

**FROM THE**



BOT Action form request

**DATE:** September 3, 2008

**TO:** Mayor Cadena and BOT

**FROM:** Marshal Vega

**REF:** Uniform Traffic Ordinance

Here before you is a request to accept the revised version of the Uniform Traffic Ordinance, for the enforcement by the Mesilla Marshal Department.

This revision is drafted and reviewed through the New Mexico Legislation and reviewed by the New Mexico Municipal League.

The Uniform Traffic Ordinance is required for municipality per state statues ( 3-17-6. A (10) NMSA. For the regulation of vehicular and pedestrian traffic within the town.

Respectfully submitted,

Marshal Vega

AIV/jkm

## **NOTICE OF INTENT TO ADOPT**

The Board of Trustees of the Town of Mesilla hereby gives notice of intent to adopt Ordinance 2006-xx at their regular meeting on Monday, September 22, 2008. The ordinance is titled:

**AN ORDINANCE AMENDING CHAPTER 10, “NEW MEXICO UNIFORM TRAFFIC ORDINANCE” OF THE MUNICIPAL CODE OF THE TOWN OF MESILLA, NEW MEXICO, BY REPEALING CHAPTER 10 IN ITS ENTIRETY AND ENACTING A NEW CHAPTER 12 IN ITS PLACE.**

The intent of this ordinance is to repeal the existing Town Uniform Traffic Ordinance and enact in its place a revised Town UTO with all revisions.

A complete copy of the ordinance is on file in the office of the Marshal Department and Town Clerk located at 2231 Avenida de Mesilla and is available for public inspection during regular office hours or download from our website at [www.mesilla-nm.org](http://www.mesilla-nm.org).

*Posted on 09-04-08 on the following locations: Town Clerk's Office 2231 Avenida de Mesilla, Public Safety Building 2670 Calle de Santiago, Mesilla Community Center 2251 Calle de Santiago, Shorty's Food Mart 2290 Avenida de Mesilla, Ristramn Chile Co., 2531 Avenida de Mesilla and the U.S. Post Office 2253 Calle de Parian.*

**ORDINANCE NO. 2008-\_\_**

**AN ORDINANCE AMENDING CHAPTER 10.05, “NEW MEXICO UNIFORM TRAFFIC ORDINANCE” OF THE MUNICIPAL CODE OF THE TOWN OF MESILLA, NEW MEXICO, BY REPEALING CHAPTER 10.05 IN ITS ENTIRETY AND ENACTING A NEW CHAPTER 10.05 IN ITS PLACE.**

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MESILLA, NEW MEXICO;** that

**SECTION 1. Short Title.** This ordinance may be cited as the New Mexico Uniform Traffic Ordinance (UTO).

**SECTION 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.

**SECTION 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 part of this ordinance.

**SECTION 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 there from, or to any violation of the traffic ordinance of this municipality, occurring prior to the effective date of this ordinance.

**SECTION 5. Repeal.** Ordinance 2006-04, “Uniform Traffic Ordinance” is hereby repealed in its entirety.

**SECTION 6. Traffic Code—Adopted.** For the purpose of regulation of vehicular and pedestrian traffic within the town, pursuant to 3-17-6.A (10) NMSA, there is adopted by reference the “New Mexico Uniform Traffic Ordinance” and the provisions thereof shall be controlling within the town to the same extent as if such provisions were set out in full in this ordinance. The traffic code will be available for inspection at the Marshal Department and Town Clerk’s office during regular business hours.

**SECTION 7. Amendments.** The traffic code adopted by section 6 is altered, amended and changed by deleting the stricken material and by adding the underlined material:

Amendment 1. Section 12-1-19 is amended and changed to read:

**DIVISION.** "Division" without further specification, "division of motor vehicles" or "motor vehicles division" means the ~~department~~ taxation and revenue department, the secretary of taxation and revenue or any employee of the division, exercising authority lawfully delegated to that employee by the director. (66-1-4.4 NMSA 1978)

Amendment 2. Section 12-3-2 is amended and changed to read:

**OBEDIENCE TO OFFICERS.**

A. 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)

A.B. It is unlawful for any person to conceal his true name or identity or to disguise himself with intent to obstruct the due execution of the law or with intent to intimidate, hinder or interrupt any public officer or any other person in a legal performance of his duty or the exercise of his rights under the laws of the United States or of this State of New Mexico. Whoever commits concealing identity is guilty of a petty misdemeanor.

Amendment 3. Section 12-6-12.2 (L) is amended and changed to read:

L. 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 sixty-five dollars (\$65.00) 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 collected 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)

Amendment 4. Section 12-6-12.3 (B) is amended and changed to read:

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)~~ one hundred

dollars (\$100.00) nor more than ~~one hundred dollars (\$100.00)~~ three hundred dollars (\$300.00), 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) nor more than five hundred (\$500.00), or both. (66-8-113 NMSA, 1978)

Amendment 5. Section 12-6-12.6 (B) is repealed in its entirety:

~~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, 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.~~

Amendment 6. Section 12-6-12.6 (7) is amended and changed to read:

(7) use or possess an altered, forged or fictitious driver's license or permit. (66-5-18-A NMSA 1978)

Amendment 7. Section 12-10-3.1 is amended and changed to read:

- 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. (\*)~~ The administrator may prohibit the operation of trucks or other commercial vehicles or may impose limitations as to the size or weight thereof on designated streets in areas which are primarily residential, which prohibitions and limitations shall be designated by appropriate signs placed on such streets.
- C. When signs are erected giving notice of the restrictions, no person shall disobey the restriction stated on the signs. (\*) Failure to comply with such signs is a violation of this ordinance.

Amendment 8. Section of 12-12-1.2 Penalty Assessment Program is amended and changed to read:

**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 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)

B. Town of Mesilla Penalty Assessment Program

1. As used in the New Mexico Uniform Traffic Ordinance adopted by the Town of Mesilla, New Mexico, “penalty assessment misdemeanor” means violation of any of the following listed sections of the New Mexico Uniform Traffic ordinance for which the listed penalty assessment is established:

<u>COMMON NAME OF OFFENSE</u>	<u>SECTION VIOLATED</u>	<u>PENALTY ASSESSMENT</u>
CARELESS DRIVING	12-6-12.4B	*
COMBINATION TAIL/STOP LAMPS	12-10-1.30	75
DIMMING OF LIGHTS	12-10-1.6	78
DISPLAY CURRENT LICENSE PLATE	12-10-4	88
DISPLAY CURRENT REGISTRATION	12-10-5	88
DRIVER’S LICENSE (POSSESSION OF)	12-6-12.5A	88
DRIVER’S LICENSE (RESTRICTIONS OF)	12-6-12.5C	88
DRIVER’S LICENSE (UNLAWFUL USE OF)	12-6-12.6(6)	*
DRIVING ON STREETS LANED FOR TRAFFIC	12-6-2.12	83
DUE CARE	12-6-1.2B	83
DUTY UPON STRIKING UNATTENDED VEHICLE	12-4-4	*
DUTY UPON STRIKING PROPERTY	12-4-5	*
EVIDENCE OF REGISTRATION	12-10-5	88
EYE PROTECTION REQUIRED	12-7-5	75
FAILURE TO SIGNAL	12-6-5.8B	88
FAILURE TO YIELD AFTER STOP	12-6-4.3B	88
FAILURE TO YIELD TO EMERGENCY VEHICLE	12-6-7.4B	98
FAILURE TO YIELD PRIVATE DRIVE	12-6-7.1A-B	83
FAILURE TO YIELD RIGHT OF WAY	12-6-4.1A-D	83
FICTICIOUS PLATE	12-10-4C	88
FOLLOWING TOO CLOSELY	12-6-2.13A	83
IMPROPER BACKING	12-6-12.9A	83
IMPROPER LANE USE	12-6-2.12.1	83
IMMEDIATE NOTICE OF ACCIDENT	12-4-6A	98

LEAVING SCENE/PROPERTY DAMAGE	12-4-2	*
LIMITATION ON TURNING AROUND	12-6-5.5	83
MANDATORY FINANCIAL REPSONSIBILITY	12-10-6	328
MANDATORY USE OF PROTECTIVE HELMET	12-7-6	83
NO PASSING ZONE	12-6-2.7A-C,E	88
OBEDIENCE TO TRAFFIC CONTROL DEVICE	12-5-3	83
OBSTRUCTION TO DRIVER'S VIEW	12-6-12.10	83
OBSTRUCTED WINDOWS	12-10-1.12A	83
OFF ROAD VEHICLES ON STREET	12-7-9.2	83
ONE WAY STREETS & ALLEYS	12-6-2.9	83
OPEN CONTAINER/POSSESS ALCOHOL IN MV	12-6-13.14	*
PARKING PROHIBITED ONE WAY STREETS	12-6-6.9	51
PARK OUTSIDE BUSINESS OR RESIDENCE	12-6-6.14	51
PARKING PROHIBITED NARROW STREET	12-6-6.8	51
PARKING PROHIBITED IN HANDICAPPED ZONE	12-9-9 Min.250/Max.500	
PROHIBITED ACTIVITIES WHILE DRIVING	12-6-12.18	*
RACING ON STREETS	12-6-12.19A	*
RECKLESS DRIVING	12-6-12.3A	*
SCHOOL ZONE (PASSING)	12-6-2.7D	108
SEATBELTS (MANDATORY USE)	12-6-13.13	98
SEATBELT (CHILD RESTRAINT)	12-6-13.13	98
STOP SIGN	12-6-4.3D	83
STOPPING FOR SCHOOL BUS	12-6-7.3	*
TWO TAIL LIGHTS REQUIRED	12-10-1.7A	75
TWO HEAD LIGHTS REQUIRED	12-10-1.5A	75
VEHICLE TO BE IN SAFE CONDITION	12-10-1.2	83

CONTEMPT CHARGES 1 THRU 7 53  
 \*\*FAILURE TO COMPLY W/COURT ORDER OR APPPEAR FOR TRIAL UP TO 528

\*REQUIRES MANDATORY COURT APPEARANCE  
 \*\*NEW CONTEMPT CHARGE

SPEEDING	12-6-1.2A(3)	
Up to and including 10 miles over the speed limit		78
From 11-15 miles over the speed limit		88
From 16-20 miles over the speed limit		113
From 21-25 miles over the speed limit		148
From 26-30 miles over the speed limit		173
From 31-35 miles over the speed limit		198
More than 35 miles over the speed limit		248

DOUBLE THE ABOVE FINE AMOUNTS FOR SPEEDING IN A SCHOOL ZONE.

The above Penalty Assessment amounts include a \$20.00 correction fee, a \$6.00 court Automation fee and a \$2.00 judicial education fee.

- (2) 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.
- (3) 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 a later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor.

#### C. Penalty Assessment Misdemeanors; Option; Effect.

- (1) 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, and payment of the prescribed penalty assessment is a complete satisfaction of the violation.
- (2) Payment of any penalty assessment must be made by mail or in person to the Mesilla Municipal Court, Mesilla, New Mexico, within 30 (thirty) days from the date the penalty assessment notice was issued. Payments of penalty assessments are timely if postmarked within the 30 (thirty) days.

#### D. Failure to Pay Penalty Assessment.

- (1) If a penalty assessment is not paid within thirty days from the date the penalty assessment notice is issued, 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 in such prosecution, the court shall impose penalties as provided by Section 12-12-1.1 of this ordinance or other law relating to motor vehicles for the particular offense charged, and the schedule of penalty assessments shall not apply.
- (2) In addition to the prosecution provided for in paragraph (1) of this subsection (subsection C), it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so within thirty days from the date the penalty assessment notice is issued, subjecting the violator to another prosecution in addition to the offense appearing on the penalty assessment notice.
- (3) The Municipal Court shall notify the Division of Motor Vehicles of the State of New Mexico when a person fails to pay a penalty assessment with the required time period. The Department of Motor Vehicles shall report the notice upon the driver’s record and shall not renew the person’s license to drive until the Mesilla Municipal Court notifies the Department of Motor Vehicles that the penalty assessment or its equivalent as well as any additional penalties imposed are property disposed of.

**SECTION 6. Effective Date.** This ordinance shall be in full force and effect five (5) days after its approval, adoption and publication as provided by law.

**PASSED, APPROVED AND ADOPTED** on this 22<sup>nd</sup> day of September 2008.

**ATTEST:**

\_\_\_\_\_  
Michael M. Cadena  
Mayor

\_\_\_\_\_  
Juan A. Fuentes  
Town Clerk-Treasurer

**Roll Call Vote:**  
Mayor Pro Tem Barraza  
Trustee Caro  
Trustee Arzabal  
Trustee Bernal