

# CITY OF RIO COMMUNITIES

ORDINANCE NUMBER 2013-01

July 23<sup>rd</sup> 2013

## SECTION 1-1

### GENERAL PROVISIONS OF MUNICIPALITY

- 1-1-1 ADOPTION OF CODE OF ORDINANCES
- 1-1-2 HOW CODE DESIGNATED AND CITED
- 1-1-3 DEFINITIONS AND RULES OF CONSTRUCTION
- 1-1-4 AMENDMENTS
- 1-1-5 SEVERABILITY
- 1-1-6 EFFECT OF HEADINGS
- 1-1-7 REPEAL
- 1-1-8 EFFECT OF REPEALING ORDINANCES
- 1-1-9 CORPORATE SEAL
- 1-1-10 GENERAL PENALTY AND CONTINUING VIOLATIONS
- 1-1-11 SUMMONS
- 1-1-12 SUSPENSION OF SENTENCE - PROBATION
- 1-1-13 PROCEDURES FOR ISSUANCE OF ORDINANCE VIOLATION  
CITATION
- 1-1-14 FAILURE TO OBEY CITATIONS
- 1-1-15 PROCEDURE PRESCRIBED HEREIN NOT EXCLUSIVE
- 1-1-16 PENALTY

#### 1-1-1 ADOPTION OF CODE OF ORDINANCES.

- A. There is hereby adopted by the City of Rio Communities, New Mexico, July 23<sup>rd</sup>, 2013 Code of Ordinances, which readopts and codifies certain existing ordinances, with revision and new provisions as therein set forth. From the date on which this Ordinance takes effect, the provisions of the Code of Ordinances hereby adopted shall be controlling within the municipal limits of the City of Rio Communities, New Mexico; and shall have the same force and effect of law as an ordinance or ordinances.
- B. The Code of Ordinances shall be at the office of the City Clerk in the City of Rio Communities Office, City of Rio Communities, and may be inspected during normal and regular business hours of the City Clerk.

#### 1-1-2 HOW CODE DESIGNATED AND CITED.

The Ordinances embraced in this and the following chapters, articles, and sections shall constitute and be designated "The Code of the City of Rio Communities, New Mexico", and may be so cited. Such Ordinances may also be cited as "City of Rio Communities Code".

### **1-1-3 DEFINITIONS AND RULES OF CONSTRUCTION**

In the construction of the Code and of all ordinances, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section or ordinance, or unless inconsistent with the manifest intent of the ordinance:

- A. "Agent" means a person acting on behalf of another;
- B. "City" or "this City" means the City of Rio Communities;
- C. "Code" means "The Code of the City of Rio Communities" as adopted and subsequently amended, unless the context requires otherwise;
- D. "Council" means the Governing Body of the City of Rio Communities.
- E. "The County" or "this County" means the County of Valencia, New Mexico;
- F. "Day" means the period of time between any midnight and the midnight following;
- G. "Daytime" means the period of time between sunrise and sunset;
- H. "Nighttime" means the period of time between sunset and sunrise;
- I. "Employee" means an employee of the City of Rio Communities;
- J. "Fee" means the sum of money charged by the municipality for the carrying on of a business, profession or occupation;
- K. "Month" means a calendar month;
- L. "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed";
- M. "Owner" , when applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of such building or land;
- N. "Person" means any individual, association, society, club, firm, partnership, corporation, or any other form of association or organization;

- O. "Personal Property" means every species of property except real property, as herein defined; "Preceding" and "Following" mean next before and next after, respectively;
- P. "Property" means real, tangible and intangible personal property;
- Q. "Real Property" means land, tenements and hereditary;
- R. "Shall" is mandatory and "May" is permissive;
- S. "Sidewalk" means any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians;
- T. "State" means the State of New Mexico;
- U. "Street" means any thoroughfare that can accommodate pedestrian or vehicular traffic, is open to the public and is under the control of the municipality;
- V. "Tenant" or "Occupant", when applied to a building or land, includes any person who occupies the whole or part of such building or land, whether alone or with others;
- W. "Written" or "In writing" includes any representation of words, letters or figures, whether in printing or otherwise;
- X. "Year" means a calendar year, unless otherwise expressed;
- Y. "N.M.S.A., 1978" means New Mexico Statutes Annotated, 1978 Compilation.

**1-1-4 AMENDMENTS.**

Portions of all ordinances passed subsequent to the effective date of this Code, which amend, repeal, or in any way effect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. In the case of repealed Chapters, Sections and Sub-Sections of the Code or any part thereof by subsequent ordinances, the repealed portions may be excluded from the Code by omission from the reprinted pages affected.

Amendments to any of the provisions of this Code may be made by adoption of an ordinance amending such provisions by specific reference to the Section number of this Code in substantially the following language: "That Section \_\_\_\_\_ of the Code of Ordinances, City of Rio Communities, New Mexico, is hereby amended to read as follows:

." The new section shall then be set out in full as desired.

The procedure for amending codes adopted by reference by this Code shall be the same procedures provided by law for adoption of ordinances.

**1-1-5            SEVERABILITY.**

The provisions of this Code are hereby declared to be severable, unless otherwise stated in this Code. If any section, provision, or part of this Code is held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional or invalid matter had not been included. It is further declared that if any provision or part of this Code, or the application of the Code to any person or circumstances, is held invalid, the remainder of this Code and the application of this code to other persons shall not be affected thereby.

**1-1-6            EFFECT OF HEADINGS.**

Headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Code.

**1-1-7            REPEAL.**

All ordinances and parts of ordinances of a general and permanent nature adopted by the municipality before the effective date of this Code, are hereby repealed; provided, however, that any ordinances establishing salaries, establishing any contract right, authorizing the issuance of any bonds or evidence of indebtedness of the municipality relating to the annual appropriation of the annual tax levy, granting any franchise, annexing territory to the municipality, naming streets or alleys, creating or assessing any local improvements district, or authorizing the sale, purchase or lease of property by the municipality, shall not be considered to be ordinances of a general and permanent nature and the same are not hereby repealed.

**1-1-8            EFFECT OF REPEALING ORDINANCES.**

The repeal of any provision of this Code shall not affect any right which has accrued, any duty imposed, any penalty incurred, nor any action or proceedings as commenced under or by virtue of the provision repealed, nor the tenure of an office of any person holding office at the time when such repeal shall take effect. The repeal of any provision of this Code shall not revive any provision of any ordinance theretofore repealed or superseded.

**1-1-9            CORPORATE SEAL.**

The Corporate Seal for the municipality shall be as follows:

**1-1-10            GENERAL PENALTY AND CONTINUING VIOLATIONS.**

Whenever in this Code or any other ordinances or resolutions of the municipality or any rule or regulation promulgated under the provisions of this Code any act is prohibited or declared to be unlawful or an offense or a misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provide therefore, any person who shall be convicted of the violation of any such provision of this Code or other ordinances or resolutions of the municipality hereafter enacted or of such rules or regulations shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in jail not exceeding ninety (90) days or by both such fine and imprisonment. Every day any violation of this Code or any other ordinance or resolution of the municipality or any rule or regulation promulgated under the provisions of this Code shall constitute a separate offense.

**1-1-12            SUMMONS.**

In cases involving alleged violations of any provision of this Code not amounting to a breach of peace, the first process shall be a citation or summons requiring the party charged to appear before the Municipal Court at a time fixed in the citation or summons. Should the party charged fail to appear as required, a warrant for his or her arrest shall be forthwith issued by the Municipal Judge for the offense specified in the citation or summons, commanding that the party charged shall be arrested and be taken before the Court to be tried for the alleged offense, or be allowed to post an appropriate bond.

**1-1-12            SUSPENSION OF SENTENCE-PROBATION.**

Upon entry of a plea of guilty or judgment of conviction, the Municipal Court may suspend, in whole or in part, the execution of sentence, or may place the defendant on probation for a period not exceeding one (1) year, on conditions the court deems best, or both; provided that suspension of execution of the sentence or probation, or both, shall be granted only when the Municipal Judge is satisfied it will serve the ends of justice and of the public, and that the defendant's liability for any fine or other punishment imposed is fully discharged upon successful completion of the terms and conditions of probation.

**1-1-13**            **PROCEDURES FOR ISSUANCE OF ORDINANCE VIOLATION CITATION.**

A.        Procedure for Police *Officers*. Whenever a person is cited by a Police Officer after violating an ordinance of the City of Rio Communities not amounting to a breach of the peace punishable by fine and/or imprisonment, the citing Police Officer will prepare, in triplicate, the Ordinance Violation Citation form. This form will be provided by the City of Rio Communities, and is a written notice to appear in Municipal Court. Said citation shall contain the name, address, telephone number, driver's license number or social security number of the person accused; the number of the ordinance alleged violation; names and addresses of any witnesses; and the date, time and place of the court hearing the citation.

At the time the citation is written, the Officer shall deliver a copy of the Ordinance Violation Citation to the person accused.

B.        Procedure for the Mayor or his Designated Agents. Whenever the Mayor or his designated agent(s) has probable cause to believe that a person has violated any ordinance of the City of Rio Communities excluding traffic violations not amounting to a breach of the peace, but punishable by fine and/or imprisonment, the Mayor or his designated agent(s) shall prepare in triplicate the Ordinance Violation Citation form which is described in 1-1-13 (A) of this section. At the time the citation is written, the Mayor or his designated agent(s) shall deliver a copy of the Ordinance Violation Citation to the accused.

**1-1-14**            **FAILURE TO OBEY CITATIONS.**

It shall be unlawful for any person to fail to appear at the court hearing which is set on the Ordinance Violation Citation regardless of the disposition of the charge for which the citation was originally issued.

**1-1-15**            **PROCEDURE PRESCRIBED HEREIN NOT EXCLUSIVE.**

The foregoing provisions of this code shall not be exclusive of any other method prescribed by law for the prosecution of a person for a violation of any City Ordinance of the City of Rio Communities or for a violation of any other law within the power of the City to enforce.

**1-1-16**            **PENALTY.**

Any person found guilty of violating any of the provisions of this code shall be guilty of a misdemeanor and he fined not more than five hundred dollars (\$500.00) or imprisoned for a period of not more than ninety (90) days, or both fine and imprisonment.

**PASSED, APPROVED AND ADOPTED** 13<sup>th</sup> DAY OF August, 2013.

  
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Mayor  
City of Rio Communities

**ATTEST:**

  
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Mayor Pro Tem  
City of Rio Communities

Effective Date 8-13-13