

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-369

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE INCORPORATED COUNTY OF LOS ALAMOS BY ADDING TO CHAPTER 38, TRAFFIC AND VEHICLES, A NEW ARTICLE XV RELATING TO AUTOMATED SPEED CAMERAS

WHEREAS, the Incorporated County of Los Alamos ("County") has general authority to enact and/or amend legislation designed to protect the safety, health, and welfare of its citizens and the general public; and

WHEREAS, Chapter 38 of the Code of the Incorporated County of Los Alamos governs Traffic and Vehicles; and

WHEREAS, the County Council finds that there is a significant risk to the health and safety of the community from drivers who exceed the posted speed limit; the County has a serious injury rate resulting from speeding violations within Los Alamos County; and some drivers in the County repeatedly violate posted speed limits; and

WHEREAS, the County Council finds that law enforcement and other entities employ a variety of methods to reduce speeding, including traffic engineering, education, and enforcement; and

WHEREAS, the County has the authority to adopt provisions in its Code ordinances to provide for public safety on its streets, and the County Council finds that additional tools, including automated speed enforcement, are available to assist municipalities in addressing excessive speeding and speed-related crashes; and

WHEREAS, the County Council finds that implementation of enforcement of speed limits by means of photographic and electronic equipment is critical to the efforts of the County to reduce factors that contribute to traffic collisions that result in injuries and fatalities and will abate the nuisance of speeding; and

WHEREAS, the County Council finds that automated speed enforcement offers a high rate of detection, and in conjunction with education, traffic engineering, and law enforcement measures, it can significantly improve traffic safety and prevent traffic related injuries and fatalities; and

WHEREAS, the County Council declares that enforcing speed limits using automated speed enforcement systems on streets where speeding drivers negatively impact traffic safety is a reliable and cost-effective means to prevent further injuries and fatalities and would be in the public interest; and

WHEREAS, the County Council declares that speeding is a nuisance that must be abated by the assessment of fines and finds that the purpose of this amendment is to encourage traffic safety to the motoring public, bicyclists, and pedestrians; and

WHEREAS, the County Council declares that this Code Ordinance is a nuisance abatement Ordinance enacted pursuant to the County's inherent authority under state law and that the remedies are purely civil and not criminal in nature.

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS, as follows:

Section 1. Article XV of Chapter 38 of the Code of the Incorporated County of Los Alamos is hereby added as follows:

Article XV. – Automated Speed Enforcement

Section 38-800. - Definitions.

For the purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Authorized Emergency Vehicle means the same as defined under NMSA 1978, § 66-1-4.1(E) (2001), as amended, and without limitation on the foregoing, shall mean any fire department vehicle, police vehicle, ambulance and any emergency vehicles of county or 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 Chief of Police of the Los Alamos Police Department.

Camera Speed Device or "CSD" means the instrument that detects a violation of this Article. The definition includes, but is not limited to, electronic speed detection equipment reasonably relied upon by Police Officers.

County means the Incorporated County of Los Alamos.

County Manager means the Los Alamos County Manager.

Contractor means a person or entity that enters into a contract with the County to provide the county with photographic or electronic evidence of a violation through a CSD.

Default means the failure to pay a fine or to timely pay a fine pursuant to a decision of a Hearing Officer under this Article.

Delivery or Delivered means the mailing of a Fine Notification to a Registered Owner or Nominee or personal service of a Fine Notification or Hearing Officer decision on a Registered Owner or Nominee.

Department means the Los Alamos County Police Department.

Driver means the person operating a motor vehicle at the time of a violation.

Fine Notification means a written notification Delivered to the Registered Owner or Nominee stating that a violation has occurred, and payment is due.

Effective Date means the date a Fine Notification is mailed to the Respondent as indicated on the face of the Fine Notification.

Hearing Officer means a Hearing Officer, as appointed by the District Court pursuant to NMSA 1978, §3-18-17, as amended.

Identify or Identified means to submit all information on a Driver sufficient to allow the County to locate and notify the Driver in lieu of the Registered Owner, including but not limited to the name and address of the Driver.

Motor Vehicle Division or MVD means the motor vehicle division of the Taxation and Revenue Department of the State of New Mexico or its successor agencies.

Nomination means identification of the Driver of a motor vehicle by the Registered Owner as the responsible party for a violation.

Nominee means the person or entity Identified by the Registered Owner as the Driver or responsible party.

Notice of Default is a document Delivered to the Registered Owner stating that the Registered Owner has been fined for a violation and the payment is past due and is in Default.

Nuisance means the act of operating a vehicle in violation of this Article.

Owner's Affidavit means a written statement signed under oath and submitted to the County under penalty of perjury by the Registered Owner of a vehicle who asserts therein that the Registered Owner was not driving the vehicle at the time of a violation.

Police Officer means a sworn member of the Los Alamos County Police Department, the New Mexico State Police, or any other public official with authority to stop a vehicle for a traffic violation in the County of Los Alamos.

Public Safety Aide means a public safety aide of the Los Alamos County Police Department.

Registered Owner means the owner or owners of a vehicle according to the information obtained from the MVD, from similar motor vehicle agencies outside New Mexico, from information obtained from the Los Alamos County Municipal Court, from the Los Alamos County Magistrate Court, from Department records, or from any other documentation or methods reasonably relied upon by Police Officers. The singular includes the plural.

Respondent means an accused violator who has received a Fine Notification and requested a hearing.

School Zone means a posted "safety zone" as that term is defined under NMSA 1978, § 66-1-4.16 (2001), as amended from time to time.

Violation or offense means a violation of this Article.

Sec. 38-801. Automated Speed Camera Enforcement.

- (a) Any violation or conduct constituting a violation of Sections 38-241 or 38-342 of the County Code, or any other County law pertaining to speeding is a violation of this Article. This Article does not apply to Authorized Emergency Vehicles responding to an emergency.
- (b) This Article does not abrogate or impair enforcement authority of existing traffic laws by a Police Officer.
- (c) Based on records obtained by either fixed or mobile CSDs, a Police Officer shall review all CSD evidence. If the Police Officer determines that a violation has occurred, the Police Officer shall cause a Fine Notification to be Delivered to the Registered Owner. The Registered Owner is strictly and vicariously liable for the violation unless one of the exceptions herein applies. If there is more than one Registered Owner, all Registered Owners shall be jointly and severally liable.
- (d) Fine Notification.
 - i. Form and Contents. The Fine Notification shall state and contain the name of the Registered Owner or owners, or Nominee, the Effective Date of the Fine Notification, the type of violation, the date, time and location of the violation, a picture of the violation, the license number of the vehicle, the name and identification of the issuing Police Officer, the amount of the fine, whether the fine is a first or subsequent offense, the response due date and the address of the Department. The Fine Notification shall conspicuously and in bold face type state; "Failure to pay this fine on time will lead to serious legal consequences and the assessment of the costs of collections including service of process fees, court costs, and reasonable attorney fees." The Fine Notification shall include an Owner's Affidavit form. The Fine Notification shall contain a return envelope addressed to the Department. The Fine Notification shall inform the Registered Owner or the Nominee of the right to request a hearing by so indicating in a space provided on the form and returning same to the Department.
 - ii. Delivery. The Fine Notification shall be Delivered to the address of the Registered Owner according to the address registered with the MVD or to the address of the Nominee according to the Owner's Affidavit.
- (e) Response to Fine Notification. Within thirty-five (35) days from the Effective Date, the Registered Owner shall pay the fine, file an Owner's Affidavit making a Nomination, or request a hearing. To pay the fine, the Respondent shall deliver the Fine Notification with payment to the Department according to the instructions on the Fine Notification. To make a Nomination, the Respondent shall return the Fine Notification with a completed Owner's Affidavit to the Department according to the instructions on the Fine Notification. To request a hearing, the Respondent shall return the Fine Notification with the request for hearing to the Department. The response shall be received no later than thirty-five (35) consecutive days from the Effective Date. If the fine has not been paid,

there has been no Nomination or a request for a hearing within thirty-five (35) days from the Effective Date, written Notice of Default shall be sent to the Registered Owner or Nominee, or both.

- (1) Payment of Fine. Upon receipt of the Fine Notification, the Respondent may elect to admit the violation and pay the fine. To proceed under this section, the Respondent shall admit the violation by signing and dating the Fine Notification on a space provided and returning the Fine Notification with payment to the Department according to the instructions on the Fine Notification within thirty-five (35) days of the Effective Date.
 - (2) Appeal. The Respondent of the Fine Notification may request a hearing by so indicating and returning the Fine Notification to the Department according to the instructions on the Fine Notification within thirty-five (35) days of the Effective Date. Upon receipt, the Hearing Officer shall schedule a hearing.
 - (3) Nomination. Any Registered Owner who was not driving the vehicle at the time of the violation may either accept the responsibility or Identify the Driver. The Nomination procedure described in this paragraph is available to any Registered Owner and is not limited to corporations and governmental entities. If the Registered Owner claims that another person was driving the vehicle at the time of the violation, the Registered Owner shall so indicate on the Owner's Affidavit and Identify the person who was driving the vehicle. A new Fine Notification will be Delivered to the Nominee. The Effective Date of the Fine Notification sent to the Nominee is the day the Fine Notification is issued to the Nominee as indicated on the face of the new Fine Notification. If the Nominee successfully appeals the allegation that the Nominee was the Driver, the County may proceed against the Registered Owner by issuing a subsequent Fine Notification to the Registered Owner with the Effective Date being the date so indicated on the face of the subsequent Fine Notification. If the County cannot assert jurisdiction over the Nominee, the Registered Owner is responsible, subject to the remaining defenses available in this Article. Any Registered Owner who submits an Owner's Affidavit does so under penalty of perjury.
- (f) Default. If the Department does not receive payment of the fine, a Nomination, or a request for a hearing within thirty-five (35) days from the Effective Date, the Registered Owner is in Default. Default automatically results in liability to the Registered Owner for the violation and the Registered Owner is barred from requesting or obtaining any hearing on the merits of the fine after the date of the Default. If the Default is not cured, the Department may pursue all remedies for collection of a debt and is entitled to an award of reasonable attorney's fees incurred.
- (g) Hearing. The hearing provided for a contested violation shall be held by a Hearing Officer appointed by the presiding judge of the civil division of the district court with jurisdiction over the municipality, and the hearing itself shall be conducted following the rules of evidence and civil procedure for the district

courts. The Department has the burden to prove the violation by a preponderance of the evidence. The Respondent has the burden to prove any defenses by a preponderance of the evidence. The Hearing Officer shall render a decision in writing and provide the decision to the Department and Respondent. A determination by the Hearing Officer shall not impose a total amount of penalties or fines in excess of that provided in this Article. If the Department prevails, the Respondent shall pay the fine within thirty (30) consecutive days from the date of the decision, or the Respondent may appeal the decision of the Hearing Officer to the First Judicial District Court within thirty (30) days of the decision and may recover the costs of filing the appeal if successful.

(h) Defenses. At a timely requested hearing, the Respondent may present the following defenses, in addition to any other defenses available under law:

- (1) The vehicle was stolen or otherwise being driven without the Registered Owner's knowledge or permission at the time of the alleged violation. The Registered Owner shall have a police report pertaining to the theft to avail the Registered Owner of this defense.
- (2) The ownership of the vehicle had lawfully been transferred and conveyed from the Registered Owner to another person before the time of the alleged violation. To assert this defense, the Registered Owner shall identify the transferee and provide proof of conveyance.
- (3) The evidence does not show that a violation was committed involving the subject vehicle.
- (4) The Respondent is the Registered Owner but was not driving the vehicle at the time of the violation. To assert the defense, the Registered Owner shall identify the actual Driver and comply with the Nomination provisions above.
- (5) The Registered Owner did not receive notice because the Fine Notification was not mailed to the address of record with the MVD.

(i) Penalty. A violation of this Article constitutes a civil infraction punishable by a fine of \$100.00.

(j) Administration.

- i. The Department shall be responsible for administration of this Article. Reasonable rules and regulations may be promulgated by the County Manager or designee to carry out the intent and purpose of this Article.
- ii. Any and all revenue obtained through this program shall be used by the Department in accordance with state law.

Section 2. Effective Date. This Ordinance shall become effective on July 1, 2025.

Section 3. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 4. Repealer. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this 8th day of April 2025.

**COUNCIL OF THE INCORPORATED
COUNTY OF LOS ALAMOS**

**Theresa Cull,
Council Chair**

ATTEST: (SEAL)

**Michael D. Redondo,
Los Alamos County Clerk**