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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 17      Ordinance # 2581      Council District:       

For Meeting of July 19, 2010  
 (Adoption Date)

**AN ORDINANCE AMENDING LAS CRUCES MUNICIPAL CODE, SECTION 27-12-14-4 PENALTY ASSESSMENT MISDEMEANOR; DEFINITION; SCHEDULE OF ASSESSMENTS TO ADD CERTAIN VIOLATIONS OF THE LAS CRUCES MUNICIPAL CODE TO THIS ORDINANCE AND THEREBY CONVERT THEM INTO PENALTY ASSESSMENTS AND FURTHER ESTABLISHING THE AMOUNT OF THOSE PENALTY ASSESSMENTS.**

**PURPOSE(S) OF ACTION:** The ordinance amendment is presented to convert certain violations of the Las Cruces Municipal Code into penalty assessments under LCMC 1997, Section 27-12-14-4 Penalty Assessment Misdemeanor; Definition; Schedule of Assessments.

<b>Name of Drafter:</b> Jared Abrams		<b>Department:</b> Legal		<b>Phone:</b> 541-2128	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Originating Department	Legal	541-2128	Budget	<i>[Signature]</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

Certain traffic violations currently require appearances in Court irrespective of whether the violator wishes to plead guilty and avoid a court appearance. By converting certain traffic related violations into penalty assessments, this will allow the violator to sign a penalty assessment which constitutes an acknowledgment of guilt and, after payment of the prescribed penalty, is a complete satisfaction of the violation. The purpose of this is to both save the public time and the Municipal Court resources by allowing a violator to plead guilty without a court appearance.

**SUPPORT INFORMATION:**

<b>Fund Name / Account Number</b>	<b>Amount of Expenditure</b>	<b>Budget Amount</b>
N/A	N/A	N/A

1. Ordinance.
2. Ordinance in legislative format, Attachment "1."

**OPTIONS / ALTERNATIVES:**

1. Adopt the ordinance. Adoption means that the listed violations of the Las Cruces Municipal Code listed will become penalty assessments.
2. Do not adopt the ordinance. This means that certain violations of the Las Cruces Municipal Code will remain violations which require a court appearance.
3. Modify the ordinance and provide further direction to staff.

**COUNCIL BILL NO. 11-001**  
**ORDINANCE NO. 2581**

**AN ORDINANCE AMENDING LAS CRUCES MUNICIPAL CODE, SECTION 27-12-14-4 PENALTY ASSESSMENT MISDEMEANOR; DEFINITION; SCHEDULE OF ASSESSMENTS TO ADD CERTAIN VIOLATIONS OF THE LAS CRUCES MUNICIPAL CODE TO THIS ORDINANCE AND THEREBY CONVERT THEM INTO PENALTY ASSESSMENTS AND FURTHER ESTABLISHING THE AMOUNT OF THOSE PENALTY ASSESSMENTS.**

The City Council is informed that:

**WHEREAS**, certain violations of the Las Cruces Municipal Code require a court appearance and do not provide the violator with the option of signing a penalty assessment, thereby acknowledging guilt and avoiding an appearance in court; and

**WHEREAS**, it being both an inconvenience to the public and a poor use of Municipal Court resources to not provide violators of certain municipal ordinances the option of admitting guilt and avoiding a court appearance, LCMC 1997, Section 27-12-14-4 should be amended to add the following violations of Las Cruces Municipal Code:

<u>Name of Offense</u>	<u>Section Violated</u>	<u>Penalty</u>
Clinging to vehicles	27-12-7-3	\$56.00
Deposit of coins	27-12-9-5	56.00
Drive on right side of street – Exceptions	27-12-6-2.1	56.00
Driving on sidewalk and private property	27-12-6-12.17	126.00
Following fire apparatus prohibited	27-12-6-12.14	126.00
Horns and warning devices	27-12-10-1.17	56.00
Limitations on overtaking on the left	27-12-6-2.4	56.00
Limitations on volume of sound emanating from vehicular sound amplification systems	27-12-10-1.52	126.00
Obedience to no-turn signs	27-12-6-5.4	56.00
Operating motorcycles on streets laned for traffic	27-12-7-2	56.00
Parking certain trucks restricted	27-12-6-6.15	56.00
Parking for certain purposes prohibited	27-12-6-6.6	56.00
Parking in alleys	27-12-6-6.4	56.00
Parking meter spaces	27-12-9-3	56.00
Pedestrian obedience to traffic-control devices and traffic regulations	27-12-6-14.1	56.00
Pedestrians right-of-way in crosswalks	27-12-6-14.2	56.00
Prohibited activities while driving	27-12-6-12.18	126.00
Railroad-highway grade crossing violations- All drivers	27-12-6-7.5	126.00
Railroad-highway grade crossing violations- certain vehicles required to always stop – Exceptions	27-12-6-7.7	126.00
Restriction on use of television in motor vehicles	27-12-6-12.11	126.00
Rotary traffic islands	27-12-6-2.10	56.00
Stop lamps, signal lamps and signal devices	27-12-10-1.9	56.00
Stopped or parked vehicles not to interfere with other traffic	27-12-6-6.3	56.00
Stopping for school bus	27-12-6-7.3	126.00
Stopping, standing, or parking prohibited in specified places	27-12-6-6.1	56.00
Turning and stopping movements and required signals	27-12-6-5.8	56.00
Turning on curve or crest of grade prohibited	27-12-6-5.6	56.00
Vehicles turning left at intersection	27-12-6-4.2	76.00
Windshield must be unobstructed and equipped with wipers; windows must be transparent; exceptions	27-12-10-1.12	56.00

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE  
CITY OF LAS CRUCES:**

**(I)**

**THAT LCMC 1997, Section 27-12-14-4 Penalty Assessment Misdemeanor;  
definition; schedule of assessments shall be amended to read as follows:**

<b>Name of Offense</b>	<b>Section Violated</b>	<b>Penalty</b>
Additional Parking Regulations	27-12-6-6.2	\$56.00
Brakes	27-12-10-1.16	56.00
Careless driving (due care)	27-12-6-12.4	176.00
Child passenger restraint	27-12-6-13.12	76.00
Clinging to vehicles	27-12-7-3	56.00
Crossing at other than crosswalks	27-12-6-14.4	56.00
Deposit of coins	27-12-9-5	56.00
Dimming lights	27-12-10-1.6	56.00
Display of current valid registration plate	27-12-10-4	126.00
Drive on right side of street – Exceptions	27-12-6-2.1	56.00
Driving on divided street	27-12-6-2.14	56.00
Driving on sidewalk and private property	27-12-6-12.17	126.00
Driving on streets laned for traffic (lane change)	27-12-6-2.12	56.00
Emerging from alley, bldg, driveway or private road (FTY)	27-12-6-7.1	56.00
Evidence of registration	27-12-10-5	56.00
Eye protection devices or windshields	27-12-7-5	56.00
Following fire apparatus prohibited	27-12-6-12.14	126.00
Following too closely	27-12-6-2.13	126.00
Further limit, on driving left on center of street	27-12-6-2.5	56.00
Headlamps on motor vehicles	27-12-10-1.5	56.00
Horns and warning devices	27-12-10-1.17	56.00
Lights and applications to vehicles and pedestrians (red light)	27-12-5-6	126.00
Limitations on backing	27-12-6-12.9	56.00
Limitations on overtaking on the left	27-12-6-2.4	56.00
Limitations on volume of sound emanating from vehicular sound amplification systems	27-12-10-1.52	126.00
Limitations on turning around (U-turn)	27-12-6-5.5	56.00
Mandatory financial responsibility (no insurance)	27-12-10-6	276.00
Mandatory use of protective helmet	27-12-7-6	56.00
Mandatory use of seat belts	27-12-6-13.13	76.00
Minimum speed regulation	27-12-6-1.5	56.00
Muffler/prevention of noise/emission control device	27-12-10-1.10	56.00
No passing zones and restrictions on passing	27-12-6-2.7	126.00
Obedience to no-turn signs	27-12-6-5.4	56.00
Obedience to required traffic-control devices	27-12-5-3	126.00
Obedience to signs designating one-way streets alleys	27-12-6-2.9	56.00
Obstruction to driver's view or driving mechanism	27-12-6-12.10	56.00
Operating motorcycles on streets laned for traffic	27-12-7-2	56.00
Operation of vehicle on approach of emergency vehicle	27-12-6-7.4	126.00
Operators and chauffeurs must be licensed (no driver's license)	27-12-6-12.5	126.00
Overtaking vehicle on left	27-12-6-2.3	56.00
Parking adjacent to public buildings	27-12-6-6.17	56.00
Parking certain trucks restricted	27-12-6-6.15	56.00
Parking for certain purposes prohibited	27-12-6-6.6	56.00
Parking in alleys	27-12-6-6.4	56.00
Parking in designated disabled spaces	27-12-9-9	126.00
Parking in fire lanes prohibited	27-12-6-6.16	126.00
Parking meter spaces	27-12-9-3	56.00
Pedestrian obedience to traffic-control devices and traffic regulations	27-12-6-14.1	56.00
Pedestrians right-of-way in crosswalks	27-12-6-14.2	56.00
Permitting unauthorized persons to drive	27-12-6-12.23	56.00
Processions	27-12-6-12.20	56.00
Prohibited activities while driving	27-12-6-12.18	126.00
Racing on streets	27-12-6-12.19	276.00
Railroad-highway grade crossing violations- All drivers	27-12-6-7.5	126.00

Railroad-highway grade crossing violations- certain vehicles required to always stop – Exceptions	27-12-6-7.7	126.00
Required position and method of turning at intersection	27-12-6-5.1	126.00
Requirement for headlamps and auxiliary lamps	27-12-10-1.32	56.00
Restriction on use of television in motor vehicles	27-12-6-12.11	126.00
Rotary traffic islands	27-12-6-2.10	56.00
Special speed limitations	27-12-6-1.7	56.00
Stop lamps, signal lamps and signal devices	27-12-10-1.9	56.00
Stop when traffic obstructed	27-12-6-7.2	56.00
Stopped or parked vehicles not to interfere with other traffic	27-12-6-6.3	56.00
Stopping for school bus	27-12-6-7.3	126.00
Stopping, standing, or parking prohibited in specified places	27-12-6-6.1	56.00
Tail lamps	27-12-10-1.7	56.00
Traffic lanes	27-12-5-14	56.00
Transporting persons in bed of unenclosed truck prohibited	27-12-6-13.15	126.00
Turning and stopping movements and required signals	27-12-6-5.8	56.00
Turning on curve or crest of grade prohibited	27-12-6-5.6	56.00
Vehicle approaching or entering intersection (FTY)	27-12-6-4.1	76.00
Vehicle entering stop or yield intersection (stop sign)	27-12-6-4.3	126.00
Vehicles turning left at intersection	27-12-6-4.2	76.00
When lighted lamps (headlights) are required	27-12-10-1.3	56.00
When overtaking on right is permitted	27-12-6-2.6	56.00
Windshield must be unobstructed and equipped with wipers; windows must be transparent; exceptions	27-12-10-1.12	56.00

(II)

THAT City staff is authorized to do all deeds necessary to accomplish the intent of this Ordinance.

DONE AND APPROVED on this \_\_\_\_ day of July, 2010.

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

\_\_\_\_\_  
Mayor

VOTE:

- Mayor Miyagishima: \_\_\_\_\_
- Councillor Silva: \_\_\_\_\_
- Councillor Connor: \_\_\_\_\_
- Councillor Pedroza: \_\_\_\_\_
- Councillor Small: \_\_\_\_\_
- Councillor Sorg: \_\_\_\_\_
- Councillor Thomas: \_\_\_\_\_

APPROVED AS TO FORM:

*[Signature]*  
\_\_\_\_\_  
City Attorney

**Sec. 27-12-14-4. Penalty assessment misdemeanor; definition; schedule of assessments.**

A. As used in this chapter a "penalty assessment misdemeanor" means violation of any of the following listed sections of this chapter for which the listed penalty assessment is established.

Fine schedule for speeding violations.

Speeding—Basic charge \$75.00, plus \$2.00 per mile for each mile in excess of ten miles over the speed limit.

School zone—Basic charge \$126.00, plus \$2.00 per mile for each mile in excess of ten miles over the speed limit.

Other violations.

The basic charge to the violations listed below are:

<u>Name of Offense</u>	<u>-Section Violated</u>	<u>Penalty</u>
Additional Parking Regulations	27-12-6-6.2	\$56.00
Brakes	27-12-10-1.16	56.00
Careless driving (due care)	27-12-6-12.4	176.00
Child passenger restraint	27-12-6-13.12	76.00
<u>Clinging to vehicles</u>	<u>27-12-7-3</u>	<u>56.00</u>
Crossing at other than crosswalks	27-12-6-14.4	56.00
<u>Deposit of coins</u>	<u>27-12-9-5</u>	<u>56.00</u>
Dimming lights	27-12-10-1.6	56.00
Display of current valid registration plate	27-12-10-4	126.00
<u>Drive on right side of street – Exceptions</u>	<u>27-12-6-2.1</u>	<u>56.00</u>
Driving on divided street	27-12-6-2.14	56.00
<u>Driving on sidewalk and private property</u>	<u>27-12-6-12.17</u>	<u>126.00</u>
Driving on streets laned for traffic (lane change)	27-12-6-2.12	56.00
Emerging from alley, bldg, driveway or private road (FTY)	27-12-6-7.1	56.00
Evidence of registration	27-12-10-5	56.00
Eye protection devices or windshields	27-12-7-5	56.00
<u>Following fire apparatus prohibited</u>	<u>27-12-6-12.14</u>	<u>126.00</u>
Following too closely	27-12-6-2.13	126.00
Further limit, on driving left on center of street	27-12-6-2.5	56.00
Headlamps on motor vehicles	27-12-10-1.5	56.00
<u>Horns and warning devices</u>	<u>27-12-10-1.17</u>	<u>56.00</u>
Lights and applications to vehicles and pedestrians (red light)	27-12-5-6	126.00
Limitations on backing	27-12-6-12.9	56.00
<u>Limitations on overtaking on the left</u>	<u>27-12-6-2.4</u>	<u>56.00</u>
Limitations on turning around (U-turn)	27-12-6-5.5	56.00

<u>Limitations on volume of sound emanating from vehicular sound amplification systems</u>	27-12-10-1.52	126.00
Mandatory financial responsibility (no insurance)	27-12-10-6	276.00
Mandatory use of protective helmet	27-12-7-6	56.00
Mandatory use of seat belts	27-12-6-13.13	76.00
Minimum speed regulation	27-12-6-1.5	56.00
Muffler/prevention of noise/emission control device	27-12-10-1.10	56.00
No passing zones and restrictions on passing	27-12-6-2.7	126.00
<u>Obedience to no-turn signs</u>	27-12-6-5.4	56.00
Obedience to required traffic-control devices	27-12-5-3	126.00
Obedience to signs designating one-way streets alleys	27-12-6-2.9	56.00
Obstruction to driver's view or driving mechanism	27-12-6-12.10	56.00
<u>Operating motorcycles on streets laned for traffic</u>	27-12-7-2	56.00
Operation of vehicle on approach of emergency vehicle	27-12-6-7.4	126.00
Operators and chauffeurs must be licensed (no driver's license)	27-12-6-12.5	126.00
Overtaking vehicle on left	27-12-6-2.3	56.00
Parking adjacent to public buildings	27-12-6-6.17	56.00
<u>Parking in fire lanes certain trucks restricted</u>	27-12-6-6.15	56.00
<u>Parking for certain purposes prohibited</u>	27-12-6-6.16	126.00
	56.00	
<u>Parking in alleys</u>	27-12-6-6.4	56.00
Parking in designated disabled spaces	27-12-9-9	126.00
<u>Parking in fire lanes prohibited</u>	27-12-6-6.16	126.00
<u>Parking meter spaces</u>	27-12-9-3	56.00
<u>Pedestrian obedience to traffic-control devices and traffic regulations</u>	27-12-6-14.1	56.00
<u>Pedestrians right-of-way in crosswalks</u>	27-12-6-14.2	56.00
Permitting unauthorized persons to drive	27-12-6-12.23	56.00
Processions	27-12-6-12.20	56.00
<u>Prohibited activities while driving</u>	27-12-6-12.18	126.00
Racing on streets	27-12-6-12.19	276.00
Requirement for headlamps and auxiliary lamps	27-12-10-1.32	56.00
<u>Railroad-highway grade crossing violations- All drivers</u>	27-12-6-7.5	126.00
<u>Railroad-highway grade crossing violations- certain vehicles required to always stop – Exceptions</u>	27-12-6-7.7	126.00
Required position and method of turning at intersection	27-12-6-5.1	126.00
<u>Requirement for headlamps and auxiliary lamps</u>	27-12-10-1.32	56.00
<u>Restriction on use of television in motor vehicles</u>	27-12-6-12.11	126.00
<u>Rotary traffic islands</u>	27-12-6-2.10	56.00
Special speed limitations	27-12-6-1.7	56.00
<u>Stop lamps, signal lamps and signal devices</u>	27-12-10-1.9	56.00
Stop when traffic obstructed	27-12-6-7.2	56.00
<u>Stopped or parked vehicles not to interfere with other traffic</u>	27-12-6-6.3	56.00
<u>Stopping for school bus</u>	27-12-6-7.3	126.00
<u>Stopping, standing, or parking prohibited in specified places</u>	27-12-6-6.1	56.00
Tail lamps	27-12-10-1.7	56.00
Traffic lanes	27-12-5-14	56.00

Transporting persons in bed of unenclosed truck prohibited	27-12-6-13.15	126.00
<del>When overtaking on right is permitted</del>	<del>27-12-6-2.6</del>	<del>56.00</del>
<u>Turning and stopping movements and required signals</u>	<u>27-12-6-5.8</u>	<u>56.00</u>
<u>Turning on curve or crest of grade prohibited</u>	<u>27-12-6-5.6</u>	<u>56.00</u>
Vehicle approaching or entering intersection (FTY)	27-12-6-4.1	76.00
Vehicle entering stop or yield intersection (stop sign)	27-12-6-4.3	126.00
<u>Vehicles turning left at intersection</u>	<u>27-12-6-4.2</u>	<u>76.00</u>
When lighted lamps (headlights) are required	27-12-10-1.3	56.00
<u>When overtaking on right is permitted</u>	<u>27-12-6-2.6</u>	<u>56.00</u>
<u>Windshield must be unobstructed and equipped with wipers;</u> <u>windows must be transparent; exceptions</u>	<u>27-12-10-1.12</u>	<u>56.00</u>

B. The term "penalty assessment misdemeanor" does not include any violation:

- (1) Of speeding in excess of 25 miles an hour in excess of the speed limit; or
- (2) Which has caused or contributed to the cause of an accident resulting in injury or death to any person.

C. Whenever 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.

(Ord. No. 2121, § XIV, 7-19-04)