

**City of Rio Communities, New Mexico**  
**ORDINANCE 2018-60**

**AN ORDINANCE REPEALING ORDINANCE NO. 2016-47, DATED: MARCH 22, 2016. CHAPTER 02, ADMINISTRATION AND PERSONNEL: ARTICLE 3 MUNICIPAL JUDGE**

**CHAPTER 2            ADMINISTRATION AND PERSONNEL**

**ARTICLE 3            MUNICIPAL JUDGE**

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**2-3-1 ELECTION**

The Municipal Judge shall be elected for a four (4) year term. Vacancy shall be filled by the City Council, by appointment to serve until the next regular municipal election.

**2-3-2 QUALIFICATIONS**

The Municipal Judge shall be a qualified elector residing within the limits of the Municipality. No person is eligible for election or appointment to the office of Municipal Judge unless such person shall have graduated from High School or has obtained the equivalent of a high school education as indicated by possession of a certificate of equivalency issued by the State Department of Public Education based upon the record made on the General Education Development Test.

**2-3-3 BOND AND OATH**

The Municipal Judge shall take the oath on the sixth day following the election, unless the judge is unable to be sworn in at that time, before he or she enters the duties of office, if no corporate surety bond covering all municipal officials exists, execute a surety bond to the City of Rio Communities in the amount of Five Thousand Dollars (\$5,000.00) conditioned upon the faithful performance of his or her duties and the paying over to the City of Rio Communities of all fines, forfeited bonds and other money which comes into his or her hand by the virtue of his or her office. The Municipal Judge shall take the oath of office as required in Section 14-9-2 N.M.S.A. 1953.

**2-3-4 APPOINTMENT OF TEMPORARY MUNICIPAL JUDGES**

A. Whenever the municipal judge determines that he or she will be temporarily unable or unavailable to perform the duties of municipal judge, whether by reason or refusal or disqualification, absence, sickness or other incapacity he or she shall appoint in advance of the event a temporary municipal judge or alternate temporary judge, to serve during his or her temporary absence. The temporary judge will be selected from a list of registered voters designated by the presiding municipal judge in the month of April of each year, which list shall be reflected by motion duly made, passed, adopted and reflected in the minutes of the City of Rio Communities Council.

The municipal judge shall designate the temporary judge to serve in his or her stead and an alternate temporary judge to serve in the event the temporary judge is unable or unavailable to perform the duties of temporary municipal judge. For the purpose of this section, "appointment" or "designation" shall mean the municipal judge's designation of the temporary judge and notice to the clerk of the court (Court Clerk). The notice to the clerk shall indicate the name of the temporary judge, and anticipated duration of the appointment. The appointment shall automatically cease when the municipal judge returns to his duties.

B. In the event the municipal judge becomes unable or unavailable to perform the duties of municipal judge and has failed to appoint a temporary judge or alternate temporary judge, the mayor, or in his or her absence, the mayor pro-tem, shall appoint a temporary judge who shall serve until the regular municipal judge returns to his or her duties. If the governing body declares a vacancy in the office of municipal judge due to provided by Section 10-3-1 NMSA 1978, comp. it may appoint a temporary judge to serve until a successor municipal judge has been duly appointed by the Governing Body pursuant to Section 35-14-4 NMSA 1978, comp.

C. Qualifications - The temporary municipal judge or alternate temporary

municipal judge shall be a registered, qualified elector of the City of Rio Communities and shall reside within the corporate limits of the City of Rio Communities. No person is eligible for appointment to the office of Temporary Municipal Judge unless such person shall have graduated from High School or has obtained the equivalent of a high school education as indicated by possession of a certificate of equivalency issued by the State Department of Public Education based upon the record made on the General Education Development Test.

- D. Oath of Office - Before assuming the duties of temporary judge or alternate temporary judge, said judge shall take the oath of office as required by Section 3-10-2 NMSA, 1978 comp. Once a qualified elector has taken the oath of office as temporary judge, he or she shall not be required to repeat the oath on subsequent appointments. Upon taking the oath of office, said judge shall be covered by the corporate surety bond covering all municipal officials.
  
- E. Salary - The temporary or alternate temporary municipal judge shall be paid the sum of twenty-five (\$25.00) each court session he or she is required to serve as municipal judge. Such sum to be paid out of the judicial salary fund of the City of Rio Communities, which shall be determined annually in the budget process.
  
- F. Administrative Duties - The requirements of law relating to money collected, monthly reports, itemized statements and penalties shall apply to the temporary municipal judge or alternate temporary municipal judge.
  
- G. Severability - If any section, subsection, paragraph, phrase, or other portion of this ordinance shall be declared invalid for any reason whatsoever by a court of competent jurisdiction, then such decision shall not affect the validity or enforceability of the remaining portions of this ordinance.
  
- H. This section shall be in full force and effect five (5) days after its adoption, approval and publication as provided by law.

**2-3-5 DUTIES OF TEMPORARY MUNICIPAL JUDGE**

The requirements of law relating to money collected, monthly reports, itemized statements and penalties shall apply to temporary Municipal Judges.

**2-3-6 RECORDS TO BE KEPT.**

The Municipal Judge shall keep or cause to be kept a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in the court and every official action and disposition of the charge by the court. Within ten (10) days after disposition of every charge of violating the traffic code of the City of Rio Communities, the Municipal Judge shall upon forms furnished by the Commissioner

of the Motor Vehicles prepare, certify as correct, and forward to the State Department of Motor Vehicles an abstract of the record. A report need not be made of any conviction involving illegal parking or standing of a vehicle except when a uniform traffic citation is used. When the uniform traffic citation is issued the form of the abstract on the back of the officer's first copy containing the above information shall be used. The failure or refusal of the Municipal Judge to comply with the provisions of this Section is misconduct in the office and grounds for removal.

#### **2-3-7 MONTHLY REPORTS AND REMITTANCE**

The Municipal Judge shall make monthly written reports to the Governing Body of all money collected by him or her. The reports shall be filed, and the money collected paid to the municipality not later than the tenth (10th) of the month following collection. All required reports shall include an itemized statement showing the different amounts collected the purpose of collection, the name of the person paying and date of payment.

#### **2-3-8 DUTIES**

In addition to those duties set forth in the laws of the state of New Mexico. The Municipal Judge shall hold court at regularly scheduled times. Judges must hold court frequently enough that arraignments are held in a timely manner and cases are heard within the time specified by Municipal Court Rules. The Municipal Judge shall be available at all reasonable hours for the issuance of warrants and summons. Court hours should include time for people to schedule hearings and take care of payments with the court clerks, in addition to actual trial time.

#### **2-3-9 JURISDICTION**

The municipal court shall have jurisdiction over all offenses and complaints under ordinance of the municipality and may issue subpoenas and warrants and may punish for contempt.

#### **2-3-10 PENALTY**

Any Municipal Judge violating any provision relating to making reports or remitting money collected is guilty of a misdemeanor and shall be fined not more than five-hundred dollars (\$500.00) or imprisoned not more than ninety (90) days, or both.

#### **2-3-11 SALARY.**

Upon adoption of this Ordinance the salary shall be in the amount of \$300/month (three hundred dollars). For Municipal Judge as per §35-14-3 a governing body may increase the salary for the newly elected judge. Salary is for the position and not dependent on court session

#### **2-3-12 TRAINING**

All municipal judges must successfully complete an annual training as a condition of remaining in office. This training is conducted by the New Mexico Judicial Education Center. Failure to complete the training may result in removal from office. A judge can seek an exemption from the training by submitting a written request to the New Mexico Supreme Court. §35-14-10.

**2-3-13 REMOVAL FROM OFFICE**

The New Mexico Supreme Court has determined that only it can remove a municipal judge from office. The Supreme Court may remove a judge for unlawful conduct, failure to perform the duties of office, or any other violation of the Code of Judicial Conduct. No other method of removal of judges is authorized. The other elected officials of the municipality (e.g., mayor, councilors, trustees, commissioners) have no authority to remove a municipal judge.

**PASSED, APPROVED AND ADOPTED THIS 28<sup>th</sup> DAY OF FEBRUARY 2018 BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES, NEW MEXICO.**

**City of Rio Communities Governing Body**

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Mark Gwinn  
Mayor

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Margaret (Peggy) Gutjahr,  
Councilor Mayor pro-tem

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William Brown,  
Councilor

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Arturo R. Sais,  
Councilor

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Thomas Scoggins,  
Councilor

ATTEST:

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Elizabeth (Lisa) Adair,  
Municipal Clerk