

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-338

AN ORDINANCE AMENDING CHAPTER 38, ARTICLE II, DIVISION 3, SECTION 38-92; ARTICLE VI, SECTION 38-351; ARTICLE VII, SECTIONS 38-411 AND 38-415, AND ADDING A NEW SECTION 38-292.1 TO ARTICLE V AND NEW SECTION 38-416 TO ARTICLE VII.

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 Ordinances of the Incorporated County of Los Alamos governs Traffic and Vehicles; and

WHEREAS, the New Mexico Legislature passed and the Governor signed legislation addressing penalty assessment provisions for certain traffic and vehicles, driving while intoxicated with minors in vehicle, blocking curb cuts and parking spaces designed for persons with significant mobility issues, doing away with a mandatory minimum of four days of incarceration for driving on a suspended or revoked license where the revocation or suspension did not result a conviction for driving under the influence conviction, and distinguishing administrative license suspensions from general license suspensions; and

WHEREAS, County desires to adopt similar amendments to bring the County ordinances governing traffic and vehicles into conformity with recently adopted state law; and

WHEREAS, the purpose of this amendment is to encourage traffic safety and promote uniformity of traffic laws.

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

Section 1. Chapter 38, Article II, Division 3, Section 38-92 of the Code of the Incorporated County of Los Alamos is amended to read, as follows:

Sec. 38-92. - Penalty Assessment Program.

(a) As used in this chapter, the term "penalty assessment misdemeanor" means violation of any of the sections referenced in section 38-92 (b).

(b) The following base penalty assessments are established for penalty assessment misdemeanors:

(1) Penalty for violation—base amount.

<i>Common Name of Offense</i>	<i>Section</i>	<i>Base Penalty Assessment</i>
Obedience to traffic-control device	38-193	\$50.00
Failure to obey signal	38-196	50.00
	38-198	
Speeding:		
1—5 mph over the speed limit	38-242	25.00

6—10 mph over the speed limit	38-242	50.00
11—15 mph over the speed limit	38-242	75.00
16—20 mph over the speed limit	38-242	100.00
21—25 mph over the speed limit	38-242	150.00
26—30 mph over the speed limit	38-242	200.00
31—35 mph over the speed limit	38-242	250.00
Minimum speed	38-244	50.00
Failure to drive to right side of street	38-247	50.00
Passing in no passing zone	38-253	50.00
Improper lane	38-257	50.00
Following too closely	38-258	50.00
Failure to yield right-of-way at intersection	38-265	50.00
Failure to yield right-of-way, left	38-266	50.00
Failure to yield/stop at sign	38-267	50.00
Failure to obey sign	38-271	50.00
Improper turning	38-272	50.00
Improper-U Turn	38-273	50.00
Improper stopping, starting or turning	38-275	50.00
Unattended motor vehicle	38-278	50.00
Improper backing	38-279	50.00
Obstructing driver's view or driving mechanism	38-280	50.00
Driving on sidewalk or private property	38-287	50.00
Emerging from alley, building or driveway	38-288	50.00
Obstructing traffic	38-289	50.00
Passing a stopped school bus	38-290	200.00
Prohibited activities while driving	38-299	50.00
Permitting unauthorized persons to drive	38-304	50.00
Unlawful riding	38-306	50.00
Injurious material on roadway	38-308(a)	300.00
	38-308(b)	300.00
	38-308(c)	300.00
	38-308(d)	100.00
	38-308(e)	100.00
Opening or closing of doors	38-310	50.00
Mandatory use of seatbelts	38-314	50.00
Parking in a designated disabled space	38-351	250.00
Improper stopping, standing or parking	38-352	50.00
	38-353	<u>50.00</u>
	38-355	<u>50.00</u>
	38-356	<u>50.00</u>
	38-358	<u>50.00</u>
	38-359	<u>50.00</u>
	38-360	<u>50.00</u>

	38-364(a)	<u>50.00</u>
	38-367	<u>50.00</u>
	38-370	<u>50.00</u>
	38-371(a)	<u>50.00</u>
	38-375(a)	<u>50.00</u>
	38-376(a)	<u>50.00</u>
Expired license plate while parked	38-411	25.00
<u>Driving on Administratively Suspended License</u>	<u>38-416</u>	<u>50.00</u>
Failure to yield to pedestrian	38-452	50.00
Jaywalking, when prohibited to cross roadway	38-455	50.00
Minor on motorcycle without helmet	38-496	300.00
Operating of bicycles and other non-motorized vehicles	38-543	50.00
	38-544	50.00
	38-545	50.00
	38-546	50.00
	38-547	50.00
	38-548	50.00
	38-549	50.00
	38-550	50.00
	38-551	50.00
	38-552	50.00
	38-553	50.00
Improper equipment	38-591	50.00
Unsafe vehicle	38-592	50.00
No slow-moving emblem or flashing yellow light	38-673	50.00
Unauthorized use of skateboards and other similar devices	38-6	50.00

Section 2. Add a new Section 38-292.1 to Article V of Chapter 38, as follows:

Sec. 38.292.1 Driving while intoxicated with a minor in the vehicle; penalty.

(a) Driving while intoxicated with a minor in the vehicle consists of a person committing a violation of Section 38-292 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 violation of this Code and is subject to a fine of not less than \$300 and a term of imprisonment of not more than 90 days.

(b) A charge for a violation of Subsection (a) of this section shall be in addition to a charge for the violation of Section 38-292 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.

Section 3. Chapter 38, Article VI, Section 38-351, of the Code of the Incorporated County of Los Alamos is amended to read, as follows:

Sec. 38-351. - Parking in designated accessible parking spaces for persons with significant mobility limitation.

(a) It is unlawful for any person to park a motor vehicle not displaying a special registration plate or a parking placard issued pursuant to NMSA 1978, § 66-3-16 in a designated accessible parking space for persons with significant mobility limitation or blocking a curb cut. A person convicted of violating this section is subject to a fine of \$250.00. Failure to properly display a parking placard or special registration plate issued pursuant to NMSA 1978, § 66-3-16 is not a defense against a charge of violation of this section.

(b) ~~As used in this section, the term "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 which carries registration plates or a placard with the international symbol of access issued in accordance with NMSA 1978, § 66-3-16 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. The term "curb cut" means a short ramp through a curb or built up to the curb designed for access by persons with significant mobility limitation.~~ 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 designed for access by persons with significant mobility limitations; or

(2) a designated accessible parking space for persons with significant mobility limitations.

(c) As used in this section, the term "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 which carries registration plates or a placard with the international symbol of access issued in accordance with NMSA 1978, § 66-3-16 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. The term "curb cut" means a short ramp through a curb or built up to the curb designed for access by persons with significant mobility limitation.

Section 4. Chapter 38, Article VII, Section 38-411, of the Code of the Incorporated County of Los Alamos is amended to read, as follows:

Sec. 38-411. - Display of Current Valid Registration Plate.

(a) It is a violation of this chapter for any person to drive or park upon a public street or public parking area of this municipality any motor vehicle or trailer that 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 12 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 county, shall have displayed thereon, either on the front or the rear of the vehicle, any registration plate, including validating sticker, other than one issued, or validated, for the current registration period by the department or any other licensing authority having jurisdiction over the vehicle. No expired license plate or validating 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 in this section shall be construed as prohibiting the use, on the front of the vehicle, of a promotional or advertising plate.

(f) 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, which citation shall provide that such owner shall, within 30 days from the date of the citation, apply for and obtain a duplicate or replacement plate from the division.

(g) 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 30 days of the date of the citation is guilty of a provision of this section.

(h) Any person who drives or parks upon a public street or public parking area of this municipality any motor vehicle or trailer in violation of subsections (b), (c), (d), or (g) above shall be subject to a penalty of not more than \$50.00 and any probation imposed for a suspended or deferred sentence shall not exceed ninety days.

Section 5. Chapter 38, Article VII, Section 38-415, of the Code of the Incorporated County of Los Alamos is amended to read, as follows:

Sec. 38-415. - Unlawful Use of License; Driving When Privilege to Do So Has Been Suspended or Revoked.

No person shall:

- (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 its use 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 a driver's license or permit issued to him; or
- (6) Drive a motor vehicle on any public street or highway at a time when his privilege to do so is suspended or revoked and who knows or should have known that his license was suspended or revoked.

- a. Upon conviction, the person shall be punished by imprisonment for not ~~less than four days~~ nor more than 90 days or 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 \$500.00. 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.
- b. If the person's privilege to drive was revoked for driving while under the influence of intoxicating liquor or drugs or of the Implied Consent Act (NMSA 1978, §§ 66-8-105—66-8-112), upon conviction that person shall be punished by imprisonment for not less than 15 days, seven days of which shall be served consecutively, and shall be fined not less than \$300.00 and not more than \$999.00, which minimum incarceration and fine shall not be suspended, deferred or taken under advisement. No other disposition by plea of guilty or nolo contendere to any other charge in satisfaction of a charge under this section shall be authorized or accepted by the municipal court.
- 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 state statute prohibiting driving on a suspended license, the motor vehicle the person was driving may be immobilized by an immobilization device for 30 days, unless immobilization 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 person convicted shall bear the cost of immobilizing the motor vehicle.
- d. 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 state statute prohibiting driving on a revoked license, the motor vehicle the person was driving shall be immobilized by an immobilization device for 30 days, unless immobilization 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 person convicted shall bear the cost of immobilizing the motor vehicle.
- e. If the person's privilege to drive was the result of an administrative suspension as provided for in Section 38-416, then the penalty provisions provided for in Section 38-416 shall govern.

Section 6. Add a new Section 38-416 to Article VII of Chapter 38, as follows:

Sec. 38-416. – Driving While License Administratively Suspended.

a. The New Mexico Motor Vehicle Division may issue an administrative suspension of the instruction permit, driver's license or provisional license of a driver without preliminary hearing upon 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 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 or pursuant to the laws of the tribe; or

(2) Pay a penalty within thirty (30) days of the date of issuance by the state or a tribe; or

(3) Comply with the terms of a citation issued by a foreign jurisdiction that is a party to the Nonresident Violator Compact and that has notified the New Mexico Motor Vehicle Division of the failure in accordance with the Nonresident Violator Compact.

b. Any person who drives a motor vehicle on any public street or highway at a time when his privilege to do so has been administratively suspended shall be subject to a penalty of not more than \$25.00.

c. If a person whose license was issued by a jurisdiction outside of New Mexico that is a party to the Non-Resident 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.

Section 7. Effective Date. This Ordinance shall be effective thirty (30) days after publication of notice of its adoption.

Section 8. 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 9. Repealer. All ordinance 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 28th day of February 2023.

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

**Denise Derkacs,
Council Chair**

ATTEST: (SEAL)

**Naomi D. Maestas,
Los Alamos County Clerk**