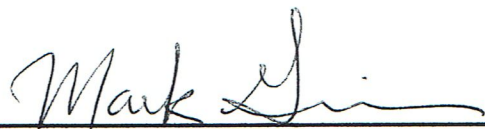


Rio Communities
Criminal Code
Ordinance Number 2013 15
DATE 10-22-13

Approved, Adopted and Signed this 27 day of
October, 2013 by the Governing Body of the
City of Rio Communities.



Mark Gwinn, Mayor
City of Rio Communities



Mary Lee Serna, Mayor Pro Tem
City of Rio Communities

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OFFENSES IN GENERAL

SECTION 10-101 FAILURE TO APPEAR ON A CITATION

It is a petty misdemeanor for a person signing a citation not to appear at the time and place stated in the citation regardless of the disposition of the offense for which the citation was issued. A written promise to appear may be complied with by appearance of counsel.

SECTION 10-102 FAILURE TO APPEAR ON A PETTY MISDEMEANOR CHARGE

Any person released pending trial or appeal in any criminal action who fails to appear before any court or judicial officer as required is guilty of a petty misdemeanor, if he was released in connection with a charge of a misdemeanor or a petty misdemeanor.

SECTION 10-103 FAILURE TO PAY

Any person upon whom any fine or penalty is imposed may, upon order of the court convicting him, be committed to the county jail or municipal jail or other place provided by the municipality for the incarceration of offenders until the fine or penalty is fully paid. The imprisonment shall not exceed ninety days for any one offense.

SECTION 10-104 RESERVED

SECTION 10-105 AIDING IN AN OFFENSE.

When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense, or misdemeanor, and punishable in the same manner as the principal offender.

SECTION 10-107 COMPOUNDING A CRIME.

Compounding a crime consists of knowingly agreeing to take anything of value upon the agreement or understanding, express or implied, to compound or conceal a crime or to abstain from a prosecution therefor, or to withhold any evidence thereof

SECTION 10-108 "OFFENSE" DEFINED.

The word "offense", whenever used in this code or in any title, chapter or ordinance of the city means the unlawful act of doing, or failing to do, some particular act or thing the result of which is a violation of this ordinance.

OFFENSES AGAINST PROPERTY

SECTION 10-201 ACCOMMODATIONS AND SERVICES, FALSELY OBTAINING

Falsely obtaining services or accommodations consists of any person obtaining any service, petroleum product, food, entertainment or accommodations of a value of \$100 or less without paying thereof, and with intent to cheat the owner or person supplying such service, petroleum product, food, entertainment or accommodations.

SECTION 10-202 ARSON

Arson consists of maliciously or willfully starting a fire or causing an explosion with the purpose of destroying or damaging any building, occupied structure or property of another, or bridge, utility line, fence or sign; or with the purpose of destroying or damaging any property, whether the person's own or another's, to collect insurance for such loss.

Whoever commits arson or negligent arson when the value of the thing destroyed or damaged is one hundred dollars (\$100) or less is guilty of a petty misdemeanor.

SECTION 10-203 POSSESSION OF A CREDIT CARD STOLEN, LOST, MISLAID OR DELIVERED BY MISTAKE.

A person other than the issuer who receives or possesses a credit card that he knows or has reason to know to have been stolen, lost, mislaid or delivered under a mistake as to the identity or address of the cardholder, and who retains possession thereof with the intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder, is guilty of a petty misdemeanor.

SECTION 10-204 CRIMINAL DAMAGE TO PUBLIC AND PRIVATE PROPERTY

(1) Criminal damage to private property consists of intentionally damaging to a value of less than \$1,000 any real or personal property of another without consent of the person lawfully in possession of the property. This section shall include but not be limited to automobiles and other vehicles.

(2) Criminal damage to public property consists of intentionally damaging to a value of less than \$1,000 any real or personal property of the City of Eunice, County of Lea, State of New Mexico or the United States Government, without the

consent of the owner thereof.

SECTION 10-205 RESERVED

SECTION 10-206 EMBEZZLEMENT

Embezzlement consists of the embezzling or converting to his own use anything of value, with which he has been entrusted, with fraudulent intent to deprive the owner thereof, when the value of the thing embezzled or converted is One Hundred Dollars (\$100) or less.

SECTION 10-207 UNLAWFUL REMOVAL OF EFFECTS.

Unlawful removal of effects consists of any person removing or causing to be removed any baggage or effects from any hotel, motel, trailer park, inn, rented dwelling or boardinghouse while there is a lien existing thereon for the proper charges due for fare or board furnished from such hotel, motel, trailer park, inn, rented dwelling or boardinghouse, and where the owner or person in possession of such baggage or effects is given actual notice of the fact of such lien, or where notice of such lien has been conspicuously posted upon the premises adjacent to such baggage or effects, giving notice of the fact of such lien and the amount thereof.

SECTION 10-208 IMPROPER SALE DISPOSAL, REMOVAL OR CONCEALING OF ENCUMBERANCE

A. Improper sale, disposal, removal or concealing of encumbered property valued at One Hundred Dollars (\$100) or less is a petty misdemeanor.

B. Improper sale, disposal, removal or concealing of encumbered property consists of any person knowingly, and with intent to defraud, selling, transferring, removing or concealing, or in any manner disposing of any personal property upon which a security interest, chattel mortgage or other lien or encumbrance has attached or been retained, without the written consent of the holder of such security interest, chattel mortgage, conditional sales contract, lien or encumbrance.

SECTION 10-209 IMPROPER HANDLING OF FIRES

Improper handling of fire consists of:

- (a) setting fire, or causing or procuring a fire to be set to any inflammable

vegetation growing or being on the lands of another and without the permission of the owner thereof;

(b) allowing fire to escape or spread from the control of the person having charge thereof without using reasonable and proper precaution to prevent such fire from escaping or spreading;

(c) burning any inflammable vegetation whether upon his own land or that of another person, without using proper and reasonable precaution at all times to prevent the escape of such fire;

(d) causing a fire to be started in any inflammable vegetation growing or being upon lands of another person, by means of any lighted cigar, cigarette, match or other manner, and leaving such fire unquenched.

Provided nothing herein shall constitute improper handling of fire where the fire is a backfire set for the purpose of stopping the progress of a fire then actually burning. Whoever commits improper handling of fire is guilty of a petty misdemeanor.

SECTION 10-210 INTERFERENCE WITH FIRE HYDRANTS.

A. It is unlawful for any person except one duly authorized by the city or a member of the fire department to open, turn on or off, interfere with, attach any pipe or hose to, or connect anything with, any fire hydrant belonging to the city. Nothing in this section prohibits the City from issuing permits for Contractor hookups.

B. It is unlawful for any person to obstruct free access to any fire hydrant in the city. The obstructions prohibited in this section include but are not limited to those caused by placement of boxes, cartons, or other containers, or brick, lumber or dirt near or around such hydrants, or the growth of grass, seeds or plants near the fire hydrants.

C. It is unlawful to interfere with the proper functioning of a fire alarm system or to interfere with the lawful efforts of firefighters to extinguish a fire.

SECTION 10-211 FRAUD

Fraud consists of the intentional misappropriation or taking of anything of value which belongs to another by means of fraudulent conduct, practices or representations, when the value of the thing misappropriated or taken is One Hundred Dollars (\$100) or less.

SECTION 10-212 GRAFFITI

Graffiti consists of intentionally and maliciously defacing any real or personal property of another with graffiti or other inscribed material inscribed with ink, paint, spray paint, crayon, charcoal or the use of any object without the consent or reasonable ground to believe there is consent of the owner of the property.

Whoever commits graffiti to real or personal property when the damage to the property is one thousand dollars (\$1,000) or less is guilty of a petty misdemeanor and shall be required to perform a mandatory one hundred hours of community service within a continuous six-month period immediately following his conviction and shall be required to make restitution to the property owner for the cost of damages and restoration.

SECTION 10-213 LARCENY

Larceny is the taking of anything of value which belongs to another, when the value of the thing stolen is One Hundred Dollars (\$100) or less. Whoever commits larceny is guilty of a petty misdemeanor.

SECTION 10-214 LITTERING

REFUSE DEFINED:

Refuse means any article or substance

- A. which is commonly discarded as waste, or
- B. which, if discarded on the ground will create or contribute to an unsanitary, offensive or unsightly condition.

Refuse includes, but is not limited to, the following items or classes of items: waste food; waste paper; and paper products; cans, bottles or other containers; junked household furnishings and equipment; junked parts or bodies of automobiles and other metallic junk or scrap; portions or carcasses of dead animals; and collections of ashes, dirt, yard trimmings or other rubbish.

Littering consists of discarding refuse:

- (1) on public property in any manner other than by placing the refuse in a receptacle whose use is approved by the public authority, or
- (2) on private property not owned or lawfully occupied or controlled by the person, except with the consent of the owner, lessee or occupant thereof.

Whoever commits littering is guilty of a petty misdemeanor.

Any jail sentence imposed pursuant to this ordinance may be suspended, in the discretion of the judge, upon conditions that the offender assist in litter clean up in the City for a period not to exceed the length of the suspended sentence.

SECTION 10-215 TAMPERING WITH OR DAMAGING PUBLIC UTILITIES,
LARCENCY.

A. It is unlawful for any person to adjust, connect, disconnect, molest, injure, destroy or in any way tamper with any water or gas pipe or apparatus, any telephone or cable pole or apparatus, meter loop, riser or connection belonging thereto, or any water, gas or electric meter or meter box or housing, or any pipe, wire, conduit or connection belonging thereto, or any other part of water, gas, cable or electrical system, or to do any act or use any contrivance to prevent or affect correct and proper registration by any such meter. This shall not apply to officers and employees of the city or of any person, firm or corporation owning or operating such water, gas, cable or electric system, acting in line of duty.

B. No person shall, without lawful authority, make any splice, tap or other connection into or on any cable, wire, pipe or other connection into or on any cable, wire, pipe or other service furnished to the residents of the City by the City or by any person, firm or corporation operating in the City under a valid permit issued by the City.

C. Any person who with intent to defraud, makes or causes to be made any pipe, wire, or other instrument or contrivance and connects the same or causes the same to be connected with any pipe provided for the purpose of conducting water or gas, or with any wire or other electrical conductor provided for the purpose of conducting electricity or cable signals, so as to conduct such gas, water, cable, or electric current, to a point where the same may be consumed, without its passing through meters provided for registering the quantity consumed, or in any manner so as to evade payment therefor, whether the gas, water, cable or electrical current is furnished through a meter or not, shall be guilty of an offense. Every person who, with like intent, injures or alters any gas, electric or water meter or obstructs its action, is guilty of a petty misdemeanor.

SECTION 10-216 RECEIVING STOLEN PROPERTY.

A. Receiving stolen property means intentionally to receive, retain or dispose of stolen property with a value of One Hundred Dollars (\$100) or less knowing that it has been stolen or believing it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

SECTION 10-217 RENTED OR LEASED PERSONAL PROPERTY,
FRAUDULENT ACTS TO OBTAIN OR RETAIN

Any person who rents or leases personal property and obtains or retains

possession of it by means of any false or fraudulent representation, fraudulent concealment, false pretense or impersonation, trick, artifice or device, including but not limited to a false representation as to his name, residence, employment or operator's license is guilty of a petty misdemeanor if the property has a value of One Hundred Dollars (\$100) or less.

SECTION 10-218 FRAUDULENT REFUSAL TO RETURN PERSONAL PROPERTY

Any person who, after leasing personal property under a written agreement which provides for the return of the personal property to a particular place at a particular time and who, with intent to defraud the lessor of the personal property, fails to return the personal property to the place within the time specified, is guilty of a petty misdemeanor if the property has a value of One Hundred Dollars (\$100) or less.

SECTION 10-219 PLACING SIGNS ON PROPERTY OF ANOTHER.

It is unlawful for any person to place, stick, tack, paste, post, paint, mark, write or print any sign, poster, picture, announcement, advertisement, bill placard, device or inscription upon any public or private building, fence, sidewalk, bridge, viaduct, post, automobile, other vehicle or other property of another, without the consent of the owner or person in charge thereof.

SECTION 10-220 SHOPLIFTING

SHOPLIFTING DEFINITIONS:

- (a) "store" means a place where merchandise is sold or offered to the public for sale at retail;
- (b) "merchandise" means chattels of any type or description regardless of the value offered for sale in or about a store; and
- (c) "merchant" means any owner or proprietor of any store, or any agent, servant or employee of the owner or proprietor.

Shoplifting consists of any one or more of the following acts:

- (1) willfully taking possession of any merchandise with the intention of converting it without paying for it;
- (2) willfully concealing any merchandise with the intention of converting it

without paying for it;

(3) willfully altering any label, price tag or marking upon any merchandise with the intention of depriving the merchant of all or some part to the value of it; or

(4) willfully transferring any merchandise from the container in or on which it is displayed to any other container with the intention of depriving the merchant of all or some part of the value of it.

Whoever commits shoplifting when the value of the merchandise shoplifted is One Hundred Dollars (\$100) or less is guilty of a petty misdemeanor.

OFFENSES AGAINST THE PUBLIC

SECTION 10-301 ATHLETIC EVENTS, INTERFERENCE WITH

Interference with athletic event consists of intentionally throwing any object on or across the field of play of an athletic event with the intent to interfere with the normal conduct of that event while the contestants of that event are on that field. As used in this section, "athletic event" means a scheduled sports event for which an admission fee is charged to the public.

Any person other than an official or a contestant of an athletic event who commits interference with (an) athletic event is guilty of a petty misdemeanor.

SECTION 10-302 RESERVED

SECTION 10-303 CONCEALING IDENTITY

Concealing identity consists of concealing one's true name or identity, or disguising oneself with intent to intimidate, hinder or interrupt any public officer or any other person in a legal performance of his duty or the exercise of his rights under the laws of the United States or of this state.

Whoever commits concealing identity is guilty of a petty misdemeanor.

SECTION 10-304 RESERVED

SECTION 10-305 DISORDERLY CONDUCT

Disorderly conduct consists of:

- A. engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace; or
- B. maliciously disturbing, threatening or, in an insolent manner, intentionally touching any house occupied by any person

Whoever commits disorderly conduct is guilty of a petty misdemeanor.

SECTION 10-306 DISTURBING LAWFUL ASSEMBLY

Disturbing lawful assembly consists of:

- (a) disturbing any religious society or any member thereof when assembled

or collected together in public worship, or

(b) disturbing any meeting of the people assembled for any legal object.

Whoever commits disturbing lawful assembly is guilty of a petty misdemeanor.

SECTION 10-307 DRINKING IN PUBLIC

Drinking in public consists of drinking or consuming alcoholic liquors (as the term is defined in Section 60-3A-3, N.M.S.A. 1978 Comp., as amended):

(a) In any city owned park, except a park in which drinking is expressly permitted by resolution; or

(b) In any public way, except a public way within a city owned park in which drinking is expressly permitted by permit.

For the purpose of this section, "public way" is defined as the entire width between the property lines of every way publicly maintained when any part thereof is customarily open to the use of the public for the purposes of vehicular travel and includes the street, sidewalk, and any other area between the curb lines or lateral lines of the roadway and the adjacent property lines; or

(c) In any city owned parking lot, except a parking lot in a city owned park in which drinking is expressly permitted by resolution; or

(d) Within 100 feet of any establishment licensed to dispense alcoholic liquor.

SECTION 10-308 EXPLOSIVES, NEGLIGENT USE OF

Negligent use of explosives consists of negligently exploding, attempting to explode or placing any explosive in such a manner as to result in injury to another or to property of another, or in the probability of such injury.

Whoever commits negligent use of explosives is guilty of a petty misdemeanor.

SECTION 10-309 RESERVED

SECTION 10-310 INCAPACITATED PERSONS, FALSE REPRESENTATION AS

Falsely representing self as incapacitated consists of any person falsely representing himself to be blind, deaf, dumb, crippled or otherwise physically defective for the purpose of obtaining money or other thing of value.

Whoever commits falsely representing self as incapacitated is guilty of a petty misdemeanor.

SECTION 10-311 FIREWORKS RESTRICTIONS.

The sale and use of missile-type rockets, helicopters, aerial spinners, stick-type rockets and ground audible devices is prohibited within the city limits.

The use of any other permitted fireworks is hereby restricted to areas that are paved or barren or that have a readily accessible source of water for use by the homeowner or general public.

A violation of these restrictions is a petty misdemeanor.

SECTION 10-312 RESERVED

SECTION 10-313 RESERVED

SECTION 10-314 PROPULSION OF MISSILES

Propulsion of missiles consists of shooting, slinging, or throwing stones, rocks, pellets, B-B shots, or any kind of missile, object or substance whatsoever in any manner as to be reasonably likely to cause injury to any person or property.

A violation of this section is a petty misdemeanor.

SECTION 10-315 PROWLING

It is unlawful for any person to loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of person or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify

himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

SECTION 10-316 PUBLIC BUILDINGS OR FACILITIES, INTERFERENCE WITH STAFF, OFFICIALS OR GENERAL PUBLIC

A. No person shall, at or in any building or other facility or property, owned, operated or controlled by any governmental agency, willfully deny to staff, public officials or the general public:

(1) lawful freedom of movement within the building or facility or the land on which it is situated;

(2) lawful use of the building or facility or the land on which it is situated;
or

(3) the right of lawful ingress and egress to the building or facility or the land on which it is situated.

B. No person shall willfully refuse or fail to leave the property of, or any building or other facility owned or controlled by any governmental agency when requested to do so by a lawful custodian of the building, facility or property if the person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful mission, processes, procedures or functions of the property, building or facility.

C. No person shall willfully interfere with the educational process of any public or private school by committing, threatening to commit or inciting others to commit any act which would disrupt, impair, interfere with or obstruct the lawful mission, processes, procedures or functions of a public or private school.

D. Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute.

E. Any person who violates any of the provisions of this section shall be deemed guilty of a petty misdemeanor.

SECTION 10-317 RESERVED

SECTION 10-318 PUBLIC NUISANCE

Public nuisance consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either:

- (a) injurious to public health, safety, morals or welfare; or
- (b) interferes with the exercise and enjoyment of public rights, including the right to use public property.

Whoever commits a public nuisance for which the act or penalty is not otherwise prescribed by law is guilty of a petty misdemeanor.

SECTION 10-319 UNLAWFUL ASSEMBLY

It is unlawful for three or more persons to assemble with intent to do any unlawful act by force or violence against the person or property of another and to make any overt act to carry out such unlawful purpose. Unlawful assembly is a petty misdemeanor.

SECTION 10-320 WEAPONS, NEGLIGENT USE OF DEADLY WEAPONS

A. Negligent use of a deadly weapon consists of:

- (1) discharging a firearm into any building or vehicle or so as to knowingly endanger a person or his property;
- (2) carrying a firearm while under the influence of an intoxicant or narcotic;
- (3) endangering the safety of another by handling or using a firearm or other deadly weapon in a negligent manner; or
- (4) discharging a firearm within one hundred fifty yards of a dwelling or building, without the permission of the owner or lessees thereof.

B. The provisions of Paragraphs (1), (3) and (4) or Subsection A of this section shall not apply to a peace officer or other public employee who is required or authorized by law to carry or use a firearm in the course of his employment and who carries, handles, uses or discharges a firearm while lawfully engaged in carrying out the duties of his office or employment.

C. The exceptions from criminal liability provided for in Subsection B of this section shall not preclude or affect civil liability for the same conduct.

Whoever commits negligent use of a deadly weapon is guilty of a petty misdemeanor.

SECTION 10-321 UNLAWFUL POSSESSION OF SWITCHBLADES.

Unlawful possession of switchblades consists of any person, either manufacturing, causing to be manufactured, possessing, displaying, offering, selling, lending, giving away, or purchasing any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade which opens or falls or is ejected into position by the force of gravity or by any outward or centrifugal thrust or movement. Unlawful possession of a switchblade is a petty misdemeanor.

SECTION 10-322 CARRYING DEADLY WEAPONS.

A. "Deadly weapon" means any firearm, whether loaded or unloaded; or any weapon which is capable of producing death or great bodily harm, including but not restricted to any types of daggers, brass knuckles, switchblade knives, bowie knives, poniards, butcher knives, dirk knives, and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including swordcanes, and any kind of sharp pointed canes, also any other weapons with which dangerous wounds can be inflicted.

B. "Carrying a deadly weapon" means being armed with a deadly weapon by having it on the person, or in close proximity thereto, so that the weapon is readily accessible for use.

C. Unlawful carrying of a deadly weapon consists of carrying a concealed loaded firearm or any other type of deadly weapon anywhere, except in the following cases:

1. In the person's residence or on real property belonging to him as owner, lessee, tenant- or licensee;
2. In a private automobile or other private means of conveyance, for lawful protection of the person or another person or property while traveling; or
3. By a peace officer in the lawful discharge of his duties.

Nothing in this section shall be construed to prevent the carrying of any unloaded firearm.

SECTION 10-323 UNLAWFUL POSSESSION OR SALE OF WEAPONS

- A. Unlawful possession or transfer of weapons consists of possessing, selling, lending, giving away, or purchasing any form of metallic knuckles, any form of black jack, or knife which opens automatically by hand pressure to a button, spring, or other device, or gravity knife.

 - B. Unlawful sale of a deadly weapon consists of giving, selling, trading, bartering, or exchanging for anything of value any deadly weapon or ammunition for any firearm to any person under the age of 18 years of age; provided, however, that nothing herein contained shall be construed to prevent any parent or guardian from purchasing such weapon or ammunition for his child or ward.
- The unlawful possession or sale of weapons is a petty misdemeanor.

OFFENSES AGAINST THE HEALTH, WELFARE AND MORALS

SECTION 10-401 AIR POLLUTION

It is unlawful for any person:

(a) To start an open-fire for residential incineration without first obtaining a burning permit from the City.

(b) To remove any emission control devices from a motor vehicle.

Any person who violates the provisions of this ordinance is guilty of a petty misdemeanor.

SECTION 10-402 ALCOHOLIC BEVERAGES, DELIVERY OF ID CARDS TO MINORS

Any person who gives, loans, sells or delivers an identity card to a minor with the knowledge that the minor intends to use the identity card for the purpose of procuring or attempting to procure any alcoholic beverages is guilty of a petty misdemeanor.

SECTION 10-403 ALCOHOLIC BEVERAGES, LOITERING OF MINORS IN LICENSED PREMISES

Loitering of minors consists of the owner or operator of any saloon permitting a person under the age of twenty-one years to attend, frequent or loiter in or about such premises without being accompanied by the parent or guardian of the person.

Whoever commits loitering of minors is guilty of a petty misdemeanor.

SECTION 10-404 : RESERVED

SECTOPM 10-405 : RESERVED

SECTION 10-406 DRUGS AND CONTROLLED SUBSTANCES, GLUE, SALE TO

JUVENILES

No person shall sell glue to any person under eighteen years of age. A New Mexico driver's license shall be prima facie proof of age.

As used in this section, "glue" means what is commonly referred to as plastic or model airplane cement and includes any cement containing hexane, benzene, toluene, xylene, carbon tetrachloride, chloroform, ethylene dechloride, acetone, cyclohexanone, methyl ethyl ketone, methylisobutyl ketone, amyl acetate, butyl acetate, ethyl acetate, tricresyl phosphate, butyl alcohol, ethyl alcohol, isopropyl alcohol or methylcellosolve acetate.

Any person violating any provision of this section is guilty of a petty misdemeanor.

SECTION 10-407 DRUGS AND CONTROLLED SUBSTANCES, POSSESSION
PROHIBITED.

A. It is unlawful for any person intentionally to possess a controlled substance unless the substance was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice or except as otherwise authorized by the Controlled Substances Act. It is unlawful for any person intentionally to possess a controlled substance analog.

B. Any person who violates this section with respect to one ounce or less of

marijuana is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100) and by imprisonment for not more than fifteen days.

SECTION 10-408 RESERVED

SECTION 10-409 GAMBLING

Gambling consists of:

A. making a bet

B. entering or remaining in a gambling place with intent to make a bet or to play a gambling device

C. possessing facilities with intent to conduct a lottery

Lottery does not include the New Mexico state lottery established and operated pursuant to the New Mexico Lottery Act [6-24-1 to 6-24-34 NMSA 1978] or gaming that is licensed and operated pursuant to the Gaming Control Act.

Whoever commits gambling is guilty of a petty misdemeanor.

SECTION 10-410 GAMBLING, PERMITTING PREMISES TO BE USED FOR

Permitting premises to be used for gambling consists of:

A. knowingly permitting any property owned or occupied by such person or under his control to be used as a gambling place; or

B. knowingly permitting a gambling device to be set up for use for the purpose of gambling in a place under his control.

Whoever commits permitting premises to be used for gambling is guilty of a petty misdemeanor.

SECTION 10-411 INDECENT EXPOSURE

- A. Indecent exposure consists of a person knowingly and intentionally exposing his intimate parts to public view.
- B. As used in this section, "intimate parts" means the mons pubis, penis, testicles, mons veneris, vulva, female breasts or vagina.
- C. Whoever commits indecent exposure is guilty of a petty misdemeanor.

SECTION 10-412 LEWD OR IMMORAL ACTS

Lewd or immoral acts consists of either;

(a) Knowingly engaging or offering to engage in the following acts for hire: Sexual intercourse, fellatio, cunnilingus, anal intercourse, or masturbation of another.

(b) Entering or remaining in a house of prostitution with intent to engage in sexual intercourse, fellatio, cunnilingus, or anal intercourse with a prostitute, or to masturbate or be masturbated by a prostitute.

(c) Knowingly hiring or offering to hire a person to engage in sexual intercourse, fellatio, cunnilingus, or anal intercourse, or to masturbate oneself or another.

The first violation of sub-sections a, b and c is a petty misdemeanor.

OFFENSES AGAINST PERSONS

SECTION 10-501 AFFRAY, PUBLIC

Public affray consists of two or more persons voluntarily or by agreement engaging in any fighting or using any blows or violence towards each other in an angry or quarrelsome manner in any public place, Whoever commits public affray is guilty of a petty misdemeanor.

SECTION 10-502 ASSAULT

Assault consists of either:

- A. an attempt to commit a battery upon the person of another;
- B. any unlawful act, threat or menacing conduct which causes another person to reasonably believe that he is in danger of receiving an immediate battery; or
- C. the use of insulting language toward another impugning his honor, delicacy or reputation.

Whoever commits assault is guilty of a petty misdemeanor.

SECTION 10-503 ASSAULT AGAINST A HOUSEHOLD MEMBER

DEFINITIONS

As used in this ordinance, "household member" means a spouse, former spouse or family member, including a relative, parent, present or former step-parent, present or former in-law, a co-parent or a person with whom a person has had a continuing personal relationship, Cohabitation is not necessary to be deemed a household member for the purposes of this ordinance.

A. Assault against a household member consists of:

- (1) an attempt to commit a battery against a household member; or
- (2) any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that he is in danger of receiving an immediate battery.

B. Whoever commits assault against a household member is guilty of a petty misdemeanor.

SECTION 10-504 BATTERY

Battery is the unlawful, intentional touching or application of force to the person of another, when done in a rude, insolent or angry manner.

Whoever commits battery is guilty of a petty misdemeanor.

SECTION 10-505 BATTERY AGAINST A HOUSEHOLD MEMBER

A. Battery against a household member as defined in section 10-503 consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.

B. Whoever commits battery against a household member is guilty of a petty misdemeanor.

SECTION 10-506 LAWFUL USE OF FORCE

To use or to attempt to offer to use force upon or toward the person of another is lawful in the City in the following cases:

1. When necessarily committed by a public officer in the performance of any legal duty, or by any other person assisting him or acting by his direction;
2. When necessarily committed by any person in arresting one who has committed any felony, and delivering him to a public officer competent to receive him in custody.
3. When committed either by the party about to be injured, or by any other person in his aid or defense, in preventing or attempting to prevent an offense against his person, or any trespass or other unlawful interference with real or personal property in his lawful possession; provided, the force used is not more than sufficient to prevent such offense, and that the same shall be necessary for the self-defense of his person or property.
4. When committed by a parent or authorized agent of any parent, or by any guardian, master or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice or scholar, provided restraint or correction has been rendered necessary by the misconduct of such child, ward, apprentice or scholar, or by his refusal to obey the lawful command of such parent or authorized agent or guardian, master or teacher, and the force used is reasonable in manner and moderate in degree.

OFFENSES AGAINST PUBLIC AUTHORITY

SECTION 10-601 FIRES, UNAUTHORIZED PERSONS NOT TO RESPOND TO POLICE, FIRE CALLS.

A. As used in this section:

1. "Police or fire department radio calls" are radio calls to and from the police or fire department or radio calls to or from members of the police or fire departments concerning police or fire department business;

2. "Unauthorized persons" all persons except city officials, regular members of the police or fire departments, and members of the volunteer fire department and police auxiliary while on official business;

3. "Response to" means to travel or attempt to travel to the destination of the incident or incidents causing the radio calls to be made or siren sounded; and

4. "Sirens shall include all mobile or permanent sirens.

B. It is unlawful for any unauthorized person or persons to respond to a police or fire department radio call or siren. A violation of this section is a petty misdemeanor.

SECTION 10-602 LAW ENFORCEMENT OFFICERS, ASSAULT UPON

A. Assault upon a police officer consists of:

1. An attempt to commit a battery upon the person of a police officer while he is in the lawful discharge of his duties; and

2. Any unlawful act, threat or menacing conduct which causes a police officer while he is in the lawful discharge of his duties to reasonably believe that he is in danger of receiving an immediate battery.

B. Assault upon a police officer is a petty misdemeanor.

SECTION 10-603 REFUSING TO AID AN OFFICER

Refusing to aid an officer consists of refusing to assist any peace officer in the preservation of the peace when called upon by such officer in the name of the United States or the state of New Mexico. Whoever commits refusing to aid an officer is guilty of a petty misdemeanor.

SECTION 10-604 RESISTING A POLICE OFFICER.

A. It is unlawful to resist, oppose or assault, or in any way interfere with a police officer or any person duly authorized to act as such, while the officer or person is discharging or attempting to discharge his official duties within the limits of the city.

B. It is unlawful for any person to warn or signal another so as to assist such other person to flee, escape or evade an officer seeking to make an arrest or for any person to bar or lock any door or barrier in the face of or in front of an approaching officer.

C. Resisting an officer is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity, and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

D. The words "obstruction of" shall, in addition to their common meaning, include:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest;

2. Any violence toward or any resistance or opposition to, the arresting officer after the arrested party is actually placed under arrest and before he is under arrest; or

3. Refusal by the arrested party to give his name and make his identity known to the arresting officer.

Resisting a police officer is a petty misdemeanor.

SECTION 10-605 OATH OR AFFIRMATION, REFUSAL TO TAKE

Refusal to take oath or affirmation consists of the refusal of any person, when legally called upon to give testimony before any court, administrative proceeding, or other authority which is authorized to administer oaths or affirmations, to take such oath or affirmation.

Whoever commits refusal to take oath or affirmation is guilty of a petty misdemeanor.

SECTION 10-606 PUBLIC OFFICIALS, RESISTING PUBLIC OFFICIALS.

It is unlawful for any person knowingly or willfully to:

1. Obstruct, resist or oppose any officer in the city, or outside the city in the event that the officer at such time and place is in pursuit of someone fleeing the

jurisdiction of the city; or any other duly authorized person serving or attempting to serve or execute any process or order of the municipal court or any other judicial writ that may be legally in the possession of such officer or authorized person;

2. Resist or abuse the municipal judge, or any officer in the lawful discharge of his duties;

3. Resist, oppose or obstruct the chief of police, any other police officer, the municipal judge, or any other officer or employee of the city in the discharge of his official duties;

4. Threaten or otherwise intimidate or attempt to intimidate any such officer or employee from the discharge of his official duties; or

5. Assault or beat, or revile, abuse, be disrespectful to, use abusive or indecent language toward or about, any such officer or employee while such officer or employee is in the discharge of his official duties.

Whoever resists a public official is guilty of a petty misdemeanor.