

ORDINANCE NO. 06-2018

AN ORDINANCE RELATING TO THE NEW MEXICO UNIFORM TRAFFIC ORDINANCE ADOPTED BY THE TOWN OF MOUNTAINAIR; ESTABLISHING THE PENALTY ASSESSMENT PROGRAM; DEFINING PENALTY ASSESSMENT MISDEMEANORS; ESTABLISHING LISTED SCHEDULE OF PENALTY ASSESSMENTS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREOF.

06-2018 PENALTY ASSESSMENT PROGRAM

SECTION 1. PENALTY ASSESSMENT PROGRAM

A. The Town of Mountainair hereby adopts the penalty assessment schedule set forth in this ordinance as penalties to be imposed for enforcement of this Ordinance and the Uniform Traffic Code. "Penalty assessment misdemeanor" means violation of the following listed sections of the New Mexico Uniform Traffic Ordinance for which the listed penalty assessment is established.

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
<u>Drivers License:</u>		
Operator to be licensed (None)	12-6-12.5	\$87.00
Operator to be licensed (Lost/Forgot)	12-6-12.5	\$87.00
Unlawful use/Lending to Others	12-6-12.6(2)	\$87.00
Unlawful use/Using license of another	12-6-12.6(3)	\$87.00
Unlawful use/permitting use	12-6-12.6(5)	\$87.00
Permitting child to drive	12-6-12.23a	\$87.00
Permitting unlicensed to drive	12-6-12.23b	\$87.00
<u>Registration/Insurance:</u>		
Failure to provide proof of insurance	12-10-6	\$156.00
Evidence of Registration to be signed and Exhibited on Demand	12-10-5	\$87.00
Display of expired license plate	12-10-4	\$87.00
Display of plate for another vehicle	12-10-4	\$87.00
Illegible license plate	12-10-4	\$87.00
<u>Equipment:</u>		

Brake light not working	12-10-1.9	\$87.00
Headlights to be on	12-10-1.3	\$87.00
Headlight burned out	12-10-1.5	\$87.00
Dimming of lights	12-10-1.6	\$87.00
Horn required to work	12-10-1.17	\$87.00
License plate light out	12-10-1.7	\$87.00
Mirror-rearview mirror required	12-10-1.18	\$87.00
Muffler-noise too loud	12-10-1.10	\$87.00
Muffler-excessive smoke	12-10-1.10	\$87.00
Taillight burned out	12-10-1.7	\$87.00
Taillight glaring	12-10-1.7	\$87.00
Turn signal not working	12-10-1.9	\$87.00
Windshield obstructed	12-10-1.12	\$87.00

Moving Violations:

Avoiding traffic signals	12-6-5	\$87.00
Backing: Limitations on	12-6-12.9	\$87.00
Backing: From driveways	12-6-12.9	\$87.00
Careless driving	12-6-12.4	\$130.00
Child restraint	12-6-13.12	\$130.00
Destructive or Injurious Material on Roadway	12-6-13.5	\$168.00
Drivers to Exercise Due Care	12-6-14.8	\$87.00
Driving – must be in lane	12-6-2.12	\$87.00
Driving – anything that interferes	12-6-12.18	\$87.00
Driving on Divided Highways	12-6-2.14	\$87.00
Racing on streets	12-6-12.19	\$87.00
Flashing Signals	12-5-8	\$87.00
Fleeing/eluding police	12-6-12.7	\$130.00
Following too close	12-6-2.13	\$87.00
Approaching/entering intersection	12-6-4.1	\$87.00
Left turn at intersection	12-6-4.2	\$87.00
Red light	12-5-6	\$87.00
Overtaking a Vehicle on the Left	12-6-2.3	\$87.00
Lamp or Flag on Projecting Load	12-10-1.11	\$87.00
Limitations on Overtaking on the Left	12-6-2.4	\$87.00
Limitations on Turning Around	12-6-5.5	\$87.00
Littering	12-6-13.15	\$422.00
Parking in Designated Disabled Parking Spaces	12-9-9	\$307.00
Parties to an unlawful act	12-6-12.24	\$87.00

Passing/No passing zone	12-6-2.7	\$87.00
Passing/School zones	12-6-2.7	\$87.00
Passing/Pedestrian crosswalk	12-6-2.7	\$87.00
Pedestrian Violation	12-6-14	\$87.00
Seatbelt – Mandatory use	12-6-13.13	\$92.00
Starting a Parked Vehicle	12-6-5.7	\$87.00
Stop sign	12-6-4.3	\$87.00
Stopping, Standing and Parking Outside Of Business or Residential Districts	12-6-6.14	\$87.00
Stop sign/intersection	12-6-4.3	\$87.00
Stop for School Bus	12-6-7.3	\$169.00
Turn signal – no use	12-6-5.8	\$87.00
Use of Hand-Held Cellular Phone While Driving a Vehicle	12-3-3	\$307.00
U-turn in business district	12-6-5.5	\$87.00
Yield sign	12-6-4.3	\$87.00
Yield intersection	12-6-4.3	\$87.00
Yield from driveway/business	12-6-7.1	\$87.00
Possession or Consumption of Alcoholic Beverages in Open Containers- Open/broken seal – First Offense	12-6-13.14	\$108.00

Speeding:

1 – 10	12-6-1.2a	\$87.00
11 – 15	12-6-1.2b	\$106.00
16 – 20	12-6-1.2c	\$147.00
21 – 25	12-6-1.2d	\$190.00
26 – 30	12-6-1.2e	\$220.00
31 – 35	12-6-1.2f	\$250.00
36 and over	12-6-1.2g	\$310.00
Failure to Obey Established Zone	12-6-1.3	\$220.00

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 non-resident permit	12-7-9.1	\$73.00
Violations involving headlights or taillights failure to possess an off-highway motor vehicle safety permit	12-7-9.8	\$73.00
Selling a vehicle that produces noise in excess of ninety-six decibels	12-7-9.9E	\$73.00
Any violation of the Off-Highway Motor Vehicle Act not otherwise specifically defined elsewhere in this section	12-7	\$73.00
CLASS 2 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
Failure to complete a required off-highway motor vehicle safety training course	12-7-9.8	\$127.00
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	12-7-9.9	\$127.00
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	12-7-9.9C	\$127.00
Operating an off-highway motor vehicle that produces noise that exceeds ninety-six decibels	12-7-9.9	\$127.00

Unauthorized installation, removal, destruction or defacing of a motor vehicle sign	12-7-9.2E	\$127.00
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CLASS 3 VIOLATIONS

SECTION VIOLATED

**PENALTY
ASSESSMENT**

Operating a vehicle that is not equipped with an approved spark arrester	12-7-9.9	\$193.00
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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	12-7-9.9	\$193.00
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Operating an off-highway motor vehicle in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition	12-7-9.9	\$193.00
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Operating an off-highway motor vehicle on or within an earthen tank or other structure meant to water livestock or wildlife	12-7-9.9	\$193.00
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Operating a motor vehicle in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices	12-7-9.9	\$193.00
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A person under the age of eighteen operating an off-highway motor vehicle without wearing eye protection and a safety helmet

12-7-9.9B

\$193.00

A person under the age of eighteen operating an off-highway motor vehicle while carrying a passenger

12-7-9.9B

\$193.00

A person under the age of fifteen but at least ten years of age who operates an off-highway vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act

12-7-9.9C

\$193.00

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

12-7-9.9D

\$193.00

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

12-7-9.9

\$326.00

Operating an off-highway motor vehicle on any road or area closed to off-highway motor vehicle traffic under local, state or federal regulations

12-7-9.2

\$326.00

Operating an off-highway motor

vehicle on a limited-access highway
or freeway

12-7-9.2

\$326.00

C. The penalty for second, third and subsequent violations within a three-year 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 any violation which has caused or contributed to the cause of an accident resulting in injury or death to any 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, 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 ninety days.

G. The penalty assessment for speeding in violation of Section 12-6-1.2 (4) of the Uniform Traffic Ordinance is twice the penalty assessment established in Subsection A of Section 2 of this ordinance for the equivalent miles per hour over the speed limit.

H. In addition to this penalty assessment established for each penalty assessment misdemeanor pursuant to this section, there shall be assessed the following fees for each penalty assessment misdemeanor a twenty dollar (\$20) Corrections Fee; a six dollar (\$6) Court Automation Fee; and a three dollar (\$3) Judicial Education Fee. These fees are included in the penalty assessment.

SECTION 2. PENALTY ASSESSMENT MISDEMEANORS; OPTION; 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 and acknowledgement of guilt of the offense stated in the notice, and payment of the prescribed penalty assessment is a complete satisfaction of the violation.

B. Payment of any penalty assessment can either be paid in person to the Billing Clerk or by mail to the Municipal Court in the Town of Mountainair, New Mexico within thirty (30) days from the date of arrest. Payments of penalty assessments are timely if postmarked within the time limits set from the date of arrest.

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

SECTION 3. FAILURE TO PAY PENALTY ASSESSMENT

A. If a penalty assessment is not paid within thirty (30) days from the date of arrest, the violator shall be cited into Municipal Court for failure to pay,

B. In addition to the prosecution provided for in Section 4A of the Uniform Traffic Ordinance, it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so within thirty (30) days from the date of arrest.

C. The Office of the Municipal Court shall notify the Motor Vehicle Division of the State of New Mexico when a person fails to pay a penalty assessment within the required period of time. The Motor Vehicle Division shall report the notice upon the driver's record and shall not renew the person's license to drive until the Municipal Court notifies the Motor Vehicle Division that the penalty assessment, or its equivalent, as well as any additional penalties imposed are properly disposed of.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, phrase or any portion of this ordinance is for any reason held invalid or unconstitutional by any court of 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 5. REPEALER

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

SECTION 6. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED, APPROVED AND ADOPTED THIS ____ DAY OF _____, 2018.

Peter Nieto, Mayor

(SEAL)

ATTEST:

Dennis Fulfer, Town Clerk