

**DATE: August 12, 2014**  
**CITY OF RIO COMMUNITIES**  
**ORDINANCE # 2014-25**

**CHAPTER 12: VEHICLES AND TRAFFIC**

**ARTICLE 1: REVISING UNIFORM TRAFFIC ORDINANCE 2013-11**

**SECTION 12-1-1 ADOPTION BY REFERENCE**

**SECTION 12-1-2 EFFECTIVE DATE**

**AN ORDINANCE ADOPTING THE UNIFORM TRAFFIC ORDINANCE BY REFERENCE.**

**12-1-1 ADOPTION BY REFERENCE**

The 2014 Compilation of the New Mexico Uniform Traffic Ordinance, the addition of Section 12-6-18 and all changes through July 1, 2014, are herewith adopted by reference, pursuant to Section 3-17-6 NMSA 1978.

This ordinance as adopted shall be available for inspection in the office of the municipal clerk during regular and normal business hours of the municipal clerk. A copy of the code shall be available upon request and payment of a reasonable charge.


**SECTION 2. EFFECTIVE DATE**

This ordinance shall be in full force and effect five days after its adoption, approval and publication as provided by law.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES, NEW MEXICO, HEREBY PASSED, APPROVED AND ADOPTED THIS 26th DAY OF AUGUST 2014.**

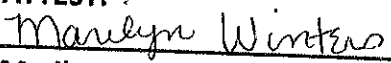
(SEAL)

  
\_\_\_\_\_  
Mark Gwinn, Mayor

  
\_\_\_\_\_  
Mary Lee Serna, Mayor Pro Tem

8-26-14  
TW

ATTEST:

  
\_\_\_\_\_  
Marilyn Winters, Municipal Clerk



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**New Mexico  
Uniform Traffic Ordinance  
2010 Compilation**

**THIS DOCUMENT CONTAINS ALL REVISIONS  
THROUGH JULY, 2014**

New Mexico Municipal League  
P.O. Box 846  
Santa Fe, New Mexico 87504  
(505) 982-5573 or 1-800-432-2036  
[www.nmml.org](http://www.nmml.org)

- 12-6-11 Excessive Size and Weight, Slow-Moving and Hazardous Vehicles
- 12-6-11.1 Permit for Excessive Size and Weight - Special Notification Required on Movement of Manufactured Homes.
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**12-6-17.9**      **USE OF TESTS IN CRIMINAL OR CIVIL ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING**

A. The results of a test performed pursuant to the Boating While Intoxicated Act may be introduced into evidence in a civil action or criminal action arising out of the acts alleged to have been committed by the person tested for operating a motorboat while under the influence of intoxicating liquor or drugs.

B. When the blood or breath of the person tested contains:

- (1) an alcohol concentration of five one hundredths or less, it shall be presumed that the person was not under the influence of intoxicating liquor; or
- (2) an alcohol concentration of more than five one hundredths but less than eight one hundredths, no presumption shall be made that the person either was or was not under the influence of intoxicating liquor. However, the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

C. When the blood or breath of the person tested contains an alcohol concentration of eight one hundredths or more, the arresting officer shall charge him with a violation of 12-7-17.2.

D. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

E. The alcohol concentration in a person's blood or breath shall be determined by a chemical test administered to the person within three hours of the alleged boating while under the influence of intoxicating liquor. In a prosecution pursuant to the provisions of the Boating While Intoxicated Act, it is a rebuttable presumption that a person is in violation of the provisions of that act if he has an alcohol concentration of eight one hundredths or more in his blood or breath as determined by a chemical test administered to the person within three hours of the alleged boating while under the influence of intoxicating liquor. If the chemical test is administered more than three hours after the alleged boating while under the influence of intoxicating liquor, the test result is admissible as evidence of the alcohol concentration in the person's blood or breath at the time of the alleged boating and the trier of fact shall determine what weight to give the test result.

F. The presumptions in Subsection B of this section do not limit the introduction of other competent evidence concerning whether the person was under the influence of intoxicating liquor.

G. If a person is convicted of operating a motorboat while under the influence of intoxicating liquor or drugs, the trial judge shall be required to inquire into

- (2) "handheld mobile communication device" means a wireless communications device that is designed to receive and transmit text or image messages, but "handheld mobile communications device" excludes global positioning or navigation systems, devices that are physically or electronically integrated into a motor vehicle and voice-operated or hands-free devices that allow the user to compose, send or read a text message without the use of a hand except to activate, deactivate or initiate a feature or function; and
- (3) "text message" means a digital communication transmitted or intended to be transmitted between communication devices and includes electronic mail, an instant message, a text or image communication and a command or request to an internet site; but "text message" excludes communications through the use of a computer-aided dispatch service by law enforcement or rescue personnel.

D. A violation of provisions of this section is punishable by a fine of \$25 for a first violation and \$50 for a second or subsequent violation. Violations of provisions of this section may be included in a local penalty assessment ordinance.

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past convictions of the person for operating a motorboat while under the influence of intoxicating liquor or drugs before sentence is entered in the matter.

**12-6-17.10**      **MOTORBOATS--INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--FEE UPON CONVICTION**

A. A person convicted of a violation of the Boating While Intoxicated Act shall be assessed by the court, in addition to any other fee or fine, a fee of sixty-five dollars (\$65.00) to defray the costs of chemical and other tests used to determine the influence of intoxicating liquor or drugs.

B. All fees collected pursuant to the provisions of this section shall be transmitted monthly to the crime laboratory fund. All balances in the crime laboratory fund collected pursuant to this section are appropriated to the administrative office of the courts for payment upon invoice to the scientific laboratory division of the department of health for the costs of chemical and other tests used to determine the influence of intoxicating liquor or drugs.

C. Payment of funds out of the crime laboratory fund of fees collected pursuant to this section shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the department of finance and administration.

**12-6-18**      **TEXTING WHILE DRIVING**

*July, 2014*

A. A person shall not read or view a text message or manually type on a handheld mobile communication device for any purpose while driving a motor vehicle, except to summon medical or other emergency help or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.

B. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a handheld mobile communications device. Unless otherwise provided by law, the handheld mobile communication device used in the violation of the provisions of this section is not subject to search by a law enforcement officer during a traffic stop made pursuant to the provisions of this section.

C. As used in this section:

- (1) "driving" means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but "driving" excludes operating a motor vehicle when the vehicle has pulled over to the side of or off an active roadway and has stopped at a location in which it can remain safely stationary;

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