3-801 NMSA 1978)

12-10-1.2 VEHICLES TO BE IN SAFE CONDITION

A. No person shall drive or move on any street any motor vehicle, trailer, semi-trailer, or pole trailer, or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this ordinance, and said vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the street. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor (66-3-901 NMSA 1978)

B. Any police officer may at any time when having reasonable cause to believe that any vehicle is unsafe, or not equipped as required by this ordinance, or that its equipment is not in proper adjustment or repair, require the driver of the vehicle to stop and submit the vehicle to inspection and tests as may be appropriate and reasonable.(*)

12-10-1.3 WHEN LIGHTED LAMPS ARE REQUIRED

A. Every vehicle upon a street within this municipality at any time from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as hereinafter stated.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-802 NMSA 1978)

12-10-1.4 VISIBILITY DISTANCE AND MOUNTED HEIGHT OF LAMPS

A. Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in Section 12-10-1.3 in respect to a vehicle without load when upon a straight, level, unlighted street under normal atmospheric conditions unless a different time or condition is expressly stated.

B. Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load. (66-3-803 NMSA 1978)

12-10-1.5 HEAD LAMPS ON MOTOR VEHICLES

A. Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two headlamps with at least one on each side of the front of the motor vehicle, which headlamps shall comply with the requirements and limitations set forth in this ordinance.

B. Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two headlamps which shall comply with the requirements and limitations of this ordinance.

C. Every headlamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the headlamp of not more than fifty-four inches nor less than twenty inches to be measured as set forth in Section 12-10-1.4B. The provisions of this paragraph shall apply only to new motor vehicles sold after July 1, 1953. (66-3-804 NMSA 1978)

D. For the purposes of Sections 12-10-1.1 through 12-10-1.5 parking lamps shall not be used in lieu of head lamps.(*)

E. No headlight shall emit a glaring or dazzling light. (66-3-828 NMSA 1978)

F. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-804 NMSA 1978)

12-10-1.6 DIMMING OF LIGHTS

A. Whenever a motor vehicle meets another motor vehicle on any street during nighttime when headlights are in use, the driver of the vehicle shall, when within 500 feet of the other vehicle, dim or tilt the beams of the headlights downward.

B. The driver of any motor vehicle in any business district at nighttime when headlights are required shall keep headlights dimmed.

C. Whenever the driver of a motor vehicle overtakes another vehicle proceeding in the same direction or follows another vehicle proceeding in the same direction or follows another vehicle proceeding in the same direction within 200 feet at nighttime when headlights are required, the driver shall dim or tilt the beam of the headlights downward.(*)

12-10-1.7 TAIL LAMPS

A. Every motor vehicle, trailer, semi-trailer, and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as hereinbefore required in Section 66-3-802 NMSA 1978, shall emit a red light plainly visible from a distance of five hundred feet to the rear; provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified. And further, every such above mentioned vehicle, other than a truck tractor, registered in this state and manufactured or assembled after July 1, 1953, shall be equipped with at least two tail lamps mounted on the rear, which when lighted as herein required shall comply with the provisions of this section.

B. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than twenty inches.

C. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted. (66-3-805 NMSA 1978)

D. No tail lamp shall emit a glaring or dazzling light. (66-3-828 NMSA 1978)

E. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-805 NMSA 1978)

12-10-1.8 VEHICLES TO BE EQUIPPED WITH REFLECTORS

A. Every new motor vehicle hereafter sold and operated upon a street, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, two red reflectors, except that every motorcycle shall carry at least one reflector, meeting the requirements of this section, and except that vehicles of the type mentioned in Section 66-3-809 NMSA 1978 shall be equipped with reflectors as required in those sections applicable to those vehicles.

B. Every such reflector shall be mounted on the vehicle at a height not less than twenty inches nor more than sixty inches measured as set forth in Section 12-10-1.4B, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within three hundred feet to fifty feet from such vehicle when directly in front of lawful upper beams of headlamps, except that visibility from a greater distance is hereinafter required of reflectors on certain types of vehicles.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-806 NMSA 1978)

12.10-1.9 STOP LAMPS, SIGNAL LAMPS AND SIGNAL DEVICES

A. From and after January 1, 1954, it shall be unlawful for any person to sell any new motor vehicle, including any motorcycle or motor-driven cycle, in this municipality or for any person to drive such vehicle on the streets unless it is equipped with at least one stop lamp meeting the requirements of Subsection Section 66-3-828 NMSA 1978.

B. No person shall sell or offer for sale or operate on the streets any motor vehicle, trailer, semi-trailer or house trailer registered in this state which was manufactured or assembled after January 1, 1954, unless it is equipped with mechanical or electric turn signals meeting the requirements of Section 66-3-828 NMSA 1978. This subsection shall not apply to any motorcycle or motor-driven cycle. (66-3-807 NMSA 1978)

C. Any motor vehicle, trailer, semi-trailer and house trailer may be equipped and when required under this ordinance shall be equipped with the following stop lamps, signal lamps, or signal devices:

(1) stop lamp or stop lamps on the rear which shall emit a red, amber or yellow light and which shall be actuated upon application of the service brakes and which may but need not be incorporated with one or more other rear lamps; and

(2) lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.

D. Every stop lamp shall be plainly visible and understandable from a distance of one hundred feet to the rear both during normal sunlight and nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of one hundred feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

E. All mechanical signal devices shall be self-illuminated when in use at the times mentioned in Section 12-10-1.3 of this ordinance. (66-3-828 NMSA 1978)

12-10-1.10 MUFFLERS--PREVENTION OF NOISE--EMISSION CONTROL DEVICES

A. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a street in this municipality.

B. The muffler, emission control equipment or device, engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

C. Every registered gasoline-fueled motor vehicle manufactured or assembled, commencing with the 1968 models, shall at all times be equipped and maintained in good working order with the factory-installed devices and equipment or their replacements designed to prevent, reduce or control exhaust emissions or air pollution. (66-3-844 NMSA 1978)

12-10-1.11 LAMP OR FLAG ON PROJECTING LOAD

A. Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in Section 12-10-1.3 hereof, a red light or lantern plainly visible from a distance of at least five hundred feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

B. If any part of a vehicle, or any load thereon, or any mechanical device, whether a temporary or permanent part of the vehicle, extends beyond the front bumpers thereof the extreme front corners of such projection shall at the times specified in Section 12-10-1.3 be indicated by amber lights or lanterns visible from a distance of at least five hundred feet to the sides and front. (66-3-824 NMSA 1978)

12-10-1.12 WINDSHIELD MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS; WINDOWS MUST BE TRANSPARENT; EXCEPTIONS

A. No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon or in the front windshield, windows to the immediate right and left of the driver or in the rear-most window if the latter is used for driving visibility except as provided in Section 12-10-1.12A. The rear-most window is not necessary for driving visibility where outside rear-view mirrors are attached to the vehicle.

B. The windshield on every motor vehicle, except a motorcycle, shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

C. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-846 NMSA 1978)

12-10-1.13 SUN SCREENING MATERIAL ON WINDSHIELDS AND WINDOWS; REQUIREMENTS; VIOLATION; PENALTY

A. A person shall not operate on any street or highway a motor vehicle that is registered or required to be registered in this state if that motor vehicle has a sun screening material on the windshield or any window that does not comply with the requirements of this section.

B. Except as otherwise provided in this section, a sun screening material:

(1) when used in conjunction with the windshield, shall be nonreflective, shall not be red, yellow or amber in color and shall be used only along the top of the windshield, not extending downward beyond the ASI line or more than five inches from the top of the windshield, whichever is closer to the top of the windshield; and

(2) when used in conjunction with the safety glazing materials of the side wings or the side windows located at the immediate right and left of the driver, the side windows behind the driver and the rearmost window shall be nonreflective, shall have a light transmission of not less than twenty percent and shall be used only on the windows of a motor vehicle equipped with one right and one left outside rearview mirror.

C. Each manufacturer shall:

(1) certify to the division that a sun screening material used by that manufacturer is in compliance with the nonreflectivity and light transmission requirements of this section;

(2) provide a label not to exceed one and one-half square inches in size that:

(a) is installed permanently and legibly between the sun screening material and each glazing surface to which it is applied;

(b) contains the manufacturer’s name, the date the sun screening material was manufactured and the percentage of light transmission; and

(c) is placed in the left lower corner of each glazing surface when facing the motor vehicle from the outside; and

(3) include instructions with he sun screening material for proper installation, including the affixing of the label specified in this subsection.

D. No person shall:

(1) offer for sale or for use any sun screening material for motor vehicle use not in compliance with this section; or

(2) install any sun screening material on motor vehicles intended for operation on any street or highway without permanently affixing the label specified in subsection C of this section.

E. The provisions of this section do not apply to a motor vehicle registered in this state in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this state that states that the person has a physical condition that makes it necessary to equip the motor vehicle with sun screening material that is in violation of this section. The affidavit shall be in the possession of the person with such a physical condition, or the person's legal guardian, at all times while being transported in the motor vehicle.

F. The light transmission requirement of this section does not apply to windows behind the driver on truck tractors, buses, recreational vehicles, multipurpose passenger vehicles and motor homes. The provisions of this section shall not apply to motor vehicle glazing which complies with federal motor vehicle standards.

G. The provisions of this section do not apply to motor vehicles that have sun screening material on the windshield or any window prior to July 1,1997.

H. As used in this section:

(1) "light transmission" means the ration of the amount of total light that passes through a product or material, expressed in percentages, to the amount of total light falling on the product or material;

(2) "manufacturer" means any person engaged in the manufacturing or assembling of sun screening products or materials designed to be used in conjunction with motor vehicle glazing materials for the purpose of reducing the effects of the sun;

(3) "nonreflective" means designed to absorb light rather than to reflect it; and

(4) "sun screening material" means any film material, substance, device or product that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

I. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. (66-3-846.1 NMSA 1978)

12-10-1.14 PROHIBITING LUGS

No person shall drive a tractor engine, tractor or vehicle with lugs on the wheels thereof over any paved street.(*)

12-10-1.15 PERMISSION TO USE EMERGENCY EQUIPMENT ON OTHER THAN OFFICIAL VEHICLES

No person shall operate a vehicle other than an official vehicle, equipped with any red lights mounted so as to project a beam in a forward direction, or a siren, unless written permission of the chief of police or his designated representative is first obtained.(*)

12-10-1.16 PROHIBITING METAL TIRES OR DRAGGING LOAD

A. When the use thereof is permitted, every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one-inch thick above the edge of the flange of the entire periphery.

B. No person shall operate or move on any street any motor vehicle, trailer, or semi-trailer having any tire surface in contact with the street that is wholly or partly of metal or other hard nonresilient material, except that for the purposes of this ordinance a snow tire with metal studs designed to increase traction on ice or snow.

C. No tire on a vehicle moved on a street shall have on its periphery any block, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire. However, it shall be permissible to use farm machinery with tires having protuberances which will not injure the street and tire chains of reasonable proportions or snow tires with metal studs designed to increase traction on ice or snow upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

D. The administrator may, in his discretion, issue special permits authorizing the operation upon a street of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery that would otherwise be prohibited under the provisions of this ordinance.

E. No vehicle equipped with solid rubber or cushion tires shall be permitted upon any street of this municipality without special permission first being granted by the administrator, and in no event may any such vehicle be operated at a speed in excess of that specified by law. (66-3-847 NMSA 1978)

F. No person shall operate or move on any street any motor vehicle, trailer or semi-trailer from which any object or load scrapes along or over any paved surface.(*)

12-10-1.17 BRAKES

A. Brake equipment is required as follows:

(1) every motor vehicle, other than a motorcycle, when operated upon a street shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels;

(2) every motorcycle when operated upon a street, shall be equipped with at least two brakes which may be operated by hand or foot;

(3) every bus, truck, truck tractor, road tractor, trailer and semi-trailer, and pole trailer shall be equipped with brakes on all wheels in contact with road surfaces except:

(a) trailers, semi-trailers and pole trailers of a gross weight of less than three thousand pounds;

(b) any vehicle being towed in a driveaway-towaway operation; provided, the combination of vehicles is capable of complying with the performance requirements of Subsection B of this section;

(c) trucks, truck tractors and road tractors having three or more axles need not have brakes on the front wheels, except when such vehicles are equipped with at least two steerable axles the wheels of one such axle need not be equipped with brakes;

(d) house-moving dollies subject to regulations adopted by the secretary of transportation under the Motor Transportation Act; and

(e) motor vehicles of the types named in this section hereinabove, heretofore manufactured prior to July 1, 1963;

(4) every house trailer of a gross weight in excess of three thousand pounds, registered in the state, shall be equipped with brakes on at least two wheels in contact with road surfaces. Every house trailer of a gross weight of three thousand pounds or more, when operated upon a highway or street, shall be equipped with brakes adequate to control the movement of, and to stop and to hold, such vehicle, and so designed as to be applied by the driver of the towing motor vehicle;

(5) every bus, truck, road tractor or truck tractor shall be equipped with parking brakes capable of locking the rear driving wheels and adequate under any condition of loading to hold, to the limit of traction of such braked wheels, such vehicle or combination of vehicles to which such motor vehicle may be attached. The operating controls of such parking brakes shall be independent of the operating controls of the service brakes;

(6) in any combination of motor-drawn vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed; and

(7) the brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

B. Every motor vehicle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, of being stopped on a dry, smooth, level road, free from loose material, upon application of the service brake, within the distance specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	Feet to stop from 20 miles per hour	**Deceleration in ft. per second**
Vehicles or combinations of vehicles having brakes on all wheels . .	30	14
Vehicles or combinations of vehicles not having brakes on all wheels . .	40	10.7

C. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (66-3-840 NMSA 1978)

12-10-1.18 HORNS AND WARNING DEVICES

A. Every motor vehicle when operated upon a street shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall be used which does not produce a harmonious sound. The driver of a motor vehicle shall, when reasonably necessary to ensure safe operation, give audible warning with his horn but shall not otherwise use such horn when upon a street.

B. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell except as otherwise permitted in this section.

C. It is permissible, but not required, that any commercial vehicle be equipped with a theft-alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

D. Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the division, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof. (66-3-843 NMSA 1978)

12-10-1.19 MIRRORS

Every motor vehicle shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle. (66-3-845 NMSA 1978)

12-10-1.20 APPLICATION OF SUCCEEDING SECTIONS

Sections 12-10-1.20, 12-10-1.21, 12-10-1.27, 12-10-1.33 and 12-10-1.34 shall apply in lieu of Sections 12-10-1.5A,B,C, 12-10-1.7A,B,C and 12-10-1.8 as to passenger buses, trucks, truck tractors, road tractors, and such trailers, semi-trailers and pole trailers provided for therein, when operated upon any street, and said vehicles shall be equipped as required. All lamp equipment required shall be lighted at the times mentioned in Section 12-10-1.3 of this ordinance. (66-3-808 NMSA 1978)

12-10-1.21 ADDITIONAL EQUIPMENT REQUIRED

Every bus or truck less than eighty inches in over-all width shall be equipped as follows:

(1) on the front: two headlamps; and

(2) on the rear: one red tail lamp; one red or amber stop lamp; two red reflectors, one at each side. (66-3-809 NMSA 1978)

12-10-1.22 COLOR OF CLEARANCE LAMPS, SIDE-MARKER LAMPS AND REFLECTORS

Every bus or truck eighty inches or more in over-all width shall be equipped as follows:

(1) on the front: two headlamps; two amber clearance lamps, one at each side;

(2) on the rear: one red tail lamp; one red or amber stop lamp; two red clearance lamps, one at each side; two red reflectors, one at each side.

(3) all lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which

may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber; and

(4) on each side: one amber side-marker lamp, located at or near the front; one red side-marker lamp, located at or near the rear; one amber reflector, located at or near the front; one red reflector, located at or near the rear. (66-3-810 NMSA 1978)

12-10-1.23 LAMPS AND REFLECTORS--TRUCK TRACTORS AND ROAD TRACTORS

Every truck tractor and road tractor shall be equipped as follows:

(1) on the front: two headlamps; two amber clearance lamps, one at each side; and

(2) on the rear: one red tail lamp; one red or amber stop lamp. (66-3-811 NMSA 1978)

12-10-1.24 LAMPS AND REFLECTORS--LARGE SEMI-TRAILERS, FULL TRAILERS AND HOUSE TRAILERS

A. Every semi-trailer, full trailer or house trailer eighty inches or more in over-all width shall be equipped as follows:

(1) on the front: two amber clearance lamps; one at each side;

(2) on the rear: one red tail lamp; one red or amber stop lamp; two red clearance lamps, one at each side; two red reflectors, one at each side; and

(3) on each side: one amber side-marker lamp, located at or near the front; one red side-marker lamp, located at or near the rear; one amber reflector, located at or near the front; one read reflector, located at or near the rear.

B. Side-marker lamps may be in combination with clearance lamps and may use the same light source. (66-3-812 NMSA 1978)

12-10-1.25 LAMPS AND REFLECTORS--SMALL SEMI-TRAILERS, HOUSE TRAILERS AND TRAILERS

Every semi-trailer, house trailer or trailer less than eighty inches in over-all width shall be equipped as follows: on the rear: one red tail lamp; two red reflectors, one at each side; one red or amber stop lamp, if the semi-trailer, house trailer or trailer obscures the stop lamp on the towing vehicle. (66-3-813 NMSA 1978)

12-10-1.26 LAMPS AND REFLECTORS--POLE TRAILERS

Every pole trailer shall be equipped as follows:

A. on the rear: one red tail lamp, two red reflectors, one at each side, placed to indicate extreme width of the pole trailer; and

B. on each side, on the rearmost support for the load: one combination marker lamp showing amber to the front and red to the side and rear, mounted to indicate the maximum width of the pole trailer; and red reflector, located at or near the rear; and on pole trailers thirty feet or more in over-all length, an amber marker lamp on each side near the center. (66-3-814 NMSA 1978)

12-10-1.27 LAMPS AND REFLECTORS--COMBINATIONS IN DRIVEAWAY-TOWAWAY OPERATIONS

Combinations of motor vehicles, as enumerated in Section 12-10-1.19 of this ordinance, engaged in driveaway-towaway operations shall be equipped as follows:

A. On towing vehicle;

(1) on the front, two head lamps and two amber clearance lamps, one at each side;

(2) on each side and near the front, one amber side-marker lamp;

(3) on the rear, one red tail lamp; one red or amber stop lamp; and

(4) provided, however, that vehicles of less than eighty inches in width shall be equipped as provided in Section 12-10-1.20 of this ordinance.

B. On the towed vehicles of a tow-bar combination, the towed vehicle of a single saddle-mount combination and on the rearmost towed vehicle of a double saddle-mount combination:

(1) on each side, and near the rear, one red side-marker lamp; and

(2) on the rear, one red tail lamp; two red clearance lamps, one at each side; one red or amber stop lamp; two red reflectors, one at each side.

C. On the first saddle-mount of a double saddle-mount combination: one each side and near the rear, one amber side-marker lamp.

D. Combinations of vehicles less than eighty inches in width in driveaway-towaway operations shall carry lamp and reflectors as required in Section 12-10-1.20 of this ordinance. (66-3-815 NMSA 1978)

12-10-1.28 MOUNTING OF REFLECTORS, CLEARANCE LAMPS AND SIDE-MARKER LAMPS

A. Reflectors required by Section 12-10-1.20 and 12-10-1.21 of this ordinance shall be mounted upon the motor vehicle at a height of not less than twenty-four inches nor more than sixty inches above the ground on which the motor vehicle stands, except that reflectors shall be mounted as high as practicable on motor vehicles which are so constructed as to make compliance with the twenty-four-inch requirements impractical. They shall be so installed as to perform their function adequately and reliably and, except for temporary reflectors required for vehicles in driveaway-towaway operations, all reflectors shall be permanently and securely mounted in workmanlike manner so as to provide the maximum of stability, and the minimum likelihood of damage. Required reflectors otherwise properly mounted may be securely installed with flexible strapping or belting provided that under conditions of normal operation they reflect light in the required directions. Required temporary reflectors mounted on motor vehicles during the time they are in transit in any driveaway-towaway operations must be firmly attached.

B. All reflectors on the rear and those nearest to the rear on the sides, except those referred to in Subsection C of this section, shall reflect a red color; all other reflectors, except those referred to in Subsection C of this section, shall reflect an amber color; provided that this requirement shall not be construed to prohibit the use of motor vehicles in combination if such motor vehicles are severally equipped with reflectors as required by Section 12-10-1.20 through 12-10-1.26 of this ordinance.

C. Retroreflective surface, other than required reflectors, may be used, provided:

(1) designs do not resemble traffic control signs, lights or devices, except that straight edge stripping resembling a barricade pattern may be used;

(2) designs do not tend to distort the length or width of the motor vehicle;

(3) such surfaces shall be at least three inches from any required lamp or reflector unless of the same color as such lamp or reflector;

(4) no red color shall be used on the front of any motor vehicle; and

(5) no provision of this subsection shall be so construed as to prohibit the use of retroreflective registration plates required by any state or local authorities. (66-3-816 NMSA 1978)

12-10-1.29 CLEARANCE LAMPS TO INDICATE EXTREME WIDTH, HEIGHT AND LENGTH

Clearance lamps shall, so far as is practicable, be mounted as to indicate the extreme width, height and length of the motor vehicle; except that clearance lamps on truck-tractors shall

be so located as to indicate the extreme width of the truck-tractor cab. (66-3-817 NMSA 1978)

12-10-1.30 SIDE-MARKER LAMPS COMBINED WITH CLEARANCE LAMPS

Side-marker lamps may be combined with clearance lamps and may use the same light source. (66-3-818 NMSA 1978)

12-10-1.31 COMBINATION TAIL AND STOP LAMPS

Except as required by 12-10-1.29 of this ordinance tail lamps may be incorporated in the same housing with stop lamps so long as the requirements for each are fulfilled. (66-3-819 NMSA 1978)

12-10-1.32 LIGHTING DEVICES TO BE ELECTRIC

Lighting devices shall be electric, except that red liquid burning lanterns may be used on the end of load in the nature of poles, pipes, and ladders projecting to the rear of the vehicle. (66-3-820 NMSA 1978)

12-10-1.33 REQUIREMENTS FOR HEADLAMPS AND AUXILIARY ROADLIGHTING LAMPS

A. Headlamps and lamps or auxiliary road lighting lamps shall be mounted so that the beams are readily adjustable, both vertically and horizontally, and the mounting shall be such that the aim is not readily disturbed by ordinary conditions of service.

B. Every bus, truck or truck-tractor shall be equipped with two single-beam headlamps supplemented by two auxiliary single-beam headlamps furnishing, respectively, an upper and lower distribution of light, also selectable at the driver's will.

C. Headlamps shall be constructed and installed so as to comply with the provisions of Sections 12-10-1.39 through 12-10-1.41 of this ordinance. (66-3-821 NMSA 1978)

12-10-1.34 REQUIREMENTS FOR CLEARANCE, SIDE-MARKER AND OTHER LAMPS

A. Except for temporary side-marker and clearance lamps on motor vehicles, as enumerated in Section 66-3-808 NMSA 1978, being transported in driveaway-towaway operations, temporary electric lamps on projecting loads, and temporary marker lamps on pole trailers, all lamps shall be permanently and securely mounted in workmanlike manner on a permanent part of the motor vehicle. All clearance lamps and side-marker lamps must be firmly attached.

B. Clearance, side-marker, tail and projecting load-marker lamps shall be so mounted as to be capable of being seen from a distance of at least five hundred feet under clear atmospheric conditions during the time lamps are required to be lighted. The light from front clearance lamps shall be visible to the front and that from side-marker lamps to the side, that from rear clearance and tail lamps to the rear. This section shall not be construed to apply to lamps which are obscured by another unit or a combination of vehicles.

C. Clearance, side-marker, tail and projecting load-marker lamps shall be constructed and installed so as to provide an adequate and reliable warning signal. (66-3-822 NMSA 1978)

12-10-1.35 OBSTRUCTED LIGHTS NOT REQUIRED

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp, except tail lamps, need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination; but, this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. (66-3-823 NMSA 1978)

12-10-1.36 LAMPS ON PARKED VEHICLES

A. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half-hour after sunset and half-hour before sunrise and in the event there is sufficient light to reveal any person of object within a distance of five hundred feet upon such street or highway no lights need to be displayed upon such parked vehicle.

B. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half-hour after sunset and a half-hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements:

(1) at least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and

(2) same lamp or at least one other lamp shall display a red light visible, from a distance of five hundred feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

C. Any lighted headlamps upon a parked vehicle shall be depressed or dimmed. (66-3-825 NMSA 1978)

12-10-1.37 LAMPS ON OTHER VEHICLES AND EQUIPMENT

A. All vehicles, including animal-drawn vehicles, not specifically required by the provisions of this ordinance to be equipped with lamps, shall at the time specified in 12-10-1.3 of this ordinance hereof be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of five hundred feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred feet to the rear.

B. Every farm tractor not equipped with an electric lighting system shall at all times mentioned in Section 12-10-1.3 of this ordinance be equipped with lamps or lanterns meeting the requirements of Subsection A above. Every farm tractor equipped with an electric lighting system shall at all times mentioned in Section 12-10-1.3 of this ordinance display a red tail lamp and either multiple-beam or single-beam headlamps meeting the requirements of Sections 12-10-1.7, 12-10-1.39 and 12-10-1.41 of this ordinance.

C. All combinations of tractors and towed farm equipment shall, in addition to the lighting equipment required by Subsection B above, be equipped with a lamp or lamps displaying a white or amber light visible from a distance of five hundred feet to the front and red light visible from a distance of five hundred feet to the rear, and said lamp or lamps shall be installed or capable of being positioned so that visibility from the rear is not obstructed by the towed equipment and so as to indicate the furthest projection of said towed equipment on the side of the road used by other vehicles in passing such combinations. And further, all such towed farm equipment shall be equipped either with two tail lamps displaying a red light visible from a distance of the five hundred feet to the rear or two red reflectors visible from a distance of fifty to five hundred feet to the rear when illuminated by the upper beam of headlamps, and the location of such lamps or reflectors shall be such as to indicate as nearly as practicable the extreme left and right rear projections of said towed equipment on the street. (66-3-826 NMSA 1978)

12-10-1.38 SPOT LAMPS AND AUXILIARY LAMPS

A. Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle; provided, however, that lighted spot lamps shall be turned off at least five hundred feet from approaching motor vehicles.

B. Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed, when the vehicle is not loaded, that none of the high-intensity portion of the light to the left of the center of the vehicle shall, at a distance of twenty-five feet ahead, project higher than a level of four inches below the level of the center of the lamp from which it comes. Lighted fog lamps

meeting the above requirements may be used with lower headlamp beams as specified in Section 12-10-1.39B of this ordinance.

C. Any motor vehicle may be equipped with not to exceed one auxiliary passing lamp mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of Section 12-10-1.39 of this ordinance shall apply to any combination of headlamps and auxiliary passing lamps.

D. Any motor vehicle may be equipped with not to exceed one auxiliary driving lamp mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands. Any lighted auxiliary driving lamp shall be turned off at least five hundred feet from approaching motor vehicles. The provisions of Section 12-10-1.39 of this ordinance shall apply to any combination of headlamps and auxiliary driving lamp. (66-3-827 NMSA 1978)

12-10-1.39 ADDITIONAL LIGHTING EQUIPMENT

A. Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

B. Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

C. Any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion. (66-3-829 NMSA 1978)

12-10-1.40 MULTIPLE BEAM ROAD LIGHTING EQUIPMENT

Except as hereinafter provided, the headlamps or the auxiliary driving lamps or the auxiliary passing lamp, or combinations thereof, on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

A. There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty feet ahead for all conditions of loading.

B. There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver; and

C. Every new motor vehicle registered in this state after July 1, 1953, which has multiple beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted. The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. (66-3-830 NMSA 1978)

12-10-1.41 USE OF MULTIPLE BEAM ROAD LIGHTING EQUIPMENT

Whenever a motor vehicle is being operated on a street or shoulder adjacent thereto during the times specified in Section 12-10-1.3 of this ordinance, the driver shall use all distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at safe distance in advance of the vehicle, subject to the following requirements and limitations:

A. Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver;

B. The lowermost distribution of light specified in Section 12-10-1.39B of this ordinance shall be deemed to avoid glare at all times, regardless of road contour and loading; and

C. Whenever the driver of a vehicle overtakes another vehicle proceeding in the same direction and within two hundred feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected through the rear window of the overtaken vehicle. (66-3-831 NMSA 1978)

12-10-1.42 SINGLE BEAM ROAD LIGHTING EQUIPMENT

Headlamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to July 1, 1953, in lieu of multiple beam road lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

A. The headlamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level of which the vehicle stands at a distance of seventy-five feet ahead; and

B. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet. (66-3-832 NMSA 1978)

12-10-1.43 ALTERNATE ROAD LIGHTING EQUIPMENT

Any motor vehicle may be operated under the conditions specified in Section 12-10-1.3 of this ordinance when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in Sections 12-10-1.39 or 12-10-1.41 of this ordinance; provided, however, that at no time shall it be operated at a speed in excess of twenty miles an hour. (66-3-833 NMSA 1978)

12-10-1.44 NUMBER OF DRIVING LAMPS REQUIRED OR PERMITTED

A. At all times specified in Section 12-10-1.3 of this ordinance, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

B. Whenever a motor vehicle equipped with headlamps as herein required is also equipped with any auxiliary lamp or spot lamps or any other lamp on the front thereof projecting a beam of intensity greater than three hundred candle power, not more than a total of four or any such lamps on the front of a vehicle shall be lighted at any one time when upon a street. (66-3-834 NMSA 1978)

12-10-1.45 SPECIAL RESTRICTIONS ON LAMPS

A. Lighted lamps or illuminating devices upon a motor vehicle other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, that project a beam of light of an intensity greater than three hundred candle power shall be directed so that no part of the high-intensity portion of the beam strikes the level of the street on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

B. A person shall drive or move upon a highway a vehicle or equipment with a lamp or device displaying a red light visible from directly in front of the center of the vehicle or equipment, except as expressly authorized or required by the New Mexico Motor Vehicle Code.

C. Flashing lights are prohibited except as provided in this section and except on authorized emergency vehicles, school buses, snow-removal equipment and highway-marking equipment. Flashing red lights may be used as warning lights on disabled or parked vehicles and on any vehicle as a means of indicating turn.

D. A recovery or repair vehicle standing on a highway for the purpose of removing, and actually engaged in removing, a disabled vehicle, and while engaged in towing any disabled vehicle, may display flashing lights in any color except red. This provision shall not be construed as permitting the use of flashing lights by recovery or repair vehicles in going to or returning from the location of disabled vehicles unless actually engaged in towing a disabled vehicle.

E. Only fire department vehicles, law enforcement agency vehicles, ambulances and school buses may display flashing red lights visible from the front of the

vehicle. All other vehicles authorized by the New Mexico Vehicle Code to display flashing lights visible from the front of the vehicle may use any other color of light that is visible. (66-3-835 NMSA 1978)

12-10-1.46 LIGHTS ON SNOW REMOVAL EQUIPMENT

It shall be unlawful to operate any snow removal equipment on any street unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted by the State Highway Commission as provided in Section 66-3-836 NMSA 1978. (66-3-836 NMSA 1978)

12-10-1.47 MEANING OF THE TERM "MOTOR VEHICLE" AS USED IN SECTIONS 12-10-1.47 THROUGH 12-10-1.51 OF THIS ORDINANCE--UNATTENDED VEHICLES

A. For the purposes of Sections 12-10-1.47 through 12-10-1.51 of this ordinance "motor vehicle" means every bus, truck tractor, road tractor, and every driven vehicle in driveaway-towaway operations, required by Section 12-10-2 of this ordinance to have emergency equipment thereon.

B. No motor vehicle shall be left unattended until the parking brake has been securely set. All reasonable precautions shall be taken to prevent the movement of any vehicle left unattended. (66-3-851 NMSA 1978)

12-10-1.48 STOPPED VEHICLES NOT TO INTERFERE WITH OTHER TRAFFIC

No motor vehicle shall be stopped, parked, or left standing, whether attended or unattended, upon the traveled portion of any street outside of a business or residence district, when it is practicable to stop, park, or leave such vehicle off the traveled portions of the street. In the event that conditions make it impracticable to move such motor vehicle from the traveled portion of the street, the driver shall make every effort to leave all possible width of the street opposite the standing vehicle for the free passage of other vehicles and he shall take care to provide a clear view of the standing vehicle as far as possible to the front and rear. (66-3-852 NMSA 1978)

12-10-1.49 EMERGENCY SIGNALS--DISABLED VEHICLE

Whenever any motor vehicle is disabled upon the traveled portion of any street or the shoulder thereof, when lighted lamps are required, except where there is sufficient street lighting to make it clearly discernible to persons and vehicles on the street at a distance of five hundred feet, the following requirements shall be observed:

A. The driver of such vehicle shall immediately place on the traveled portion of the street at the traffic side of the disabled vehicle, a lighted fuse and lighted red electric lantern, or a red emergency reflector.

B. Except as provided in Subsections C and D of this section, as soon thereafter as possible, but in any event within the burning period of the fuse, the driver shall place three liquid-burning flares or pot torches, or three red emergency reflectors on the traveled portion of the street in the following order:

(1) one at a distance of approximately one hundred feet from the disabled vehicle in the center of the traffic lane occupied by such vehicle and toward traffic approaching in that lane;

(2) one at a distance of approximately one hundred feet in the opposite direction from the disabled vehicle in the center of the traffic lane occupied by such vehicle; and

(3) one at the traffic side of the disabled vehicle, not less than ten feet to the front or rear thereof. If a red electric lantern or red emergency reflector has been placed on the traffic side of the vehicle in accordance with Subsection A of this section, it may be used for this purpose.

C. If disablement of any motor vehicle shall occur within five hundred feet of a curve, crest of a hill, or other obstruction to view, the driver shall so place the warning signal in that direction as to afford ample warning to other users of the street, but in no case less than one hundred feet nor more than five hundred feet from the disabled vehicle; and

D. If gasoline or any other flammable or combustible liquid or gas seeps or leaks from a fuel container of a motor vehicle disabled or otherwise stopped upon a street, no emergency warning signal producing a flame shall be lighted or placed except at such a distance from any such liquid or gas as will assure the prevention of a fire or explosion. (66-3-853 NMSA 1978)

12-10-1.50 NON-EMERGENCY SIGNALS--STOPPED OR PARKED VEHICLES

Whenever for any cause other than disablement or necessary traffic stops, any motor vehicle is stopped upon the traveled portion of any street, or shoulder thereof, during the time lights are required, except where there is sufficient street lighting to make clearly discernible persons and vehicles on the street at a distance of five hundred feet, the following requirements shall be observed:

A. The driver of such vehicle shall immediately place on the traveled portion of the street at the traffic side of the vehicle, a lighted fuse and lighted red electric lantern, or a red emergency reflector.

B. If the stop is to exceed ten minutes, the driver shall place emergency signals as required and in the manner prescribed by Section 12-10-1.48 of this ordinance. (66-3-854 NMSA 1978)

12-10-1.51 EMERGENCY SIGNALS--FLAME PRODUCING

No driver shall attach or permit any person to attach a lighted fuse or other flame producing emergency signal to any part of a motor vehicle. (66-3-855 NMSA 1978)

12-10-1.52 EMERGENCY SIGNALS--DANGEROUS CARGOES

No driver shall use or permit the use of any flame producing emergency signal for protecting any motor vehicle transporting explosives, any cargo tank motor vehicle used for the transportation of any flammable liquid or flammable compressed gas, whether loaded or empty; or any motor vehicle using compressed gas as a motor fuel. In lieu thereof, red electric lanterns or red emergency reflectors shall be used, the placement of which shall be in the same manner a prescribed in Section 12-10-1.48 of this ordinance. (66-3-856 NMSA 1978)

12-10-2 TRANSPORTING OR HANDLING EXPLOSIVES OR DANGEROUS ARTICLES

A. Any person operating any vehicle transporting explosives or other dangerous articles, as defined in the New Mexico Motor Vehicle Code, as cargo upon a street shall comply with the provisions of Sections 66-3-858 through 66-3-873 NMSA 1978 with respect to marking of vehicles. (66-3-858 NMSA 1978)

B. No motor vehicle transporting any explosive or any other dangerous article shall be left unattended upon any street in any residence or business district except when the driver is engaged in the performance of normal operations incident to his duties as an operator of the vehicle to which he is assigned; provided, however, the chief of police may except any street in any business district from the operation of this subsection.

C. Drivers of motor vehicles transporting explosives, inflammable liquids, or inflammable, noxious or toxic compressed gasses in cargo tanks, shall avoid, so far as practicable, driving into or through congested streets, places where crowds are assembled and dangerous crossings. So far as practicable this shall be accomplished by prearrangement of routes.

D. No blasting caps or other materials designed and used for detonating charges or explosives may be transported in or on a vehicle with any explosive.(*)

E. The administrator shall enforce such rules and regulations adopted and promulgated by the director with respect to the transportation of compressed gases and corrosive liquids by tank vehicle upon the public street. (66-3-873 NMSA 1978)

12-10-3 REGULATING THE KINDS AND CLASSES OF TRAFFIC ON THE STREETS

12-10-3.1 RESTRICTIONS UPON USE OF STREETS BY CERTAIN VEHICLES

A. The administrator may determine and designate those heavily traveled streets upon which shall be prohibited the use of the street by motor driven cycles, bicycles, horse-drawn vehicles or other non-motorized traffic and shall erect appropriate signs giving notice thereof.

B. When signs are erected giving notice of the restrictions, no person shall disobey the restrictions stated on the signs.(*)

12-10-3.2 MINIMUM VEHICLE SIZE

A. It is unlawful to operate on the streets of this municipality any motor vehicle:

(1) with a wheelbase, between two axles, of less than three feet seven inches;

(2) with a motor displacement of less than forty-five (45) cubic centimeters; or

(3) any motorcycle with less than a twenty-five (25) inch seat height measured from the ground to the lowest point on top of the seat cushion, without a rider.

B. For the purpose of this section, wheelbase shall be measured upon a straight line from center to center of the vehicle axles. (66-7-405 NMSA 1978)

12-10-3.3 PROJECTING LOADS ON PASSENGER VEHICLES

No passenger-type vehicle, except a motorcycle, shall be operated on any street with any load carried thereon extending beyond the line of the fenders on the left side of the vehicle nor extending more than six (6) inches beyond the line of the fenders on the right side of the vehicle. (66-7-403 NMSA 1978)

12-10-3.4 SPECIAL PROJECTING LOAD LIMITS

The load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than seven feet beyond the rear of the bed or body of such vehicle. (66-7-406 NMSA 1978)

12-10-3.5 TRAILERS AND TOWED VEHICLES

A. When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby. When a combination of vehicles are engaged in transporting poles, pipe, machinery or other objects of structural

nature which cannot readily be dismembered, the load shall be distributed so as to equalize the weights on the axle of each vehicle insofar as possible.

B. When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square. (66-7-408 NMSA 1978)

12-10-3.6 WIDTH OF VEHICLES

The total outside width of any vehicle or its load, excepting mirrors, shall not exceed eight feet six inches. Safety devices up to three inches on either side of the vehicle and recreational appurtenances, including retracting awnings, up to six inches on either side of the vehicle are also excepted. (66-7-402 NMSA 1978)

12-10-3.7 HEIGHT AND LENGTH OF VEHICLES AND LOADS

A. No vehicle, shall exceed a height of fourteen feet.

B. A vehicle shall not exceed a length of forty feet extreme overall dimension and no motor home shall exceed a length of forty-five feet extreme overall dimension, exclusive of front and rear bumpers, except when operated in combination with another vehicle as provided in this section. A bus may exceed a length of forty-five feet when operating on national network highways. A combination of vehicles, unless otherwise exempted in this section, shall not exceed an overall length of sixty-five feet, exclusive of front and rear bumpers.

C. No combination of vehicles coupled together shall consist of more than two units, except:

(1) a truck tractor and semi-trailer shall be permitted to pull one trailer;

(2) a vehicle shall be permitted to pull two units, provided that the middle unit is equipped with brakes and has a weight equal to or greater than the last unit and the total combined gross weight of the towed units does not exceed the manufacturer's stated gross weight of the towing units;

(3) a double or triple saddle-mount or fifth wheel mount of vehicles in transit by driveway-towaway methods shall be permitted;

(4) vehicles and trailers operated by or under contract for municipal refuse systems;

(5) farm trailers, implements of husbandry and fertilizer trailers operated by or under contract to a farmer or rancher in his farming or ranching operations; and

(6) as provided in Subsection D and E of this section.

D. Exclusive of safety and energy conservation devices, refrigeration units and other devices such as coupling devices, vehicles operating a truck tractor semitrailer or truck tractor semitrailer-trailer combinations on the interstate highway system and those qualifying federal aid primary system highways designated by the secretary of the United States department of transportation, pursuant to the United States Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411, and on those highways designated by the department by rule or regulation with the concurrence of the state transportation department may exceed an overall length limitation of sixty-five feet, provided that the length of the semitrailer in a truck tractor semitrailer combination does not exceed fifty-seven feet six inches and the length of the semitrailer or trailer in a truck tractor semitrailer-trailer combination does not exceed twenty-eight six inches. The department shall adopt rules and regulations granting reasonable access to terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers to vehicles operating in combination pursuant to this subsection. As used in this subsection, "truck tractor" means a non-cargo carrying power unit designed to operate in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the truck tractor.

E. The following combination vehicles are specialized equipment and may exceed an overall length of sixty-five feet pursuant to the Code of Federal Regulations, Title 23, Section 658.13:

(1) automobile transporters;
(2) boat transporters;
(3) beverage semitrailers; and
(4) munitions carriers using dromedary equipment.

F. A saddle-mount vehicle is specialized equipment and may not exceed an overall length of ninety-seven feet pursuant to the Code of Federal Regulations, Title 23, Section 658.13.

G. Notwithstanding any other subsection of this section, any trailer or semitrailer combination of such dimensions as those that were in actual and lawful use in this state on December 1, 1982 may be lawfully operated on the highways of this state. (66-7-404 NMSA 1978)

12-10-3.8 EXCEPTIONS ON SIZE, WEIGHT AND LOAD

A. A. It is a misdemeanor for any person to drive or move, or for the owner, lessee or other person directing the operation to cause or permit to be driven or moved, on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in Sections 66-7-401 through 66-7-416 NMSA 1978 or otherwise in violation of said sections, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter said

limitations except as express authority may be granted in said sections.

B. The provisions of Sections 12-10-3.1 through 12-10-3.7 of this ordinance governing size, weight and load shall not apply to fire apparatus, road machinery engaged in street construction or maintenance, or to implements of husbandry, including farm tractors, temporarily moved upon a street, or to a vehicle operated under the terms of a special permit issued as herein provided.

C. Upon the declaration of a national emergency pursuant to federal law or a declaration by the governor of an emergency pursuant to the Emergency Powers Code [Chapter 12, Articles 10, 10A, 11 and 12 NMSA 1978], the secretary of transportation may issue an order suspending or modifying the requirements for vehicular size, weight and load pursuant to Sections 66-7-401 through 66-7-416 NMSA 1978 for the duration of the emergency; provided that the order shall be published on the department of transportation's website. (66-7-401 NMSA 1978)

12-10-4 VEHICLE SUBJECT TO REGISTRATION; EXCEPTIONS

A. With the exception of vehicles identified in Subsection B of this section, every motor vehicle, manufactured home, trailer, semitrailer and pole trailer when driven or moved upon a highway and every off-highway motor vehicle is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

(1) any such vehicle driven or moved upon a highway in conformance with the provisions of the Motor Vehicle Code relating to manufacturers, dealers, lien-holders or nonresidents;

(2) any such vehicle that is driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(3) an implement of husbandry that is only incidentally operated or moved upon a highway;

(4) special mobile equipment;

(5) a vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(6) a freight trailer if it is:

(a). properly registered in another state;

(b). identified by a proper base registration plate that is properly displayed; and

(c). identified by other registration documents that are in the possession of the operator and exhibited at the request of a police officer;

(7) a freight trailer or utility trailer owned and used by:

(a) a nonresident solely for the transportation of farm products purchased by the nonresident from growers or producers of the farm products and transported in the trailer out of the state;

(b) a farmer or a rancher who transports to market only the produce, animals or fowl produced by that farmer or rancher or who transports back to the farm or ranch supplies for use thereon; or

(c) a person who transports animals to and from fairs, rodeos or other places, except racetracks, where the animals are exhibited or otherwise take part in performances, in trailers drawn by a motor vehicle or truck of less than ten thousand pounds gross vehicle weight rating bearing a proper registration plate, but in no case shall the owner of an unregistered trailer described in this paragraph perform such uses for hire;

(8) a moped;

(9) an electric personal assistive mobility device;

(10) a vehicle moved on a highway by a towing service as defined in Section 59A-50-2 NMSA 1978; and

(11) an off-highway motor vehicle exempted pursuant to Section 66-3-1005 NMSA 1978. (*)

12-10-4.1 DISPLAY OF CURRENT VALID REGISTRATION PLATE

A. It is a violation of this ordinance for any person to drive or park upon a public street or public parking area of this municipality any motor vehicle or trailer which does not display one or more visible current valid registration plates as required by state law.(*)

B. The registration plate shall be attached to the rear of the vehicle for which it is issued; however, the registration plate shall be attached to the front of a road tractor or truck tractor. The plate shall be securely fastened at all times, in a fixed horizontal position, at a height of not less than twelve inches from the ground, measuring from the bottom of the plate. It shall be in a place and position so as to be clearly visible, and it shall be maintained free from foreign material and in a condition to be clearly legible.

C. A demonstration or temporary registration permit shall be firmly affixed to the inside left rear window of the vehicle to which it is issued, unless such display presents a safety hazard or the demonstration or temporary registration permit is not visible or readable from that position, in which case, the demonstration or temporary registration permit shall be displayed in such a manner that it is clearly visible from the rear or left side of the vehicle.

D. No vehicle, while being operated on the streets of this municipality, shall have displayed thereon, either on the front or the rear thereof, any license plate, including tab or sticker, other than one issued, or validated, for the current registration period, by the division or any other licensing authority having jurisdiction over the vehicle. No expired license plate, tab or sticker shall be displayed on such vehicle, other than an expired special license plate which may be exhibited on the front of the vehicle.

E. Nothing contained herein shall be construed as prohibiting the use, of a promotional or advertising plate on the front of the vehicle.

F. A violation of Subsection B through E of this section is a penalty assessment misdemeanor. (66-3-18 NMSA 1978)

E. Any police officer may, upon discovering that the registration plate of any vehicle is illegible because of wear or damage or other causes, issue a citation to the owner or operator of the vehicle. The citation shall provide that the owner shall, within thirty days from the date of the citation, apply for and obtain a duplicate or replacement plate from the division. (66-3-17 NMSA 1978)

F. Any motor vehicle owner who has been issued a citation for an illegible registration plate and who fails to comply with the terms of the citation requiring the acquisition of a duplicate or replacement plate within thirty days of the date of the citation is guilty of a misdemeanor. (66-8-10 NMSA 1978)

12-10-5 EVIDENCE OF REGISTRATION TO BE SIGNED AND EXHIBITED ON DEMAND

A. Every owner, upon receipt of registration evidence, shall write his signature thereon in a space provided. Every such registration evidence or duplicates thereof validated by the division shall be exhibited upon demand of any police officer.

B. A person charged with violating the provisions of this section shall not be convicted if the person produces, in court, evidence of a signed registration valid at the time of issuance of the citation. (66-3-13 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.

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, or a surety bond or evidence of a sufficient cash deposit with the state treasurer, is not in effect. (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. (66-5-229 NMSA 1978)

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)

ARTICLE XI

TRAFFIC VIOLATIONS BUREAU

12-11-1 Traffic Violations Bureau Created
12-11-2 Fines Accepted by the Traffic Violations Bureau
12-11-3 When Person Charged May Elect to Appear at Bureau or Before Municipal Judge
12-11-4 Duties of Traffic Violations Bureau

12-11-1 TRAFFIC VIOLATIONS BUREAU CREATED.

A. A traffic violations bureau is established to assist the municipal court in its administrative work.

B. The personnel of the bureau shall be responsible to the municipal judge.

C. The bureau shall be open at such hours as the municipal judge may designate.(*)

12-11-2 FINES ACCEPTED BY THE TRAFFIC VIOLATIONS BUREAU.

A. The municipal judge who hears traffic cases shall designate by rule as provided in the Rules of Procedure for the Municipal Courts, adopted by the New Mexico Supreme Court, as amended, the specified offenses under the traffic ordinance of this municipality in respect to which payments of fines may be accepted by the traffic violations bureau.

B. The municipal judge shall specify by rule as provided in the Rules of Procedure for the Municipal Courts, adopted by the New Mexico Supreme Court, as amended, suitable schedules of the amount of the fines for first, second and subsequent offenses, provided the fines are within the limits declared by law or ordinance, and shall further specify what number of offenses shall require appearance before the judge.(*)

12-11-3 WHEN PERSON CHARGED MAY ELECT TO APPEAR AT BUREAU OR BEFORE MUNICIPAL JUDGE.

A. Any person charged with an offense for which payment of a fine may be made to the traffic violations bureau under the foregoing provisions shall have the option of:

(1) paying the fine within the time specified in the notice of arrest at the traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court; or

(2) upon a plea of not guilty shall be entitled to a trial as authorized by law and depositing any bail required as provided in the Rules of Procedure for the Municipal Courts, adopted by the New Mexico Supreme Court, as amended.

B. For the purpose of this ordinance, the payment of a fine to the traffic violations bureau shall be deemed an acknowledgment of conviction of the alleged offense. The traffic violations bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment of the fine.(*)

12-11-4 DUTIES OF TRAFFIC VIOLATIONS BUREAU.

A. The traffic violations bureau shall accept designated fines, issue receipts and represent in court violators who are permitted and who desire to plead guilty, waive appearance and give power of attorney.

B. The traffic violations bureau shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time for their appearance on the court docket and notify the arresting officer or the municipal attorney or the liaison officer if any are to be present.

C. The traffic violations bureau shall keep a record of all violations of the traffic ordinance together with a record of a final disposition of all such alleged offenses:

(1) the record shall be maintained to show all types of violations and the total of each; and

(2) the record shall accumulate during at least a two-year period and from that time on shall be maintained complete for at least the most recent two-year period.

D. The traffic violations bureau shall study the cases of drivers charged with frequent or serious violations of traffic ordinances or involved in frequent traffic accidents or any one serious accident, shall attempt to discover the reasons therefore and shall take whatever steps are lawful and reasonable to prevent the recurrence thereof or to have the licenses of the persons suspended or revoked.

E. The traffic violations bureau shall keep records and submit summarized monthly reports to the administrator of all notices issued and arrests made for violations of the traffic ordinances and of all fines collected by the traffic violations bureau of the court and of the final disposition or current status or every case of violations of the

provisions of the said ordinances. The records shall be so maintained as to show all types of violations and the totals of each.

F. The traffic violations bureau shall follow such procedures as may be prescribed by the traffic ordinances of this municipality or as may be required by any law of this state.(*)

ARTICLE XII

PENALTIES AND PROCEDURES ON ARREST

12-12-1 Penalties
12-12-1.1 Maximum Penalty
12-12-1.2 Penalty Assessment Program
12-12-2 Forms and Records of Traffic Citations and Arrests
12-12-3 Conduct of Arresting Officer--Notices by Citation
12-12-3.1 Electronic Uniform Traffic Citation
12-12-4 Uniform Traffic Citation is Complaint
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12-12-14 Presumption in Reference to Illegal Parking
12-12-15 When Warrant to be Issued
12-12-16 Disposition of Traffic Fines and Forfeitures
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12-12-18 Authority to Remove or Relocate Vehicles
12-12-19 Abandoned Vehicles on Private Property
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12-12-21 Liability for Damage
12-12-22 Sunday Actions

12-12-1 PENALTIES.

12-12-1.1 MAXIMUM PENALTY. Unless another penalty is expressly provided in this 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 three hundred dollars ($300.00) or by imprisonment for not more than 90 days or by both such fine and imprisonment. (*)

12-12-1.2 PENALTY ASSESSMENT PROGRAM.

A. Any municipality may, by passage of an ordinance, establish a municipal penalty assessment program similar to that established in Section 66-8-116 NMSA 1978 through 66-8-117 NMSA 1978 for violations of provisions of the Motor Vehicle Code. If the municipality has adopted an ordinance to establish a penalty assessment program shall assess on all penalty assessment misdemeanors after January 1, 1984, in addition to the penalty assessment, a penalty assessment fee of ten dollars ($10.00)

to 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 that municipality's prisoners in other detention facilities in the state; or for complying with match or contribution requirements for the receipt of federal funds relating to jails. Such a municipal program shall be limited to violations of municipal traffic ordinances.

B. If a municipality with a population less than three thousand according to the most recent federal decennial census has a balance in its special fund pursuant to Subsection A of this section that is over the amount projected to be needed for the next fiscal year for the purposes set forth in that subsection, the municipality may transfer the unneeded balance to the municipality's general fund.

C. All penalty assessments under a municipal program authorized by this section shall be processed by the municipal court and all fines and fees collected shall be deposited in the treasury of the municipality. 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.

D. Each agency shall provide itself with copies conforming exactly in size and format with the uniform traffic citation and the electronic version of the uniform traffic citation if applicable, prescribed by the director, and any alterations to the format to conform with local conditions must be approved by the director. (66-8-130 NMSA 1978)

12-12-2 FORMS AND RECORDS OF TRAFFIC CITATIONS AND ARRESTS.

A. The municipality shall provide books to include uniform traffic citation forms authorized by state law for notifying alleged violators to appear and answer to charges of violating traffic ordinances in the municipal court.

B. The municipality shall issue uniform traffic citation books to the chief of police or his authorized agent and shall maintain a record of every book issued and shall require a written receipt for every book.

C. The chief of police shall keep a record and require a receipt for each serially numbered citation issued to individual officers. (*)

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 ordinance 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 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 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.

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 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 Section 66-5-30 NMSA 1978.

D. In order to secure his release, the arrested person must give his 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.

F. A law enforcement officer who arrests a person without a warrant for a misdemeanor violation of the Motor Carrier Act, the Criminal Code, the Liquor Control Act or other New Mexico law may use the uniform traffic citation in paper or electronic form, issued pursuant to procedures outlined in Subsections B through F of Section 31-1-6 NMSA 1978, in lieu of taking the person to jail.

G. An electronic traffic citation, prescribed by Sec 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 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. (66-8-123 NMSA 1978)

12-12-3.1 ELECTRONIC UNIFORM TRAFFIC CITATION

A. 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. (66-8-128 NMSA 1978)

12-12-4 UNIFORM TRAFFIC CITATION IS COMPLAINT. The uniform traffic citation used as a notice to appear is a valid complaint, though not verified. (66-8-131 NMSA 1978)

12-12-5 ARREST WITHOUT WARRANT.

A. Members of the municipal police force may arrest without warrant any person:

(1) present at the scene of a motor vehicle accident;

(2) on a street when charged with theft of a motor vehicle;

(3) charged with crime in another jurisdiction, upon receipt of a message giving the name or a reasonably accurate description of the person wanted, the crime alleged and a statement he is likely to flee the jurisdiction of the state; (66-8-125 NMSA 1978)

(4) charged with driving while under the influence of intoxicating liquor or drugs;

(5) charged with failure to stop in the event of an accident causing death, personal injuries or damage to property;

(6) charged with reckless driving;

(7) the arresting officer has good cause to believe has committed a felony;

(8) who refuses to give his written promise to appear in court or acknowledge receipt of a warning notice; (1961-62 Op. Atty. Gen. No. 61-117) or

(9) who is charged with driving when his privilege to do so was suspended or revoked pursuant to Section 66-8-111 NMSA 1978 or pursuant to a conviction for driving while under the influence of intoxicating liquor or drugs. (66-8-122 NMSA 1978)

B. To arrest without warrant, the arresting officer must have reasonable grounds, based on personal investigation which may include information from eyewitnesses, to believe the person arrested has committed a crime.

C. Members of the municipal police force may not make arrests for traffic violations if not in uniform; however, nothing in this section shall be construed to prohibit the arrest, without warrant, by a peace officer of any person when probable cause exists to believe that a felony crime has been committed or in non-traffic cases. (66-8-125 NMSA 1978)

D. This section governs all police officers in making arrests without warrant for violations of the New Mexico Motor Vehicle Code, this ordinance and other laws relating to motor vehicles but the procedure prescribed is not exclusive of any other method prescribed by law for the arrest and prosecution of a person violating these laws. (66-8-127 NMSA 1978)

12-12-6 IMMEDIATE APPEARANCE BEFORE MUNICIPAL OR MAGISTRATE JUDGE.

Whenever any person is arrested for any violation of this ordinance or other law relating to motor vehicles punishable as a misdemeanor, he shall be immediately taken before an available municipal or magistrate judge who has jurisdiction of the offense when the:

(1) person requests immediate appearance;

(2) person is charged with driving while under the influence of intoxicating liquor or narcotic drugs;

(3) person is charged with failure to stop in the event of an accident causing death, personal injuries or damage to property;

(4) person is charged with reckless driving;

(5) arresting officer has good cause to believe the person arrested has committed a felony;

(6) person refuses to give his written promise to appear in court or acknowledge receipt of a warning notice; or

(7) person is charged with driving when his privilege to do so was suspended or revoked pursuant to a conviction for driving while under the influence of intoxicating liquor or drugs. (66-8-122 NMSA 1978)

12-12-7 FAILURE TO OBEY NOTICE TO APPEAR.

A. 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.

B. A written promise to appear in court may be complied with by appearance of counsel. (66-8-126 NMSA 1978)

12-12-8 ARRESTING OFFICER TO BE IN UNIFORM.

A. No person shall be arrested for violating this ordinance or other law relating to motor vehicles punishable as a misdemeanor except by a commissioned, salaried peace officer who, at the time of arrest, is wearing a uniform clearly indicating the peace officer's official status.

B. Notwithstanding the provisions of Subsection A of this section, a municipality may provide by ordinance that uniformed private security guards may be commissioned by the local police agency to issue parking citations for violations of clearly and properly marked fire zones and access zones for persons with significant mobility limitation. Prior to the commissioning of any security guard, the employer of the security guard shall agree in writing with the local police agency to the commissioning of the employer's security guard. The employer of any security guard commissioned under the provisions of this section shall be liable for the actions of that security guard in carrying out the security guard's duties pursuant to that commission. Notwithstanding the provisions of the Tort Claim Act, private security guards commissioned under this section shall not be deemed public employees under that act. (66-8-124 NMSA 1978)

12-12-9 HANDLING OF CITATIONS

A. Any entity that wishes to submit electronic traffic citations instead of or with paper uniform traffic citations required to be submitted to the department by electronic means must secure the prior permission of the department. 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. (66-8-128 NMSA 1978)

B. Every police officer issuing a uniform traffic citation to an alleged violator of this ordinance or other law relating to motor vehicles shall dispose of the citations as indicated on the back of each copy.

C. Citations spoiled or issued in error shall be marked "void" in large letters on the face, signed by the officer, and the copies disposed of as a valid warning notice. (66-8-133 NMSA 1978)

D. Upon filing of the uniform traffic citation in the municipal court, the citation may be disposed of only by trial in the court or by other official action by a judge of the court including, at the discretion of the municipal judge, forfeiture of bail or by payment of a fine to the traffic violations bureau of the court.

E. The chief of police shall maintain or cause to be maintained a record of serially numbered warrants issued by the municipal court on traffic violation charges which are delivered to the police department for service and of the final disposition of all such warrants. (*)

F. The chief of police shall issue, keep a record and require a receipt for each serially numbered citation issued to individual police officers. (66-8-132 NMSA 1978)

G. It is a misdemeanor and official misconduct for any officer or other public official or employee to dispose of a uniform traffic citation except as provided in this section. (66-8-133 NMSA 1978)

12-12-10 ILLEGAL CANCELLATION--AUDIT OF CITATION RECORDS.

A. Any person who cancels or solicits the cancellation of any uniform traffic citation other than as provided in this ordinance is guilty of a misdemeanor.

B. Every record of uniform traffic citations required in this ordinance shall be audited monthly by the appropriate fiscal officer of this municipality.

C. The fiscal officer shall publish an annual summary of all traffic violation notices issued by the traffic-enforcement agency. (66-8-134 NMSA 1978)

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.

B. 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.

C. Within ten days of the later of entry of a final disposition on a conviction for violation of this ordinance 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:

(1) the name and address of the defendant;

(2) the specific section number and common name of the provision of the local law, ordinance or regulation under which the defendant was tried;

(3) the plea, finding of the court and disposition of the charge, including fine or jail sentence or bot;

(4) total costs assessed to the defendant;

(5) the date of the hearing;

(6) the court's name and address;

(7) whether defendant was a first or subsequent offender; and

(8) whether the defendant was represented by counsel or waived his right to counsel and, if represented, the name and address of counsel.

D. The abstract of record prepared and forwarded under Subsection 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 Subsection B of this Section may be 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.

E. When the uniform traffic citation is used, the court shall provide the information required in Subsection C of this Section in the manner prescribed by the department.

F. Every court of record shall also forward a like report to the department upon conviction of any person of any felony if a motor vehicle was used in the commission. With the prior approval of the department, the information required by this subsection may be submitted electronically to the department. The report shall be forwarded to the department within ten (10) days of the final decision of the court or of any higher court that reviews the matter and from which the decision of no appeal or review is successfully taken.

E. The willful failure or refusal of any judicial officer to comply with this section is misconduct in office and grounds for removal. (66-8-135 NMSA 1978)

12-12-12 CITATION ON ILLEGALLY PARKED VEHICLE.

Whenever any motor vehicle without driver is found parked, standing or stopped in violation of any of the restrictions imposed by this ordinance, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to the vehicle a traffic citation on a form provided by the municipality for the driver to answer to the charge against him within five days during the hours and at a place specified in the citation. (*)

12-12-13 FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE.

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to the motor vehicle within a period of five days, the traffic violations bureau or clerk of the municipal court shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter

informing him of the violation and warning him that in the event the letter is disregarded for a period of five days a warrant of arrest will be issued. (*)

12-12-14 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

A. In any prosecution charging a violation of any ordinance governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of the ordinance, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, for the time during which, the violation occurred.

B. The foregoing stated presumption shall apply only when the procedure as prescribed in Sections 12-12-12 and 12-12-13 has been followed. (*)

12-12-15 WHEN WARRANT TO BE ISSUED.

In the event any person fails to comply with a traffic citation given to the person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in the municipal court or the traffic violations bureau, or if any person fails or refuses to deposit bail as required and within the time permitted by ordinance, the municipal judge shall issue either a summons or a warrant for his arrest. (*)

12-12-16 DISPOSITION OF TRAFFIC FINES AND FORFEITURES.

All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this ordinance shall be paid into the municipal treasury. (*)

12-12-17 OFFICIAL MISCONDUCT.

Failure, refusal or neglect on the part of any judicial or other officer or employee receiving or having custody of any fine or forfeiture, either before or after a deposit in the municipal treasury, shall constitute misconduct in office and shall be grounds for removal. (*)

12-12-18 AUTHORITY TO REMOVE OR RELOCATE VEHICLES.

A. Definitions--For purposes of this section:

(1) "Chief" shall mean the Chief of Police of the municipal police department or his designated representative.

(2) "Impound" shall mean the towing and storage of a motor vehicle as authorized in this section.

(3) "Owner" of a vehicle shall mean the registered owner or owners of a vehicle as recorded with the New Mexico department of motor vehicles or similar agency of a state outside New Mexico. Where written notice to the owner is required by this section, such notice shall be given to each registered owner. Where appearance of

the owner is required by this section, appearance may be by a person authorized by the owner to appear on his behalf.

(4) "Sign" shall mean a printed notification to the public giving notice of the possibility of removal of a vehicle by stating that the area is a tow-away zone, or that the violation of the restrictions stated on the sign may result in towing, and the sign must be readily visible from the point of removal.

(5) "Written Notice" shall mean notice sent by certified mail, return receipt requested, to the last known address of the owner:

a) When such notice is required under the terms of this section, weekends and holidays shall not be included when calculating the time for mailing notice.

b) When a vehicle is registered in a state outside New Mexico, the Chief shall make all reasonable and diligent efforts to ascertain the name and address of all registered owners. If the name and address information for an in-state or out-of-state registered vehicle is not available soon enough to meet the time deadlines for mailing written notice, then the notice shall be mailed as soon as possible after the information is received.

c) As a valid substitute for "written notice" as defined herein, notice may be given by personal service or in any other reasonable manner, so long as actual notice is given to at least one owner within the time limits provided. Notice may be effected by verbal notice to an owner, or to the driver or passenger of a vehicle, if the driver or passenger reasonably appears to have custody of the vehicle with the owner's knowledge and permission. Verbal notice to the owner, driver or passenger shall be valid, however, only if the person so notified is given all the information required in the written notice and the person is given in writing a phone number where the owner, driver or passenger can obtain further information from a municipal employee.

d) If notice cannot be given per the other provisions of this paragraph, notice shall be given by publication once in a newspaper of general circulation in the community as soon as practicable after reasonable and diligent efforts to give notice as provided elsewhere in this paragraph prove fruitless. (*)

C. Impoundment of Vehicles Generally.

(1) Any vehicle impounded pursuant to this section shall be towed in accordance with state and local law to an authorized private storage facility or an area designated or maintained by the police department or by the municipality. The person authorizing impoundment shall issue signed and dated instructions in writing to the storage facility specifically stating whether the vehicle is to be held for investigation or as evidence, or whether it may be released to the owner after all attendant charges have been satisfied pursuant to Subsection H of this section. If the vehicle has been in storage for over 30 days

after written notice is given and no hearing has been requested or the vehicle has not been claimed per the provisions of this section, then the storage facility operator may sell the vehicle per the provisions of applicable state law.

(2) If any vehicle is about to be removed, relocated or is in the process of being removed or relocated and the owner thereof or his agent appears and claims the vehicle and agrees forthwith to remove it or relocate it, such vehicle shall be delivered to such owner or agent upon demand therefore and upon furnishing satisfactory evidence of identity and ownership or agency. If any such owner or agent shall fail, refuse or neglect to forthwith remove such vehicle, such vehicle shall nevertheless be impounded or relocated. Removal by such owner or agent shall not relieve the offender of liability for any towing costs already incurred or for any fine or penalty for the violation of any law or ordinance for which the vehicle was to be removed or relocated. (*)

E. Circumstances Permitting Summary Vehicle Impoundment or Relocation

c) when an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the street, alley, or public way or its physical appearance is causing traffic to be impeded;

d) when any vehicle is parked or left standing where stopping is prohibited by ordinance or other state or local law. No vehicle may be removed pursuant to this paragraph unless signs are posted at least 24 hours prior to the removal giving notice that the area is a tow-away zone;

e) when any vehicle is parked or standing in a manner so as to obstruct necessary emergency services, law enforcement services, the routing of traffic at the scene of a disaster, or when removal is otherwise necessary in the interest of public safety because of any emergency, and moving the vehicle to a legal parking location is impractical. However, the owner or operator of a vehicle so relocated or removed shall not be subject to any relocation, removal or storage charges, if the vehicle is otherwise lawfully parked. Such charges shall be paid by the municipality, except that in the case of emergency utility repairs such charges shall be paid by the utility company seeking removal;

f) when a vehicle is parked, left unattended or abandoned during a fire, flood, storm or other public emergency which is apt to cause substantial damage to the vehicle, removal is in the best interest of the owner, and moving the vehicle to a safe legal location is impractical;

g) when a vehicle is either unattended or disabled and loaded with either a dangerous, flammable, combustible or explosive substance which, either by its presence or load conditions is likely to harm the health or safety of the public and moving the vehicle to a safe, legal location is impractical; or

h) when any vehicle is parked in such a manner as to obstruct or interfere with any road, sidewalk or right-of-way maintenance or construction, or any non-emergency utility work, and it is impractical to relocate the vehicle to another point where parking is legal. No vehicle shall be removed unless signs are posted giving notice of the work to be done and the possibility of removal at least 24 hours prior to the removal. (*)

F. Notice and Procedure Following Summary Impoundment or Relocation.

(1) After a vehicle is towed or relocated pursuant to subsection D of this section, the Chief shall send written notice within 24 hours of the towing to the owner of the vehicle.

(2) The notice shall contain the following information:

a) the license plate number, make, type and color of the vehicle;

b) the location of the vehicle at the time of impoundment or relocation;

c) a statement that the vehicle has been taken into custody and stored, or a statement that the vehicle has been relocated;

d) the reason for impoundment or relocation;

e) the location and telephone number of the storage facility where the vehicle is being kept or the place to which the vehicle was relocated;

f) a statement that daily storage charges will be assessed in addition to a towing charge if the removal was proper;

g) a statement that the owner may obtain release of the vehicle by posting bond or paying all amounts due under this ordinance;

h) a statement that the owner has the right to contest the validity of the impoundment or relocation by requesting in writing a hearing before the municipal judge within thirty (30) days after written notice is given;

i) a statement that failure to obtain release of the vehicle if impounded will cause it to be sold or otherwise disposed of in accordance with state law; and

j) a phone number and name or title of a municipal employee from whom the owner can obtain further information.

(3) The hearing, if requested in a timely manner, shall be held within 120 hours (excluding weekends and holidays) of receipt of the request unless the hearing is continued with the agreement of the owner. The municipal judge's decision shall be limited to:

a) whether the vehicle was lawfully impounded or relocated for one or more of the reasons set forth in Subsection D of this section and

b) whether the vehicle, if lawfully impounded, should be released at the City's expense.

Upon receipt of the request for a hearing on the legality of an impoundment, the municipal judge shall notify the storage facility of the hearing and no lien shall be foreclosed by the storage facility as allowed by state law until the judge has ruled on the legality of the impoundment. If the municipal judge finds that the vehicle in question was not lawfully impounded or that the vehicle should otherwise be released at the municipality's expense, he shall issue and date a Certificate of Release, indicating the unlawful impoundment, or the release at municipal expense, or both, and a copy of the release shall be given to the owner of the vehicle. Upon receipt of the owner's copy of such certificate, the authorized storage facility having custody of the vehicle shall release the vehicle to its owner and towing and storage fees shall be paid by the municipality in accordance with arrangements to be made between the municipality and the authorized storage facility. If the owner fails to present such certificate to the authorized storage facility having custody of the vehicle within 24 hours of its receipt, excluding days when
the authorized storage facility is not open for business, the owner shall assume liability for all subsequent storage charges. The certificate shall advise the owner of such requirement.

(4) The decision of the municipal judge may be appealed to the district court. (*)

G. Abandoned Vehicles.

(1) Any municipal police officer, or any municipal employee who is authorized to direct traffic or enforce state or local parking or motor vehicle laws, may order the impoundment of any abandoned vehicle within the municipal corporate limits. A vehicle is abandoned if:

a) the vehicle is parked on or along any street, alley or public way and the vehicle displays no current license plate; or

b) the vehicle is left unattended on or along any street, alley or public way in the same place for a period of 72 hours without a valid police sticker as defined in paragraph 2 of this subsection.

(2) The Chief may issue a sticker temporarily permitting street storage, upon application of any owner or agent of an owner for any vehicle which is

operable and has a current license plate. Stickers shall expire fifteen (15) days after issuance. No owner, whether an individual, business, corporation, organization, partnership or trust, is entitled to more than four stickers at any time.

(3) When a vehicle is abandoned on or along a street, alley or public way under circumstances which do not allow summary removal or relocation pursuant to subsection D of this section, a notice shall be attached to the vehicle in a manner which is readily visible containing the following information:

a) the date and time the notice is affixed to the automobile;

b) a statement that, pursuant to this section of this ordinance the vehicle will be considered abandoned and may be towed and stored at the owner's expense if it is not removed within ten (10) days of the time that the notice is affixed;

c) a statement that if the vehicle is impounded and no hearing is requested or it is not claimed, it can be sold after thirty (30) days as provided in state law;

d) a statement that the owner has the opportunity to challenge the proposed action at a hearing if a written request is submitted to the municipal judge within 72 hours after notice is given as provided in paragraph 4 of this subsection;

e) the telephone number where additional information can be obtained; and

f) the identity of the person affixing the notice.

(4) Written notice containing the same information specified in paragraph 3 of this subsection plus the location and a description of the vehicle shall be mailed to the owner of the vehicle within 24 hours after the notice is affixed. However, if written notice is not given within 24 hours after the notice is placed on the vehicle, then the ten (10) day waiting period shall be extended the amount of time between the placing of notice on the vehicle and the giving of written notice.

(5) Upon timely receipt of a request for a hearing, the municipal judge shall order a delay of the impoundment of the vehicle until after the hearing.

(6) The hearing, if requested in a timely manner, shall be held within 120 hours (excluding weekends and municipal holidays) of receipt of the request, unless the hearing is continued with the agreement of the owner. At the hearing, the municipal judge shall only determine whether the vehicle is or is not abandoned.

(7) If the municipal judge determines that the vehicle is abandoned, he shall so notify the Chief, who shall cause the impoundment of the vehicle, unless the vehicle is removed within 24 hours of the judge's decision.

(8) If the vehicle is removed pursuant to paragraph 7 of this subsection, a person challenging the impoundment shall be entitled to challenge the decision of the municipal judge by appeal to District Court.

(9) If an abandoned vehicle is impounded, and the owner has not obtained a hearing prior to the impoundment, the owner may file a request for a hearing with the municipal judge on the legality of the impoundment within thirty (30) days after impoundment. Upon receipt of the request for a hearing, the municipal judge shall notify the storage facility of the hearing and no lien shall be foreclosed by the storage facility as allowed by state law until the judge has ruled on the legality of the impoundment. If the municipal judge rules that the impoundment was illegal, then the municipal judge shall issue and date a Certificate of Release and a copy of the release shall be given to the owner of the vehicle. Upon receipt of the owner's copy of such certificate, the authorized storage facility having custody of the vehicle shall release the vehicle to its owner and towing and storage fees shall be paid by the municipality in accordance with arrangements to be made between the municipality and the authorized storage facility. If the owner fails to present such certificate to the authorized storage facility having custody of the vehicle within 24 hours of its receipt, excluding days when the authorized storage facility is not open for business, the owner shall assume liability for all subsequent storage charges. The certificate shall advise the owner of such requirement. (*)

H. Impoundment for Investigation Evidence or Forfeiture.

The notice, hearing and bond provisions set forth in this section shall not apply to impoundment of the following vehicles for which impoundment is hereby authorized:

(1) a vehicle which is impounded for purposes of a criminal investigation or as evidence of a crime; or

(2) a vehicle which is lawfully seized pursuant to state or federal law. (*)

I. Release of Vehicles.

(1) The municipal judge or his designated representatives may order the release of an impounded vehicle if a hearing has been requested on the legality of impoundment and upon the posting of bond as set by the municipal judge or his designee. When bond is posted the vehicle shall be released into the possession of the owner or his designee.

(2) In all other cases, upon proof of ownership, an impounded vehicle shall be released only after payment of the accumulated penalties by the owner or his designee, as provided in subsection I.

(3) The owner shall forfeit the bond if the owner fails to appear at the hearing before the municipal court.

(4) The owner shall be entitled to reimbursement from the municipality for all bonds posted and penalties paid if after hearing and appeal, if any, it is determined that the impoundment or relocation was not valid.

(5) This subsection does not authorize release of any vehicle held for investigation or as evidence of a crime or seized pursuant to state or federal law. Such vehicle shall be released only upon the written order of the police officer responsible for its impoundment or upon an affirmative written statement by the Chief that such vehicle is no longer needed for investigative or evidentiary purposes or for forfeiture proceedings. The municipality shall bear the cost of towing and storage for such impoundments. (*)

J. Penalties.

(1) Each time a vehicle is lawfully towed or relocated pursuant to this section the owner shall pay a fine of fifty dollars ($50.00), unless the municipality is required to pay for removal or relocation.

(2) Each day a vehicle is stored pursuant to a lawful impoundment, the owner shall pay a fine of ten dollars ($10.00) a day unless the municipality is required to pay for removal or relocation.

(3) Nothing in this section shall prevent a person from being found in violation of any other part of this ordinance and from being liable for any other penalty, fee or charge assessed pursuant to this ordinance. (*)

12-12-19 ABANDONED VEHICLES ON PRIVATE PROPERTY.

A. A person upon whose property or in whose possession is found an abandoned vehicle or motor vehicle, shall have authority to sell, retain, give away or dispose of the abandoned vehicle or motor vehicle to any person licensed under Sections 66-4-1 through 66-4-9 NMSA 1978 provided that he notifies a law enforcement agency prior to such disposal and obtains from that agency a written clearance stating that neither the agency's records nor the computerized records of the National Crime Information Center indicates that the vehicle or motor vehicle has been reported as stolen, and either:

(1) the vehicle or motor vehicle in question regardless of its age, is either totally wrecked or in such a state of disrepair that it is suitable only for dismantling purposes;

(2) the vehicle or motor vehicle in question is at least eight (8) years of age or older; or

(3) the vehicle in question has been placed in any storage or wrecker yard at the request of a law enforcement agency or a property owner upon whose property the vehicle or motor vehicle was abandoned and has remained unclaimed in said yard for a period of thirty (30) days, in which case the owner of the storage yard may proceed to make a claim against the motor vehicle or vehicle, as specified in Subsection C of Section 66-3-119 NMSA 1978 as though it were abandoned. Any person wishing to obtain such vehicle may not charge more than fifty cents ($.50) per day for storage unless he is licensed as a vehicle storage yard, and he must notify owners and lien-holders within thirty (30) days or lose all rights to claim such vehicle.

B. Any vehicle which is less than eight (8) years of age or in such a state of repair that it will be placed back into service or which is not to be used for dismantling purposes, or which a property owner wishes to retain for his own use or to sell to any one other than a licensed dismantler, said person shall proceed to make claim for such vehicle or motor vehicle through a lien process and obtain a new certificate of title prior to disposal. (66-3-121 NMSA 1978)

12-12-20 AUTHORIZED IMMOBILIZATION OF VEHICLE.

When a driver, owner or person in charge of any vehicle has received a notice to answer to a charge against him for violation of any parking provisions of this ordinance and the driver, owner or person in charge of the vehicle has failed to appear and answer the charge, members of the police department or employees of this municipality acting in their official capacity may temporarily and for a period of 48 hours immobilize the vehicle when found upon a street by installing on or attaching to the vehicle a device designed to restrict the normal movement of the vehicle.

A. When the vehicle is so immobilized, the member of the police department or employee of this municipality installing or attaching the device shall conspicuously affix to the vehicle a notice in writing on a form to be provided by the chief of police advising the driver, owner or person in charge of the vehicle that the vehicle has been immobilized by this municipality for violation of this ordinance and also advising him of the provisions for release of the vehicle.

B. No person shall remove the immobilizing device or move the vehicle before the device is released by the police department or the clerk of the municipal court.

C. Where the vehicle has been properly immobilized as provided in this section, a fee of ten dollars ($10.00) shall be charged by the police department or clerk of the municipal court before releasing the vehicle.

D. Parking restrictions, if any, otherwise applicable shall not apply while the vehicle is immobilized as provided in this section. (*)

12-12-21 LIABILITY FOR DAMAGE.

A. The public highways in the municipality are dedicated to the reasonable use thereof by the public.

B. It shall be unlawful for any person to injure or damage any public street or any bridge, culvert, sign, signpost, or structure upon or used or constructed in connection with any public street for the protection thereof or for protection or regulation of traffic thereon by any unusual, improper or unreasonable use thereof, or by the careless driving or use of any vehicle thereon, or by willful mutilation, defacing or destruction thereof.

C. It shall be considered unreasonable use of any bridge or structure to operate or conduct upon or over the same any vehicle, tractor or engine, not in accordance with Sections 66-7-401 through 66-7-416 NMSA 1978.

D. It shall be considered unreasonable use of any improved roadway or street, to operate, drive or haul thereon any truck, tractor or engine in such manner or at times when the surface thereof is in a soft or plastic condition and the road or portion thereof has been closed pursuant to law, or by order of the administrator.

E. It shall be unlawful to erect or maintain any fence or any other structure across any street, highway or roadway without written permit from the authorities having control thereof.

F. Any person violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100), or by imprisonment in the county jail not less than five days nor more than thirty days or by both such fine and imprisonment, and the operator and the owner of such vehicle, truck, tractor or engine from whom the driver or operator has permitted possession at the time thereof shall be jointly and severally liable to the state, county or municipality as the case may be for the actual damage caused by the operation, conducting or hauling thereof over any public highway, street, bridge, culvert or structure in violation of any provision of this act to be collected by suit brought in the name of the state, county or municipality having control of such highway or street; and such vehicle, truck, tractor or engine may be attached and held to satisfy any judgment for such damages.

G. The proceeds of any such judgment shall be paid to the treasurer of this municipality and placed to the credit of the fund for the construction and improvement of roads and streets. (66-7-416 NMSA 1978)

12-12-22 SUNDAY ACTIONS.

Judicial proceedings under any provision of this ordinance are valid when performed on Sunday, the same as on other days of the week. (66-8-8 NMSA 1978)

REQUESTING PUBLICATION OF THE UNIFORM TRAFFIC ORDINANCE 2025

AMBER C. LEIJA

ASSISTANT CITY ATTORNEY

CITY ATTORNEY'S OFFICE

ADOPTION AND UPDATES

- The City of Hobbs Commission adopted the Uniform Traffic Ordinance in 2016.
- In 2021, via ordinance 1134, the City of Hobbs amended the Uniform Traffic Ordinance.
  - Amendments included changes from 2017, 2019, and 2020.
- The New Mexico Municipal League has sent proposed changes to bring the Uniform Traffic Ordinance into Compliance with the New Mexico Motor Vehicle Code and the New Mexico Legislature.
  - Changes from 2020-2025

MINOR CHANGES THROUGHOUT THE CODE

- Stylistic changes
- Formatting changes
- Ensuring that things are correctly labeled, Penalty Assessment citation
- Clarifying the authority that we previously had
  - i.e., to post signs for through streets or intersections
- Fee changes: $15.00 –> $25.00 Excessive weight of manufactured homes.
- No more court costs

NOT PREVIOUSLY ADOPTED

- **Section 12-6-4.1(D)**
  - Deals with drivers entering the Interstate highway and the need to yield to traffic
- **Section 12-6-6.13(B)**
  - Deals with the issuance of special permits for backing up to the curb for purposes of loading and unloading merchandise
- **Section 12-6-12.7**
  - An additional charge of “Fleeing or Attempting to Elude A Police Officer,” which is akin to REO under our Municipal Code
- **Section 12-8-13 – 19**
  - Bicycle Regulations (license, permits, inspections)
- **Section 12-8-20 – 21**
  - Sets requirements for bicycle rental agencies and dealers
- **Section 12-8-22**
  - Deals with the impounding and release of bicycles

NOT PREVIOUSLY ADOPTED

- **Section 12-9-1 – 8**
  - Meter Regulations
- **Section 12-12-18(B)**
  - Makes it unlawful for an officer to remove an unattended vehicle in a manner not provided for in Article 12
- **Section 12-12-18(D)(1)(f)**
  - Allows for the summary removal of a vehicle without notice when the driver is physically injured, intoxicated, ill, or otherwise incapacitated and is unable to immediately provide for the custody or removal of the vehicle
- **Section 12-12-18(D)(1)(g)**
  - Allows for the summary removal of a vehicle without notice when the driver of a vehicle is lawfully taken into custody by a police officer and is unable to immediately provide for the custody or removal of the vehicle

ARTICLE I - DEFINITIONS

- Multiple definitions given minor changes.
  - i.e. – removing/changing such, which, or that.
  - Letters and number changes
  - Motor vehicle now includes electronic mobility devices

ARTICLE 1- DEFINITIONS NEW ADDITIONS

- Credential holder (12-1-35)
- Data element (12-1-39)
- Electric Assisted Bicycle (12-1-57)
- Electric Mobility Device (12-1-58)
- Electronic Credential System* (12-1-61)
- Evidence of Registration (12-1-64)
- Fleet (12-1-70)
- Measurement (12-1-102)
- Motor Carrier (12-1-106)
- One-Way Rental Fleet (12-1-122)
- Operational Design Domain (12-1-127)
- Platoon (12-1-138)
- Preceding Year (12-1-142)
- Property Registered (12-1-145)
- Public Highway (12-1-146)
- Relying Party (12-1-159)
- Tribal Court (12-1-201)
- Verification Process (12-1-212)

ARTICLE III

- 12-3-2 Obedience to Officers
  - Firefighters removed
- 12-3-5
  - Push cart removed but still in the title*

ARTICLE IV

12-4-1 ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY:

WE CURRENTLY HAVE (A) BUT (B) THROUGH (F) WOULD BE ADDED:

12-4-1 ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY.

A. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then immediately return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 12-4-3. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person failing to stop or comply with the requirements of Section 12-4-3, where the accident does not result in great bodily harm or death, shall be sentenced to a definite term of not more than ninety days in jail, or a fine of not more than three hundred dollars ($300), or both. (66-7-201 NMSA 1978)

12-4-1 ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY.

A. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop ~~such~~ the vehicle at the scene of ~~such~~ the accident or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 12-4-3. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person failing to stop or comply with the requirements of Section 12-4-3, ~~Section 66-7-203 NMSA1978~~, where the accident does not result in great bodily harm or death, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. Any person who knowingly fails to stop or to comply with the requirements of Section 66-7-203 NMSA 1978 where the accident results in great bodily harm or death is guilty of a third-degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. Any person failing to stop or comply with the requirements of Section 66-7-203 NMSA 1978 where the accident does not result in great bodily harm or death is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Subsection A of Section 31-19-1 NMSA 1978.

E. The director shall revoke the license or permit to drive and any nonresident operating privilege of the person so convicted. (66-7-201 NMSA 1978)

F. All motor vehicle accidents involving a school bus that result in a fatality or life threatening injury shall be investigated by a law enforcement officer certified as an accident reconstructionist. (66-7-207.1 NMSA 1978)

ARTICLE IV
12-4-6

12-4-6 IMMEDIATE NOTICE OF ACCIDENTS.

A. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of five hundred dollars ($500) or more, shall immediately, by the quickest means of communication, give notice of such accident to the police department if the accident occurs within a municipality; otherwise to the office of the county sheriff or the nearest office of the New Mexico state police. (66-7-206 NMSA 1978)

B. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in subsection A and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver. (66-7-208)

12-4-6 IMMEDIATE NOTICE OF ACCIDENTS.

A. The driver of a vehicle, the autonomous motor vehicle operator or the autonomous commercial motor vehicle operator, if applicable, involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of five hundred dollars ($500) or more, shall immediately, by the quickest means of communication, give notice of such accident to the police department if the accident occurs within a municipality; otherwise to the office of the county sheriff or the nearest office of the New Mexico state police. In the case of an autonomous motor vehicle or autonomous commercial motor vehicle operating without a human driver, the owner of that motor vehicle or person working on behalf of the vehicle owner shall be responsible for providing the notice required by this section. (66-7-206 NMSA 1978)

B. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in subsection A and there was another

occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver. (66-7-208 NMSA 1978)

C. Whenever the driver is physically incapable of making a written report of an accident as required in subsection A and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after learning of the accident make such report not made by the driver. (66-7-208 NMSA 1978)

ARTICLE IV
12-4-7

D. Whenever the driver is physically incapable of making a written report of an accident as required in this ordinance and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after learning of the accident make such report not made by the driver. (66-7-208 NMSA 1978)

F. Every police officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within twenty-four hours after completing such investigation, forward a written report of such accident to the police department and state department of transportation. (66-7-207 NMSA 1978)

~~Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in Section 66-7-206 NMSA 1978 and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver. (66-7-208 NMSA 1978)~~

~~D. Whenever the driver is physically incapable of making a written report of an accident as required in this ordinance, and Section 66-7-207 NMSA 1978, and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after learning of the accident make such report not made by the driver. (66-7-208 NMSA 1978)~~

DE. The police department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports concerning the accident to the department of transportation.

~~F~~E. Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within twenty-four hours after completing such investigation, forward a written report of such accident to the police department and state department of transportation. A law enforcement officer shall also, within twenty-four hours after completing the investigation, forward the written report of the accident to the

motor transportation division of the department of public safety~~.~~ if the accident involves a commercial motor vehicle and results in:

(1) bodily injury to any person and the person is transported to a medical facility for immediate medical attention;

(2) the death of any person; or

(3) any vehicle involved in the accident being towed from the scene due to disabling damage caused by the accident. (66-7-207 NMSA 1978)

ARTICLE V
12-5-6 (C) RED ALONE.

C. Red alone:

(1) vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before

V-2

entering the intersection (66-7-105 NMSA 1978), and shall remain stopped until permitted to proceed by a green light or arrow (*), or may then turn right after standing until the intersection may be entered safely, provided that such vehicular traffic shall yield the right of way to all pedestrians and vehicles lawfully in or approaching the intersection; and

C. Red alone:

(1) vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before

V-2

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entering the intersection (66-7-105 NMSA 1978), and shall remain stopped until permitted to proceed by a green light or arrow (*), or may then turn right after standing until the intersection may be entered safely, provided that such vehicular traffic shall yield the right of way to all pedestrians and vehicles lawfully in or approaching the intersection. Whenever the administrator determines on the basis of an engineering and traffic investigation that a turn as hereinabove provided should be prohibited at a particular intersection, such turn may be prohibited by the posting of signs at the intersection indicating that such a turn is prohibited; and

ARTICLE V

- 12-5-8
  - Flashing Lights → Penalty Assessment Misdemeanor.
- 12-5-10
  - Display of Unauthorized signs, signals or markings → Penalty Assessment Misdemeanor

ARTICLE VI

12-6-1.2 SPEED LIMITS

A. No person shall drive a vehicle on a street or detour at a speed greater than:

(1) fifteen (15) miles per hour on all streets when passing a school while children are going to, or leaving school, and when the school zone is properly posted:

(2) thirty (30) miles per hour in any business or residence district (66-7-301 NMSA 1978); or

(3) the lawfully posted speed limit when signs are erected giving notice of the speed limit. (*)

(4) the posted speed limit in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department, provided that the posted speed limit be determined by an engineering study performed by the state highway and transportation department.

B. In every event, speed shall be so controlled as may be necessary:

(1) to avoid colliding with any person, vehicle or other conveyance on, or entering, the street;

(2) to comply with legal requirements as may be established by the municipality, the state highway department or the New Mexico state police, and the duty of all persons to use due care; and

(3) to protect workers in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department. (66-7-301 NMSA 1978)

12-6-1.2 SPEED LIMITS

A. No person shall drive a vehicle on a street or detour at a speed greater than:

(1) fifteen (15) miles per hour on all streets when passing a school while children are going to, or leaving school, and when the school zone is properly posted:

(2) thirty (30) miles per hour in any business or residence district ~~(66-7-301 NMSA 1978)~~; or

(3) fifty-five miles per hour on a county road, as defined in Section 66-7-304 NMSA 1978, without a posted speed limit;

(4) seventy-five miles per hour; ~~and~~
~~the lawfully posted speed limit when signs are erected giving notice of the speed limit. (*)~~

(4) the posted speed limit in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department, provided that the posted speed limit be determined by an engineering study performed by the state highway and transportation department (66-7-301 NMSA 1978); and~~.~~

(5) the lawfully posted speed limit when signs are erected giving notice of the speed limit. (*)

B. In every event, speed shall be so controlled as may be necessary:

(1) to avoid colliding with any person, vehicle or other conveyance on, or entering ~~,~~ the street;

(2) to comply with legal requirements as may be established by the municipality, the state highway department or the New Mexico state police, and the duty of all persons to use due care; and

(3) to protect workers in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the municipality or highway and transportation department. (66-7-301 NMSA 1978)

12-6-1.3 ESTABLISHMENT OF SPEED ZONES

A. Whenever the administrator determines, upon the basis of an engineering survey and traffic investigation, that any speed limit permitted under state law or local ordinance is greater or less than is reasonable or safe under the conditions found to exist upon any part of a street within his jurisdiction, he may declare a speed limit for that part which is effective at times determined, when appropriate signs giving notice thereof are erected at the particular part of the street.

B. Alteration of speed limits on state highways by the administrator are not effective until approved by the state highway commission. (66-7-303 NMSA 1978)

C. The administrator shall adhere to and abide by all applicable state statutes in making his determination of speed limits in the municipality.

D. Whenever the administrator declares a speed limit, he shall submit a schedule of the speed limit to the police department, the municipal judge, the municipal clerk and the municipal attorney. (*)

E. Speed zones may be marked by a sign containing a flashing yellow light and, when the light is in operation, the speed limit, instructions or regulations on the sign are in effect.

F. The provisions of Subsection A of this section shall not apply to changes of speed limit in construction zones authorized pursuant to 12-6-1.3 G through K of this section.

G. When construction, repair or reconstruction of any street or highway is being done, the administrator or other governmental authority with jurisdiction over that street or highway is authorized to designate as a construction zone that portion of the street or highway where construction, reconstruction or repair is being done and to close the construction zone to traffic or to provide for a single lane of traffic on any two-lane or four-lane highway in the construction zone. (66-7-303.1 NMSA 1978)

H. The administrator or other governmental authority closing all or a portion of a street or highway or providing for a single lane of traffic on any two-lane or four-lane street or highway pursuant to Subsection G of this section shall erect or cause to be erected traffic-control devices or barricades to warn and notify the public of any change in speed limit and that such street or highway is closed or limited to a single lane of traffic. (66-7-303.1 NMSA 1978)

I. Every pedestrian or person who operates a vehicle on any street or highway shall obey all signs, signals, markings, flagmen or other traffic-control devices which are placed to regulate, control and guide traffic through a construction zone.

J. No person shall remove, change, modify, deface or alter any traffic-control device or barricade which has been erected on any street or highway pursuant to this section.

12-6-1.3 ESTABLISHMENT OF SPEED ZONES

A. Whenever the administrator determines, upon the basis of an engineering survey and traffic investigation, a detailed report of which is filed with the traffic safety bureau of the state highway and transportation department, that any speed limit permitted under state law or local ordinance is greater or less than is reasonable or safe under the conditions found to exist upon any part of a street within his jurisdiction, he may declare a speed limit for that part, and that speed limit shall be authorized and effective ~~which is effective at times determined,~~ when appropriate signs giving notice thereof are erected at the particular part of the street; provided that no speed limit shall be declared greater than seventy-five miles per hour. The declaration of speed limits by the secretary of highway and transportation shall not be considered rules for purposes of the State Rules Act.

~~E~~B. Speed zones may be marked by a sign containing a flashing yellow light and, when the light is in operation, the speed limit, instructions or regulations on the sign are in effect.

C. The provisions of Subsection A of this section shall not apply to changes of speed limit in construction zones authorized pursuant to 12-6-1.3 G through K of this section.

~~B~~D. Alteration of speed limits on state highways by the administrator are not effective until approved by the state highway commission. (66-7-303 NMSA 1978)

~~C~~E. The administrator shall adhere to and abide by all applicable state statutes in making his determination of speed limits in the municipality.

~~D~~F. Whenever the administrator declares a speed limit, he shall submit a schedule of the speed limit to the police department, the municipal judge, the municipal clerk and the municipal attorney. (*)

~~E. Speed zones may be marked by a sign containing a flashing yellow light and, when the light is in operation, the speed limit, instructions or regulations on the sign are in effect.~~

authorities in municipalities of more than one hundred thousand population may prohibit vehicles that by virtue of weight or design are slow moving on local arterials during peak hours of traffic. (66-7-305 NMSA 1978)

C. Police officers may enforce this section by directions to drivers. In the event of apparent willful disobedience to this section and refusal to comply with directions of an officer in accordance herewith, the continued slow operation by a driver is a violation of this section. (*)

12-6-1.6 CHARGING VIOLATIONS

ARTICLE VI

- 12-6-1.5 Minimum Speed Regulations
  - Municipalities of more than one hundred thousand may prohibit vehicles that, by virtue of weight or design, are slow-moving on local arterials during peak hours of traffic.
- 12-6-2.8 Authority to Designate One-Way Streets and Alleys
  - Administrator may designate streets and alleys as one-way… and shall erect appropriate signs giving notice.

ARTICLE VI
12-6-2.13 FOLLOWING TOO CLOSE

12-6-2.13 FOLLOWING TOO CLOSELY

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

B. The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a street outside of a business or residence district shall not follow another motor truck or motor vehicle drawing another vehicle within three hundred (300) feet, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

C. Motor vehicles being driven upon any street outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall not follow the preceding vehicle closer than three hundred (300) feet. This provision shall not apply to funeral processions, nor shall it apply within or outside of a business or residence district to motor vehicle escort vehicles of a motor vehicle escort service, which may, if necessary to maintain the continuity of the escorted unit or units, precede or follow at a distance closer than three hundred (300) feet to the escorted unit or units. (66-7-318 NMSA 1978)

12-6-2.13 FOLLOWING TOO CLOSELY

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

B. The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a street or roadway outside of a business or residence district shall not follow another motor truck or motor vehicle drawing another vehicle within three hundred (300) feet, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

C. Motor vehicles being driven upon any street or roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall not follow the preceding vehicle closer than three hundred (300) feet. This provision shall not apply to

(1) funeral processions, nor shall it apply within or outside of a business or residence district to motor vehicle escort vehicles of a motor vehicle escort service, which may, if necessary to maintain the continuity of the escorted unit or units, precede or follow at a distance closer than three hundred (300) feet to the escorted unit or units.

(2) a vehicle that is part of a driver-assisted platoon and that is not the lead motor vehicle (66-7-318 NMSA 1978)

ARTICLE VI

- 12-6-3.1 Through Streets Designated
  - Gives the authority to erect stop or yield signs.
- 12-6-4.1 Vehicle Approaching or Entering Intersection
  - Added D. “The Driver of a vehicle approaching or entering an interstate highway shall yield the right-of-way to the vehicle on the interstate highway.

12-6-4.3 BICYCLES

12-6-4.3 VEHICLE ENTERING STOP OR YIELD INTERSECTION

A. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in this ordinance.

B. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by Section 12-6-4.3(D) and after having stopped shall yield the right of way to any vehicle which has entered the intersection from another street or which is approaching so closely on the street as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.

C. The driver of a vehicle approaching a yield sign shall, in obedience to the sign, slow down to a speed reasonable for the existing conditions, and shall yield the right of way to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection. If the driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his failure to yield right of way. (66-7-330 NMSA 1978)

D. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop completely before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting street before entering the intersection.

E. The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street. (66-7-345 NMSA 1978)

12-6-4.3 VEHICLE ENTERING STOP OR YIELD

A. Preferential right of way at an intersection m
or yield signs as authorized in this ordinance.

B. Except when directed to proceed by a po
signal, every driver of a vehicle approaching a stop interse
shall stop as required by Section 12-6-4.3(D) and after havi
of way to any vehicle which has entered the intersection fr
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when the driver is moving across or within the intersection.

C. The driver of a vehicle approaching a yield
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of way to any vehicle in the intersection or approaching on
constitute an immediate hazard during the time the driver i
intersection. If the driver is involved in a collision with a v
driving past a yield sign without stopping, the collision
evidence of his failure to yield right of way. (66-7-330 NM

D. The State Transportation Commission, with reference to state and county highways, and local authorities, with reference to other highways under their jurisdiction, may designate through highways and erect stop signs or yield signs at specified entrances thereto or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to the intersection.

E. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in the Motor Vehicle Code.

~~D~~F. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle, other than a person riding bicycle, approaching a stop intersection indicated by a stop sign shall stop ~~completely~~ before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting street before entering the intersection.

~~E~~G. The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street.

H. Except when directed to proceed by a police officer, every person riding a bicycle and approaching:

(1) a stop intersection indicated by a red traffic control signal shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway before entering the intersection. After stopping, if there is no approaching pedestrian, bicycle or vehicle traffic with the right of way, the person riding a bicycle may proceed through the intersection without waiting for the traffic control signal to turn green; and

~~(1)~~(2) an intersection with a stop sign or a yield sign, if there is no approaching pedestrian, bicycle or vehicle traffic with the right of way, the person riding a bicycle may proceed through the intersection without stopping. If required for safety to stop, the person riding a bicycle shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the person riding a bicycle has a view of approaching traffic on the intersecting roadway. (66-7-345 NMSA 1978)

ARTICLE VI

- 12-6-6.13 Angle Parking and Permits for Loading or Unloading at an Angle to the Curb
  - Added B. – Allows Administrative to issue special permits for backing for the purpose of unloading or loading merchandise or materials.
- 12-6-11.2 Slow Moving Vehicle Identification
  - Misdemeanor Violation

12-5-12.1 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

- B added the language originally in C
- N. (2) commercial language removed

N. When the blood or breath of the person tested contains:

(1) an alcohol concentration of less than four one-hundredths or less, it shall be presumed that the person was not under the influence of intoxicating liquor;

(2) an alcohol concentration of at least four one-hundredths but less than eight one-hundredths, no presumption shall be made that the person either was or was not under the influence of intoxicating liquor unless the person is driving a commercial vehicle and the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether or not the person was under the influence of intoxicating liquor;

(3) an alcohol concentration of eight one-hundredths or more, the arresting officer shall charge him with a violation of this section; or

(4) an alcohol concentration of four one-hundredths or more and the person is driving a commercial vehicle, it shall be presumed that the person is under the influence of intoxicating liquor. (66-8-110 NMSA 1978)

O. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Sec. 12-6-12.1. (66-8-110 NMSA 1978)

P. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

Q. The presumptions in Subsection N of this section do not limit the introduction of other competent evidence concerning whether or not a person was under the influence of intoxicating liquor. (66-8-110 NMSA 1978)

R. Nothing in this section is intended to authorize any police officer, or any judicial or probation officer, to make any arrest or to direct the performance of a blood-alcohol test, except in the performance of his official duties and as otherwise authorized by law. (66-8-104 NMSA 1978)

~~M.~~N. When the blood or breath of the person tested contains:

(1) an alcohol concentration of less than four one-hundredths or less, it shall be presumed that the person was not under the influence of intoxicating liquor;

(2) an alcohol concentration of at least four one-hundredths but less than eight one-hundredths;

(a) ~~_____,~~ no presumption shall be made that the person either was or was not under the influence of intoxicating liquor unless the person is driving a commercial motor vehicle; and

(b) the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether or not the person was under the influence of intoxicating liquor; or

(3) an alcohol concentration of eight one-hundredths or more, the arresting officer shall charge him with a violation of this section; or

(4) an alcohol concentration of four one-hundredths or more and the person is driving a commercial vehicle, it shall be presumed that the person is under the influence of intoxicating liquor.

~~N.~~O. The arresting officer shall charge the person tested with a violation of Section 66-8-102 NMSA 1978 when the blood or breath of the person contains an alcohol concentration of:

(1) eight one hundredths or more; or

(2) four one hundredths or more if the person is driving a commercial motor vehicle.

~~O.~~P. When a person is less than twenty-one years of age and the blood or breath of the person contains an alcohol concentration of two one hundredths or more, the

person's driving privileges shall be revoked pursuant to the provisions of the Implied Consent Act.

~~P.~~Q. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Section~~.~~ 12-6-12.1 NMSA 1978.

~~Q.~~R. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

~~R.~~S. The presumptions in Subsection O of this section do not limit the introduction of other competent evidence concerning whether or not a person was under the influence of intoxicating liquor. (66-8-110 NMSA 1978)

~~S.~~T. Nothing in this section is intended to authorize any police officer, or any judicial or probation officer, to make any arrest or to direct the performance of chemical blood ~~a blood alcohol~~ test, except in the performance of his official duties and as otherwise authorized by law. (66-8-104 NMSA 1978)

12-6-12.2 OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PENALTIES; SENTENCING; FEES

N. If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of 12-6-12.1A, B, C or D, a first offender, at the discretion of a trial court after a presentence investigation, including an inquiry to the motor vehicle division of the transportation department concerning the driver's driving record, may receive a deferred sentence on the condition that the driver attend a driver rehabilitation program, also known as the "driving-while-intoxicated-school," approved by the court and the division and such other rehabilitative services as the court may determine to be necessary; however, imposition of a deferred sentence shall classify the person as a first offender. The municipal court shall forward to the division the abstract of all proceedings and the report of the disposition of the case. For the purpose of this subsection, marijuana, as defined in the Controlled Substance Act, shall be classified as a drug. (*)

ARTICLE VI

- 12-6-12.4 – Reckless Driving
  - Added (c): Upon conviction of violation of this section, the administrator may suspend the license or permit to drive and any non-resident privileges not to exceed 90 days.
- 12-6-12.5* - Careless Driving
  - Guilty of Misdemeanor
- 12-6-12.6 Operators and Chauffer's must be licensed
  - No conviction if they had a valid license at time of the arrest*.
  - Physical Form.

ARTICLE VI

12-6-12.~~5A7~~ NON-DOMICILED COMMERCIAL DRIVER'S LICENSE OR NON–DOMICILED COMMERCIAL DRIVER'S INSTRUCTION PERMIT BY A FOREIGN NATIONAL WITH LAWFUL STATUS

A. An application for a non-domiciled commercial driver's license or a non-domiciled commercial driver's instruction permit by a foreign national with lawful status for a REAL ID-compliant non-domiciled commercial driver's license or non-domiciled commercial driver's instruction permit shall contain the unique identifying number and expiration date, if applicable, of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful status. The division may issue to an eligible foreign national applicant a REAL ID-compliant non-domiciled commercial driver's license or non-domiciled commercial driver's instruction permit that is valid for a period not to exceed the duration of the applicant's lawful status; provided that if that date cannot be determined by the division and the applicant is not a legal permanent resident, the license or permit shall expire one year after the effective date of the license.

B. A non-domiciled commercial driver's license issued to a foreign national with lawful status shall contain the prominent statement:

(1) "Non–domiciled commercial driver's license"; or

(2) "Non-domiciled CDL".

C. A non-domiciled commercial driver's instruction permit issued to a foreign national with lawful status shall contain the prominent statement:

(1) "Non-domiciled commercial learner's permit "; or

(2) "Non-domiciled CLP".

D. The word "Non-domiciled" shall be conspicuously and unmistakably displayed but may be noncontiguous with the words or phrases "commercial driver's license", "CDL", "commercial learner's permit" or "CLP". (66-1-4.12 NMSA 1978)

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12-6-12.~~5B8~~ COMMERCIAL DRIVER'S LICENSE; INSTRUCTION PERMIT; APPLICATION; DUPLICATE

A. A commercial driver's instruction permit may be issued to an individual who holds a valid driver's license.

B. The commercial driver's instruction permit may be issued for a period not to exceed one year; provided that a knowledge exam is passed prior to each issuance. The holder of a commercial driver's instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven, who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. (66-5-62 NMSA 1978)

ARTICLE IV

- 12-6-12.9 Unlawful Use of License Suspended; Driving when Privilege to do So has been Revoked
  - (9) Administrative license Suspension → Penalty Assessment Misdemeanor

B. It is a felony for any person to:

(1) fail or refuse to surrender to the division upon its lawful demand any driver's license that has been suspended, revoked or canceled

(2) knowingly or willfully provide a false or fictitious name or document in any application for a driver's license or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application; or

(3) induce or solicit another person or conspire with another person to violate this subsection; (66-5-37 NMSA 1978)

C. 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

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D. As used in this ordinance or in the Motor Vehicle Code and the Boat Act, "penalty assessment misdemeanor" means violation of any of the listed sections in 66-8-116 NMSA 1978 or of the NMSA 1978 for which, except as provided in 66-8-116 NMSA 1978 Subsections D through F, the listed penalty assessment is established in 66-8-116 NMSA 1978 Section A. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person. 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. ~~(66-8-116 NMSA 1978).~~

E. The penalty assessment for speeding in violation of Paragraph (5) of Subsection A of Section 66-7-301 NMSA 1978 is twice the penalty assessment established in Subsection A 66-8-116 NMSA 1978 for the equivalent miles per hour over the speed limit. ~~(66-8-116 NMSA 1978).~~

F. Upon a second conviction for operation without a permit for excessive size or weight pursuant to Section 66-7-413 NMSA 1978, the penalty assessment shall be two hundred fifty dollars ($250). Upon a third or subsequent conviction, the penalty assessment shall be five hundred dollars ($500). Upon a second conviction for transport of a reducible load with a permit for excessive size or weight pursuant to Subsection N of Section 66-7-413 NMSA 1978 more than six miles from a port-of-entry facility on the border with Mexico, the penalty assessment shall be five hundred dollars ($500). Upon a third or subsequent conviction, the penalty assessment shall be one thousand dollars ($1,000). (66-8-116 NMSA 1978).

ARTICLE VI
12-6-12.10

12-6-12.6A 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 license 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:

(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

12-6-12.~~6A~~10 DRIVING WHILE LICENSE ADMINISTRATIVELY SUSPENDED

A. The division may ~~issue an administrative suspension of~~suspend 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:~~has been convicted of an offense for which mandatory revocation of license is required upon conviction;

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Revised June 2025

(2) ~~Pay a penalty assessment within thirty days of the date of issuance by the state or a tribe; or~~has been convicted as a driver in an accident resulting in the death or personal injury of another or serious property damage;

(3) has been convicted with such frequency of offenses against traffic laws or rules governing motor vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) is an habitually reckless or negligent driver of a motor vehicle;

(5) is incompetent to drive a motor vehicle;

(6) has permitted an unlawful or fraudulent use of the license;

(7) has been convicted of an offense in another state or tribal jurisdiction that if committed within this state's jurisdiction would be grounds for suspension or revocation of the license;

(8) has violated provisions stipulated by a district court in limitation of certain driving privileges; or

(9) has accumulated at least seven points, but less than eleven points, and when the division has received a recommendation from a municipal or magistrate judge that the license be suspended for a period not to exceed three months.

B. 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 comply with the terms of a citation issued in a foreign jurisdiction that is a party to the Nonresident Violator Compact [66-8-137.1 NMSA 1978] and that has notified the department of the failure in accordance with the Nonresident Violator Compact.

~~(9) 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.~~ (66-5

~~B.~~C. 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 may initiate a license suspension action in accordance with the provisions of Article IV of the Nonresident Violator Compact.

~~C.~~D. Upon suspending the license of a person as authorized in this section, the division shall immediately notify the licensee in writing of the licensee's right to a hearing before the administrative hearings office and, upon the licensee's request, shall notify the administrative hearings office. The administrative hearings office shall schedule the hearing to take place as early as practicable, but not later than twenty days, not counting Saturdays, Sundays and legal holidays, after receipt of the request. The hearing shall be held in the county in which the licensee resides unless the hearing officer and the licensee agree that the hearing may be held in some other county; provided that the hearing request is received within twenty days from the date that the suspension was deposited in the United States mail. The hearing officer may, in the hearing officer's discretion, extend the twenty-day period. The hearing shall be held as provided in the Administrative Hearings Office Act [Chapter 7, Article 1B NMSA 1978]. After the hearing, the hearing officer shall either rescind the order of suspension or continue, modify or extend the suspension of the license or revoke the license. (66-5-30 NMSA 1978)

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ARTICLE VI
12-6-12.11

12-6-17.4 BLOOD-ALCOHOL TESTS--PERSONS QUALIFIED TO PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY

A. Only a physician, licensed professional or practical nurse or laboratory technician or technologist employed by a hospital or physician shall withdraw blood from a person in the performance of a blood-alcohol or drug test. A physician, nurse, technician or technologist who withdraws blood from a person in the performance of a blood-alcohol or drug test that has been directed by a law enforcement officer, or by a judicial or probation officer, shall not be held liable in a civil or criminal action for assault, battery, false imprisonment or any conduct of a law enforcement officer, except for negligence, nor shall a person assisting in the performance of the test, or a hospital wherein blood is withdrawn in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or any conduct of a law enforcement officer, except for negligence. in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or any conduct of a law enforcement officer, except for negligence.

12-6-17.4 BLOOD-ALCOHOL TESTS--PERSONS QUALIFIED TO PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY

~~A.~~ Only a physician, licensed professional or practical nurse, ~~or laboratory~~emergency medical technician or certified phlebotomist or a technologist who withdraws blood from a person in the performance of a chemical blood test. ~~employed by a hospital or physician shall withdraw blood from a person in the performance of a blood-alcohol or drug test. A~~ No such physician, nurse, technician, phlebotomist or technologist who withdraws blood from a person in the performance of a chemical blood ~~alcohol or drug~~ test that has been directed by a ~~law enforcement~~police officer~~,~~ or by a judicial or probation officer, shall ~~not~~ be held liable in a civil or criminal action for assault, battery, false imprisonment or any conduct of a ~~law police~~~~enforcement~~ officer, except for negligence, nor shall a person assisting in the performance of the test, or a hospital wherein blood is withdrawn in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or any conduct ~~of a law enforcement officer, except for negligence. in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or any conduct of a law enforcement officer,~~ except for negligence. (66-8-103 NMSA 1978)

ARTICLE VI
AUTONOMOUS MOTOR VEHICLES 12-6-19

- Notification and Regulation for Testing
- Standard Regulation
- Expiration and Renewal (Commercial License)
- License or Renewal (Commercial License)
- Disqualification (Commercial License)

ARTICLE VIII

12-1-57 ELECTRIC-ASSISTED BICYCLE. "Electric-Assisted Bicycle" means a vehicle having two or three wheels, fully operable pedals and an electric motor. (66-1-4.5 NMSA 1978). Electric-assisted bicycles are classified as follows:

(1) "Class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour;

(2) "Class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour; and

(3) "Class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour. (66-1-4.5 NMSA 1978)

ARTICLE VIII

12-8-25 OPERATION OF ELECTRIC-ASSISTED BICYCLES.

A. A person may ride a class 1 electric-assisted bicycle on a bicycle or pedestrian path where bicycles are authorized to travel; provided that a political subdivision of the state may prohibit the operation of a class 1 electric-assisted bicycle on a bicycle or pedestrian path within its jurisdiction.

B. A person shall not ride a class 2 or class 3 electric-assisted bicycle on a bicycle or pedestrian path unless:

(1) the path is within a street or highway;
(2) The pathway is at least eight (8) feet wide or
(3) a political subdivision of the state permits the operation of a class 2 or class 3 electric-assisted bicycle on a path under its jurisdiction.

QUESTIONS?

CITY OF HOBBS

STAFF SUMMARY FORM

MEETING DATE:
October 6, 2025

SUBJECT: PUBLICATION: Proposed Ordinance Amending Chapter 1 of the Hobbs Municipal Code — Establishing Civil Infraction Violations and Enforcement Procedures

DEPT OF ORIGIN: Legal
DATE SUBMITTED: 9/25/2025
SUBMITTED BY: Amber Leija, Assistant City Attorney

Summary:

Pursuant to the Hobbs Municipal Code Chapter 1.16, a violation of the Code is generally punishable by a $500 fine or imprisonment for not more than 90 days or both. The City has identified various sections of the Hobbs Municipal Code that, if violated, should not warrant incarceration for any amount of time. 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. Also, the Constitution of New Mexico Art. X, §6(D) grants powers to home rule municipalities to enact civil laws governing civil relationships incident to the exercise of an independent municipal power. As such, this ordinance would establish a process for enforcing civil infractions.

Fiscal Impact:

Attachments:

Requesting Publication To Amend for Civil Infractions
Updated Civil Infraction Ordinance

Recommendation:

The Commission should consider the adoption of the proposed ordinance and move forward with publication

Approved By:

Medjine Desrosiers-Douyon, Deputy City Attorney	09/25/2025
Toby Spears, Finance Director	09/25/2025
Medjine Desrosiers-Douyon, Deputy City Attorney	09/29/2025
Manny Gomez, City Manager	09/29/2025

Requesting Publication To Amend the Hobbs Municipal Code Chapter 1

City Attorney's Office

Amber Leija

Assistant City Attorney

NMSA §3-17-1 & Constitution of New Mexico

- NMSA §3-17-1
  - Allows a Municipality to adopt ordinances that are not inconsistent with the Laws of New Mexico.
  - Ordinances shall provide for the safety, preserve the health, promote prosperity, and improve the morals, orders, comfort, and convenience of the Municipality and its inhabitants.
- Constitution of New Mexico Art. X, §6(D)
  - Grants powers to home municipalities to enact civil laws governing civil relationships

What do we currently have?

- Hobbs Municipal Code
  - Chapter 1.16
    - A violation of the Hobbs Municipal Code is generally punishable by a fine of not more than five hundred dollars ($500) or imprisonment for not more than ninety (90) days or both.
- Most of our violations, unless specified as penalty assessments only, are criminal charges (i.e., citation, entry of a plea, pre-trial, trial, appeal, possible bench warrants).
  - Unless specified, the Defendant will almost always have to appear before the Judge.

Proposed Adoption

- Would allow for various sections to be amended to become Civil Infractions only if violated.
- If passed, the City Attorney's Office would request feedback on what ordinances should not be criminal violations.

Civil Infractions:

- No possibility of jail time
- Burden of proof changes to Preponderance of the Evidence
- Not appearing on the scheduled Court date would result in a Default Judgement (i.e., no warrants)
  - The judge would determine the amount for the default judgment
- The citation would lay out the procedures
  - Violators can:
    - Admit the violation and request a formal hearing *mitigating circumstances
    - Denying the violation and requesting a hearing
      - If the alleged violator hires an attorney, the City will be represented by the City Attorney's Office.
    - Attorneys will not be provided via public funds.

What would not change:

- Services process (signing citation or having it mailed)
- Fees not to exceed $500
- Right to appeal the default Judgement
- City Attorney's Office may dismiss charges

Publication

- If approved, the City Clerk would publish
- Present for Final Adoption
- Publishing again
- Ordinance would go into effect five (5) days after publication

- If approved for final adoption, the Commission can review what City of Hobbs violations to change from Criminal infractions to Civil Infractions

Questions?

CITY OF HOBBS

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 1 OF THE HOBBS MUNICIPAL CODE ESTABLISHING CIVIL INFRACTION VIOLATIONS AND ENFORCEMENT PROCEDURES

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 Code is generally punishable by a 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

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

Chapter 1.13 – Civil Infractions

1.13.010 Civil Infractions – Establishment and Purpose.

A procedure to address certain violations of the Hobbs Municipal Code as civil infractions, subject to the provisions below, is hereby established. To accommodate the City's desire to address these matters, a civil infraction procedure has been established for the purpose of decriminalizing penalties for violations of certain City ordinances and providing an efficient and practical forum for the hearing and determination of cases arising from these violations.

1.13.020 Definitions.

As used in this Section:

"Authorized official" means the City Manager or the City Manager's designee.

"Civil infraction" means an act or admission that is prohibited by an ordinance, is not a crime under that ordinance, and for which a civil penalty may be ordered.

"Civil action" means a legal process in which the defendant is alleged to be responsible for a civil infraction.

"Informal hearing" means a court proceeding in which the alleged violator admits responsibility for a civil infraction and appears in court, discusses the facts of the case with the Municipal Court Judge, and presents evidence in mitigation of the alleged violation for the Judge's consideration prior to the Judge entering an order.

"Formal hearing" means a court proceeding in which the alleged violator denies responsibility for a civil infraction and the Municipal Court Judge conducts a civil bench trial, and the parties may call witnesses, present evidence, and argue the facts of the case.

"The Court" means Hobbs Municipal Court.

1.13.030 Application.

Notwithstanding the procedures outlined in Hobbs Municipal Code Chapter 1.12, the procedures set forth in Chapter 1.13 apply to violations of ordinances specifically designated as civil infractions by in the Hobbs Municipal Code, or for which a civil penalty only is assigned therein.

1.13.040 Action – Commencement – Citations – Issuance and Service.

A. A civil action may be commenced upon the issuance, by an authorized official, of a civil infraction citation advising the alleged violator of the civil infraction and directing the alleged violator to appear in court. Any civil infraction citation issued as a notice to appear is a valid complaint, though not verified, in the event the person receiving it voluntarily appears in court.

B. An authorized official may issue a civil infraction citation to a person if:

1. The authorized official witnesses a person commit a civil infraction; or

2. Based upon an investigation, the authorized official has reasonable cause to believe that the person is responsible for a civil infraction.

C. Civil infraction citations shall be served by an authorized official as follows:

1. Except as otherwise provided by law, an authorized official shall personally serve a copy of the civil infraction citation upon the alleged violator.

2. If the civil infraction involves the use or occupancy of land, a building, or other structure, a copy of the civil infraction citation may be personally served upon the alleged violator or alternatively, may be served upon an owner or occupant of the land, building, or structure by posting or attaching a copy of the citation to the building or structure. In addition to posting or attaching a copy of the civil infraction citation, a copy of the citation shall be sent by certified mail to the owner of the land, building, or structure at the owner's last known address.

3. The alleged violator must sign the civil infraction citation acknowledging receipt of the same. In the event the alleged violator refuses to sign the civil infraction citation, or the civil infraction citation is posted and mailed, the authorized official shall note the refusal or posting and shall file the civil infraction citation with the court and request a summons be issued for the alleged violator's appearance before the court for a formal hearing.

1.13.050 Civil Infraction Citation – Contents – Options.

A. The civil infraction citation shall: contain an information section that specifically identifies the relevant facts alleged to constitute a civil infraction; be serially numbered; contain spaces for the name, physical address and mailing address, city and state of the alleged violator; contain a section for the alleged violator's physical description, age and sex; state the municipal ordinance alleged to have been violated, the date and time of the alleged violation; contain the authorized

official's signature; state the place where the alleged violator will appear in court; state a day and time by which the alleged violator must appear in court.

B. Further, a civil infraction citation must inform the alleged violator that he or she has one of the following options:

1. Admit responsibility for the civil infraction and appear on the date specified on the civil infraction citation for an informal hearing before the Hobbs Municipal Judge;

2. Deny responsibility for the civil infraction and appear on the date specified on the civil infraction citation for a formal hearing before the Hobbs Municipal Judge; or

3. Admit responsibility and pay a fine when specified.

C. The civil infraction citation must also inform the alleged violator of all of the following:

1. That by admitting responsibility for the civil infraction, the alleged violator will waive the right to a formal hearing. Said waiver means that the alleged violator will not be able to contest the allegations at the informal hearing and the alleged violator also waives any possible appeal.

2. That by admitting responsibility for the civil infraction, the alleged violator must still appear in person before the municipal court for an informal hearing.

3. That by denying responsibility for the civil infraction, the alleged violator must appear in person before the municipal court at a formal hearing, and must secure private counsel prior to the date of the formal hearing, or in the alternative, appear pro se.

4. That the civil penalty associated with the civil infraction shall not exceed $500 but may include costs, damages, expenses, and other fees as authorized by law.

5. That the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance will result in entry of a Default Judgment against the alleged violator on the civil infraction. The amount of the Default Judgment shall be determined by the Municipal Court Judge and shall be based on the allegations contained in the civil infraction citation.

1.13.060 Trial – Burden of Proof.

A. The trial of a civil infraction shall be by formal hearing before the court without a jury.

B. At a formal hearing, the City shall have the burden of proving the alleged civil infraction by a preponderance of the evidence. The City shall not be required to appear or establish the civil infraction at an informal hearing.

C. The defendant may be represented by counsel, but counsel shall not be provided at public expense.

D. After due consideration of the evidence and arguments presented at the hearing, the court shall determine whether the violation as alleged in the civil infraction citation has been established. If the violation is not established, an order dismissing the civil infraction citation shall be entered in the court records. If a determination is made that a violation has been established, an appropriate order shall be entered in the court records. The order shall specify all fines, costs, damages, expenses and other fees that the defendant shall be required to pay along with the date in which payment shall be due to the court.

1.13.070 General Penalties for Violations of Civil Infractions.

A. Civil infractions must be specifically designated as such in the specific ordinance section of the Hobbs Municipal Code.

B. Unless a specific amount is designated by ordinance, the civil penalty for a violation that is designated as a civil infraction shall be a fine in an amount not exceeding $500 plus any costs, damages, expenses, and other fees as authorized by law.

1.13.080 Enforcement.

The City may collect any delinquent fines in a manner permitted by law. Delinquent fines and those brought to default judgment, which were assessed for infractions occurring on real property, may be held as city liens against the real property and collected in the same manner as other such debts owing to the City if the owner of the property is notified of the infraction before entry of judgment.

1.13.090 Appeal and Default Remedies

A determination that a violation has been established following a formal hearing may be appealed pursuant NMSA 1978, §35-15-7, if the required notice of appeal is filed within fifteen (15) days after the judgment or final order with the district court. For good cause shown, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside. However, the court may refuse to set aside any default judgment where it makes specific findings that the defendant failed to establish

inadvertence or excusable neglect, or that the defendant had a good and valid defense to the cause of action.

1.13.100 Dismissal of Action.

The City Attorney is authorized to file a dismissal, on behalf of the City of Hobbs as plaintiff, of any civil action filed in the Municipal Court when, in his or her opinion, the pursuit of such civil action is not justified.

1.13.110 Time of taking effect.

Upon passage of the same, the civil infraction ordinance shall take effect on December 1, 2025. The ordinance does not have a retroactive effect and does not apply to any cause of action occurring prior to the effect date outlined herein.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2025.

_____

SAM D. COBB, Mayor

ATTEST:

_____

JAN FLETCHER, City Clerk