



DEPARTMENT MEMORANDUM

To: The Honorable Mayor and Governing Body

From: Municipal Judge

Date: October 22, 2021

Subject: Discussion Section: Proposed Ordinance "2021-08-Penalty Assessment Schedule."

AN ORDINANCE ESTABLISHING A PENALTY ASSESSMENT PROGRAM UNDER THE NEW MEXICO UNIFORM TRAFFIC ORDINANCE; DEFINING PENALTY ASSESSMENTS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREOF

Introduction: The city of Espanola has adopted a penalty assessment program, section 305-11. This assessment program is codified. This program essentially follows the program contained in the New Mexico Uniform Traffic Ordinance. The city also adopted ordinance 2015-01, on February 24, 2015. This ordinance is still in effect, but is superseded by the codified ordinance. A reconciliation of the two ordinances, with the codified ordinance penalties taking priority, creates a mishmash of penalty assessments.

Background: I downloaded penalty assessment schedules from seven cities in New Mexico approximately the same size as Espanola, the New Mexico assessment schedule and, the schedule from the New Mexico Uniform Traffic Ordinance. I added the most frequently occurring penalty assessment from each schedule and averaged them out. The average came to \$49.22. I created the proposed Penalty Assessment Schedule before you today, using \$51.00 as the primary penalty. I then added the Court Fees to arrive at the primary, penalty and fee total of \$80.00.

The heavier penalties, such as Destructive or Injurious Material on Roadway, I adjusted using the 2015-01 assessment schedule. In this example the penalty for this violation is \$329.00. \$329.00 is 3.29 times \$100.00 so I multiplied this integer times \$51.00 and arrived at \$163.71. This I raised to \$171.00, which combined with \$29.00 totals \$200.00.

Discussion: Attached draft ordinance, "2021-08-Penalty Assessment Program" will reduce the primary 2015-01 penalty assessment of a \$100.00, including court fees, to \$80.00, including court fees. Additionally, it will simplify the schedule for use by law enforcement officers and the Court. Finally, it will remove the conflicts created by the two schedules referenced above.

Budget Impact: There is no impact to the City Budget.

Recommendation: Action. Item: the Court recommends this Counsel pass this ordinance in order to standardize the penalty assessment schedule and eliminate conflicts between existing schedules.

Prepared by: Martin Martinez, Espanola Municipal Judge

Attachments: 1. Proposed Ordinance "2021-08-Penalty Assessment Program".

Ordinance Number 2021-08-Penalty Assessment Schedule				
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ESPANOLA, NEW MEXICO				
SECTION 1.				
This section may be cited as the City of Espanola Penalty Assessment Program.				
SECTION 2.				
A. As used in the New Mexico Uniform Traffic Ordinance adopted by the city of Espanola, New Mexico, "penalty assessment misdemeanor." includes violation of the following listed sections of the New Mexico Uniform Traffic Ordinance, for which the listed penalty assessment is established, as follows, but does not include offenses described in Subsection B(2) of this section.				
Common Name of Offense	Section Violated	Penalty Assessed	Penalty Including Court Fees	
Duty upon Striking Unattended Vehicle	12-4-4.	\$51.00	\$80.00	
Animals on Street	12-6-13.10	\$51.00	\$80.00	
Careless Driving	12-6-12.4	\$51.00	\$80.00	
Child Passenger Restraint: Penalty: Enforcement)	12-6-13.12	\$51.00	\$80.00	
Coasting Prohibited	12-6-12.12	\$51.00	\$80.00	
Crossing at other than Crosswalks	12-6-14.4	\$51.00	\$80.00	
Defective Breaks	12-10-1.16	\$51.00	\$80.00	
Destructive or Injurious Material on Roadway	12-6-13.5 A-E	\$171.00	\$200.00	
Failure to Dim Lights	12-10-1.6	\$51.00	\$80.00	
Display of Current Valid Registration Plate	12-10-4.	\$51.00	\$80.00	
Display of Unauthorized Signs, Signals, or Markings	12-5-10.	\$51.00	\$80.00	
Driving Left of Center	12-6-2.1	\$51.00	\$80.00	
Drivers to Exercise Due Care	12-6-14.8	\$51.00	\$80.00	
Driving on Divided Streets	12-6-2.14	\$51.00	\$80.00	
Driving on Mountain Streets	12-6-13.11	\$51.00	\$80.00	
Driving on Streets Laned for Traffic	12-6-2.12	\$51.00	\$80.00	
Driving while License Administratively Suspended (Penalty Set Forth in UTO 12-6-12-.6A (6))	12-6-12.6			

Duty upon Striking Fixtures or other Property upon a Street	12-4-5.	\$51.00	\$80.00
Emerging from Alley, Building, Driveway, or Private Road	12-6-7.1	\$51.00	\$80.00
Evidence of Registration to be Signed and Exhibited on Demand	12-10-5.	\$51.00	\$80.00
Eye Protective Devices or Windshields/Driving Motorcycle w/no Eye Protection	12-7-5.	\$51.00	\$80.00
Excess Gross Weight of 10,000 lbs. Prohibited (Mandatory Court up to \$265.00)	Code Sec 34-30		
Failure to Signal for Return	12-6-5.9A	\$51.00	\$80.00
Flashing Signals - Flashing Light Violation	12-5-8.	\$51.00	\$80.00
Following Fire Apparatus Prohibited - Mandatory Court (up to \$270.00)	12-6-12.13		
Following too Closely	12-6-2.13	\$51.00	\$80.00
Headlamps on Motor Vehicles	12-10-1.5	\$51.00	\$80.00
Immediate Notice of an Accident - Mandatory Court Appearance (up to \$265.00)	12-4-6.		
Lamp or Flag on Projecting Load	12-10-1.11	\$51.00	\$80.00
Lights and their Application to a Vehicle and Pedestrian	12-5-6.	\$51.00	\$80.00
Limitations on Backing	12-6-12.9	\$51.00	\$80.00
Limitations on Overtaking on the Left	12-6-2.4	\$51.00	\$80.00
Limitations on Turning Around	12-6-5.5	\$51.00	\$80.00
Littering	12-6-13.15	\$51.00	\$80.00
Mandatory Proof of Financial Responsibility	12-10-6.	\$86.00	\$115.00
Mandatory Use of Protective Helmet	12-7-6A	\$91.00	\$120.00
Mandatory use of Seatbelts	12-6-13.13	\$51.00	\$80.00
Mandatory use of Protective Helmet - Under 18 years of age	12-7-6	\$91.00	\$120.00
Moving/Molesting Unattended Vehicle - Mandatory Court (up to \$265.00)	12-6-13.4A		
Mufflers, Prevention of Noise -Emission Control Devices	12-10-1.10	\$51.00	\$80.00
No Permit for moving Excessive Size and Weight Vehicles - (Mandatory Court(up to \$170.00))	12-6-11.1A-D		
No-Passing Zones and Restrictions on passing (No Passing Zones)	12-6-2.7B	\$51.00	\$80.00
No-Passing Zones and Restrictions on passing (Double Yellow Line)	12-6-2.7C	\$51.00	\$80.00
No-Passing Zones and Restrictions on passing (School Zone)	12-6-2.7D	\$51.00	\$80.00
No-Passing Zones and Restrictions on passing (Stopped Vehicle at Marked Crosswalk)	12-6-2.7E	\$51.00	\$80.00
Obedience to No Turn Signs	12-6-5.4	\$51.00	\$80.00
Obedience to Required Traffic Control Devices	12-5-3.	\$51.00	\$80.00
Obstruction to Driver's View or Driving Mechanism	12-6-12.10	\$51.00	\$80.00
Off Highway Motor vehicles - Registration: Plate Requirement	12-7-9.1A	\$51.00	\$80.00
Operation of Off Highway Motor vehicles On streets or highways-Prohibited Areas	12-7-9.2	\$51.00	\$80.00
Operators and Chauffers Must Be Licensed -Must Hold a Valid License	12-6-12.5A	\$51.00	\$80.00

Operators and Chauffers Must Be Licensed - In possession & Display on Officer's Demand	12-6-12.5D	\$51.00	\$80.00
Operators and Chauffers Must be Licensed	12-6-12.5	\$51.00	\$80.00
Overtaking a Vehicle on the Left	12-6-2.3	\$51.00	\$80.00
Parking in Designated Disable ParkingSpace (\$130.00-\$250.00)	12-9-9.		
Pedestrians on Streets	12-6-14.5	\$51.00	\$80.00
Pedestrians Right of way in Crosswalks	12-6-14.2	\$51.00	\$80.00
Pedestrian Control Signals	12-5-7.	\$51.00	\$80.00
Pedestrian Violation - Pedestrian Obedience to Traffic Control Devices and Traffic Regs.	12-6-14.	\$51.00	\$80.00
Pedestrians to use Right Half of Sidewalk	12-6-14.3	\$51.00	\$80.00
Permitting Unlicensed <u>Minor</u> to Drive	12-6-12.23A	\$51.00	\$80.00
Permitting Unauthorized Person to Drive	12-6-12.23B	\$51.00	\$80.00
Possession or Consumption of Alcoholic Beverages in Open Container	12-6-13.14	\$51.00	\$80.00
Prohibited - First Offense			
Possession or Consumption of Alcoholic Beverages in Open Container 2nd offense	12-6-13.14E		
and Subsequent - Mandatory Court Appearance (up to \$265.00)			
Prohibited Activities While Driving - General	12-6-12.18(A)	\$51.00	\$80.00
Prohibited Activities While Driving (Including Cell Phone and Text messaging devices) 1st offense	12-6-12.18(A)	\$51.00	\$80.00
Prohibited Activities While Driving (Including Cell Phone and Text messaging devices) 2nd or subsequent offense	12-6-12.18(B)	\$111.00	\$140.00
Prohibited Acts	12-10-1.1	\$51.00	\$80.00
Provisional License (Minor)	Sec 34-29 12-6-12.6A (5)		
Racing on Streets - Court Appearance (up to \$150.00)	12-6-12.19		
Reckless Driving 1st Offense - Mandatory Court (up to \$140.00)	12-6-12.3		
Reckless Driving 2nd Offense - Mandatory Court (up to \$270.00)	12-6-12.3		
Required Position and Method of Turning at Intersection - Improper Right Turn	12-6-5.1A	\$51.00	\$80.00
Required Position and Method of Turning at Intersection - Improper Left Turn	12-6-5.1B	\$51.00	\$80.00
Required Position and Method of Turning at Intersection - Improper Position for Turning	12-6-5.1C	\$51.00	\$80.00
Required Position and Method of Turning at Intersection - 1-Way Street	12-6-5.1D	\$51.00	\$80.00
Required Position and Method of Turning at Intersection - Avoidance Traffic Control Device	12-6-5.1E	\$51.00	\$80.00
Restriction on use of Video in Motor Vehicles	12-6-12.11	\$51.00	\$80.00
Signals by Hand and arm or Signal Device	12-6-5.9B	\$51.00	\$80.00
Slow Moving Vehicle Identification	12-6-11.2	\$51.00	\$80.00
Starting Parked Vehicles	12-6-5.7	\$51.00	\$80.00

Stop Lamps, Signal Lamps, and Signal Devices	12-10-1.9	\$51.00	\$80.00
Stopped or parked Vehicles not to Interfere with Other Traffic	12-6-6.3	\$51.00	\$80.00
Stopping for School Bus	12-6-7.3	\$51.00	\$80.00
Stopping, Standing, and Parking	12-6-6.	\$51.00	\$80.00
Stop Sign Violation - Failure to Stop	12-6-4.3 (D)		
Sun Screening Materials on Windshields Windows; Requirements; Violations; Penalty	12-10-1.12A	\$51.00	\$80.00
No Tail Lamps	12-10-1.7	\$51.00	\$80.00
Traffic Lanes - Failure to Maintain Lane	12-5-14.	\$51.00	\$80.00
Turning & Stopping Movements Required & Required Signals	12-6-5.8	\$51.00	\$80.00
Turning on Curve or Crest of Grade Prohibited	12-6-5.6	\$51.00	\$80.00
Unattended Motor Vehicle	12-6-12.8	\$51.00	\$80.00
Unsafe Lane Change - Driving on Streets Laned for Traffic	12-6-2.12 (1)	\$51.00	\$80.00
Unlawful Riding	12-6-13.2	\$51.00	\$80.00
Vehicles Approaching or Entering Intersections	12-6-4.1	\$51.00	\$80.00
Vehicles Entering Stop or Yield Intersection	12-6-4.3	\$51.00	\$80.00
Vehicles shall be driven Only on streets, private roads, and driveways	12-6-12.16	\$51.00	\$80.00
Vehicles to be Equipped with Reflectors	12-10-1.8	\$51.00	\$80.00
Vehicles to be in Safe Condition	12-10-1.2A	\$51.00	\$80.00
Vehicles Turning Left at Intersection	12-6-4.2	\$51.00	\$80.00
When Lighted Lamps are Required	12-10-1.3	\$51.00	\$80.00
When Overtaking on Right is permitted - Improper Passing	12-6-2.6B	\$51.00	\$80.00
Windshield must be unobstructed and equipped with wipers; windows must be transparent; exceptions	12-10-1.12	\$51.00	\$80.00
Yield right of way - Approach of Authorized Emergency Vehicle	12-6-7.4A	\$51.00	\$80.00
Yield right of way - Approaching Stationary Authorized Emergency Vehicle	12-6-7.4B	\$51.00	\$80.00
Yield and Stop Sign Violation - Vehicle Entering Stop of Yield Intersection	12-6-4.3	\$51.00	\$80.00
Stopping Standing Parking Prohibited in the Specified Places			
On a Sidewalk	12-6-6.1A		
In front of a Public or Private Driveway	(1).	\$30.00	\$59.00
Within an Intersection	(2).	\$30.00	\$59.00
Within 15 feet of a fire hydrant	(3).	\$30.00	\$59.00
On a Crosswalk	(4).	\$30.00	\$59.00
With 20 Ft. of Crosswalk at an Intersection	(5).	\$30.00	\$59.00
	(6).	\$30.00	\$59.00

Within 30 Ft. Of Traffic Control Devices	(7).	\$30.00	\$59.00
Safety Zone	(8).	\$30.00	\$59.00
Within 50 Ft. of Railroad Crossing	(9).	\$30.00	\$59.00
Within 20 Ft. of Fire Station Entrance	(10).	\$30.00	\$59.00
Obstructing Traffic	(11).	\$30.00	\$59.00
Stopped or Parked at the edge or Curb of a Street	(12).	\$30.00	\$59.00
Upon any Bridge or Elevated Structure	(13).	\$30.00	\$59.00
Prohibited by Official Signs	(14).	\$30.00	\$59.00
On any Railroad Track	(15).	\$30.00	\$59.00
Between Curb and Sidewalk	(16).	\$30.00	\$59.00
Parking for Certain Purposes Prohibited-Displaying Vehicle for Sale	12-6-6.6(1)	\$30.00	\$59.00
Parking in Designated Disabled Parking Spaces	12-9-9.	\$60.00	\$89.00
Speed Regulations	12-6-1.		
Speed (1) Up to and including 10 miles an hour over speed limit		\$25.00	\$54.00
Speed (2) From 11 up to and including 15 miles an hour over speed limit		\$30.00	\$59.00
Speed (3) From 16 up to and including 20 miles an hour over speed limit		\$65.00	\$94.00
Speed (4) From 21 up to and including 25 miles an hour over speed limit		\$101.00	\$130.00
Speed (5) From 26 up to and including 30 miles an hour over speed limit		\$126.00	\$155.00
Speed (6) From 31 up to and including 35 miles an hour over speed limit		\$151.00	\$180.00
Speed (7) More than 35 miles an hour over speed limit		\$201.00	\$230.00
Minimum Speed Regulations	12-6-1.5	\$26.00	\$55.00
Speed Limits: SPEEDING IN A SCHOOL ZONE	12-6-1.2A		
10 Miles or Less over Limit	12-6-1.2A (1)	\$31.00	\$60.00
11 Miles or More over Limit - (\$51.00 + \$5.00 Per Additional Mile + 29.00 Court Fees)	12-6-1.2A (2)		
BOND FOR EACH VIOLATION IS THE SAME AS THE PENALTY ASSESSMENT FOR THAT VIOLATION			

B. The term “penalty assessment misdemeanor.” Does not include any violation which has caused or contributed to the cause of an accident resulting in injury or death to any person or any violation for which a court appearance is required, as set forth in 2.A of this Ordinance.

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

D. The penalty assessment for speeding in violation of section 12-6-1.2 (4) of the Uniform Traffic Ordinance is twice the penalty assessment otherwise established by ordinance for the equivalent miles per hour over the speed limit.

E. The penalty assessment established for each penalty assessment misdemeanor pursuant to this section, as set forth in (2). A, includes the following mandatory fees for each penalty assessment misdemeanor: a twenty-dollar (\$20) Correction Fee; a six-dollar (\$6) Court Automation Fee; and a three-dollar (\$3) Judicial Education Fee.

Section 3. PENALTY ASSESSMENT MISDEMEANORS: AFFECT

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

B. Payment of any penalty assessment must be made by mail or in person to the Municipal Court, City of Espanola, New Mexico, within 30 days from the date of arrest. Payments of penalty assessments are timely if postmarked three days prior to the 30th day from the date of the arrest.

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

Section 4. FAILURE TO PAY PENALTY ASSESSMENT

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

B. In addition to the prosecution provided for in section 48A, it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so within 30 days from date of arrest.

C. The Office of Municipal Court shall notify the Division of Motor Vehicles Of the State of New Mexico when a person fails to pay a penalty assessment within the required period of time. The Department Of Motor Vehicles shall report to the notice upon the driver’s record and shall not renew the person’s license

to drive until the office of the Municipal Court notifies the Department of Motor Vehicles that the penalty assessment, or its equivalent, as well as any additional penalties imposed are properly disposed of.

Section 5. SEVERABILITY.

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

Section 6. ORDINANCES REPEALED.

All ordinances and parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed only to the extent of such inconsistency.

Section 7. EFFECTIVE DATE.

This ordinance shall be effective upon its adoption and the publication as provided by law.

ADOPTED AND APPROVED by the Governing Body of the City of Espanola. This 26th Day of October, 2021.



The Honorable Javier E. Sanchez
Mayor, City of Espanola

ATTEST:

City Clerk

[SEAL]

