

LOCAL RULES

OF THE

MUNICIPAL COURT

OF THE

VILLAGE OF LOS RANCHOS DE

ALBUQUERQUE, NEW MEXICO

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OF
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TABLE OF CONTENTS

RULE NUMBER	TITLE	PAGE NUMBER
2	ACTIONS AND PARTIES	4
23	AMENDMENT OF RULES	13
9	BAIL	6
21	CHECKS	12
8	COMMUNICATIONS	6
22	COSTS AND FEES	12
13	COUNSEL	8
3	CASE FILES	5
16B	DISCOVERY	10
1	HOURS AND TERMS	4
19	JAIL - GOOD TIME CREDIT	11
14	MOTIONS - PRE-TRIAL	9
11 - A	DISMISSAL AND NOLLE PROSEQUI	8
12	NOTICE	8
5	PENALTY ASSESSMENT	5
11 - B	PLEA AGREEMENTS	8
7	PLEADINGS	5

TABLE OF CONTENTS CONT'D

RULE NUMBER	TITLE PAGE	NUMBER
20	SEAL OR EXPUNGING RECORDS	12
16	SERVICE AND FILING BY FACSIMILE	9
24	PUBLICATION OF RULES	13
10	RELEASE – CONDITIONS	7
25	SEVERABILITY	13
18	SUBPOENAS	11
26	SUPREME COURT RULES CONTROL	10
4	TRAFFIC	5
6	WARRANTS	5

APPENDIX A - COURT SCHEDULE

APPENDIX B - HOLIDAY SCHEDULE

LOCAL RULES THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE MUNICIPAL COURT

The following local rules, in addition to the Supreme Court Rules of Procedure for Municipal Courts, SCRA, 8-101 et seq., shall govern procedure in the Municipal Court of The Village of Los Ranchos De Albuquerque, New Mexico.

RULE 1 **COURT HOURS AND TERMS**

- 1.1 The Municipal Court shall always be in session. One regular term is established to begin first day of July of each year.
- 1.2 The Municipal Court shall convene and shall set such court hours and office hours as the Court deems necessary to dispose promptly of the business of the court. (Appendix A)
- 1.3 The scheduling of court cases shall be at the discretion of the Court. Consideration for scheduling shall be given to the convenience of the Court, the judge and the officers, as well as the age of the case.
- 1.4 The Village office shall be open for the transaction of business from 8 am until 4:45 pm each weekday. The Court shall observe such holidays as may be established by the Court. (Appendix B). Closures outside of the hours listed here will be posted.
- 1.5 Appointments for meeting with the Judge shall be made through the Administrator and no appointment will be made with an individual scheduled to appear before the Judge.

RULE 2 **ACTIONS AND PARTIES**

- 2.1 All actions shall be brought by and in the name of the Village of Los Ranchos De Albuquerque, New Mexico as plaintiff.
- 2.2 Private citizens shall have the right to request charges be brought for the violation of a Village ordinance, however such citizens shall have no legal standing other than as complaining witness. Complaints brought in this manner shall be known as "Private Complaints".
- 2.3 Private Complaints will not be accepted for filing in Municipal Court until they have been reviewed by the Department of Public Safety as to form.

RULE 3

COURT FILES

No case file shall be permitted to be taken from the Clerk's office. Persons wishing to inspect such files may do so in accordance with the State Inspection of Public Records Act. Request for viewing must be received by the Clerk's office at least 3 days prior to Trial, so that court personnel can be made available for the viewing. Copies of pleadings may be obtained upon payment of copying charges. No individuals shall be allowed to have a file in their possession for perusal of said file.

RULE 4

TRAFFIC OFFENSES

Peace officers who issue a citation to any person for violation of any traffic ordinance shall issue to such person, a New Mexico Uniform Traffic Citation summoning him to answer the alleged charge at the time and place specified by the Court. If the person is taken into custody or if the offense subjects the person to incarceration, a sworn complaint shall also be served.

RULE 5

PENALTY ASSESSMENTS

Individuals who wish to enter a plea of guilty to an offense for which a penalty assessment has been established by ordinance shall pay to the Clerk the amount set without necessity of appearing in court. Such procedure shall be treated as a conviction for all purposes, including reporting requirements to the Transportation Department of the State of New Mexico.

RULE 6

ISSUANCE OF WARRANT AFTER HOURS

Should an officer or prosecuting attorney need to obtain a search or arrest warrant, or other warrant, writ or process after businesses hours or on holidays, the officer or attorney shall attempt to contact the Municipal Judge, but only after all affidavits and preliminary pleadings have been prepared. Should the Municipal Judge be unavailable, the Court Administrator shall be contacted to arrange for an Alternate Municipal Judge. Should the Administrator also be unavailable, the Chief Deputy Court Clerk shall be contacted.

RULE 7

PLEADINGS

- 7.1 All pleadings, briefs, judgments and orders, without exception shall be typewritten, or computer printed, clearly legible, on good quality paper eight and one-half by eleven inches in size, and shall conform to the forms adopted for use in the Municipal Courts by the Supreme Court of New Mexico as found in the Rules of Procedure for the Municipal Courts as found in Sections 8-101 through 8-802, and the forms provided in Section 9 – 101 through 9-902

- 7.2 All pleadings, judgments and orders shall contain the name, address and telephone Number of the party or counsel submitting them, and the signature of the party or counsel.
- 7.3 The signature of an attorney on pleadings, judgments and orders constitutes a certification by him/her that he/she has read such pleading, judgment or order, that all matters contained therein are true and accurate to the best of his/her knowledge, information and belief formed after reasonable inquiry, and that it is not interposed for any improper purpose, such as to harass, cause needless delay, or unnecessarily increase the cost of litigation.
- 7.4 All pleadings when accepted for filing shall be endorsed with the date and time of filing, and initialed by the clerk accepting such pleadings.

RULE 8 COMMUNICATIONS

Three copies of all written communications to the Court shall be provided. All written motions and pleadings shall contain a certificate that opposing party or counsel has been provided a copy. A self-addressed and stamped envelope shall be provided to the Court for any and all written materials requiring Court endorsement and return.

RULE 9 RULES OF BAIL

- 9.1 When a warrant is issued for the arrest of any person, the Court shall include bail in an appropriate sum for the appearance of the person named. The Court shall note either cash or surety on said warrant.
- 9.2 The Court shall adopt and periodically revise a schedule of bail for occasions in which an arrest is made without a warrant. For purposes of requiring the posting of bail set by the schedule, or the release of the defendant on his own recognizance (R.O.R.), the Village of Los Ranchos Public Safety Director and the Bernalillo County Sheriff's on duty Sergeants are Bail Designees of this Court pursuant to Sec. 31-3-1-NMS and SCRA Rule 8-401H.
- 9.3 The Defendant may, in giving bail, deposit with the Clerk or the Bail Designee cash in the sum required ("Cash Bail"), or, if the warrant so allows, may employ a surety to post bail ("Bail Bond" or "Surety Bond"), and shall thereupon be discharged from custody.
- 9.4 If bail posted by surety is ordered forfeited and the surety is not then before the court, notice shall be given to the surety and a hearing shall be set not less than 30 days from the date the Show Cause Order is mailed. The Show Cause Order must be mailed within 4 days of the failure to appear and declaration of forfeiture to allow the surety to show cause why the bail should not be forfeited.

- 9.5 The Court may require a secured or unsecured appearance bond to guarantee faithful performance by a Defendant who has been assigned to rehabilitation programs.
- 9.6 If money has been deposited for bail, and, after reasonable efforts to locate and notify the Defendant have been made, should such money not be claimed within one (1) year of entry of Final Judgment in the case, such bail shall be deemed abandoned and forfeited to The Village of Los Ranchos De Albuquerque, New Mexico.
- 9.7 All Bondsman shall submit an Irrevocable Letter of Credit to the Court on an annual basis. The Administrator shall keep a list of bondsmen and their agents.

RULE 10

CONDITIONS OF RELEASE

- 10.1 An automatic condition of release, unless or until otherwise modified by the Court, may be imposed upon all Defendants arrested pursuant to the Village of Los Ranchos De Albuquerque, New Mexico Municipal Ord.131.02 Battery and 131.03 Aggravated Battery that the Defendant shall not return to the scene of the arrest or enter the place of abode of the victim or complaining witness unless accompanied by a peace officer, and shall not attempt to contact or harass the victim or complaining witness either at home or at place of employment.
- 10.2 An automatic condition of release, unless or until otherwise modified by the Court, shall be imposed upon all Defendants for violation of R.O. 1987 12-6-12.1 (Driving While Intoxicated) that the Defendant shall not operate a motor vehicle:
- A. Within 4 hours of arrest if the Defendant's Blood Alcohol Concentration was less than .15%, or if the Defendant refused testing, or if the test results were unavailable at the time of release.
 - B. Within 8 hours of arrest if the Defendant's Blood Alcohol Concentration was between .15% and .199%.
 - C. Within 12 hours of arrest if the Defendant's Blood Alcohol Concentration was between .20% and .249%.
 - D. Within 16 hours of arrest if the Defendant's Blood Alcohol Concentration was between .25% and .299%.
 - E. Within 24 hours of arrest if the Defendant's Blood alcohol Concentration was .30% or over.

RULE 11 - A

DISMISSAL AND NOLLE PROSEQUI

The VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, through its Village or Prosecuting Attorney, shall have the exclusive right to file a Nolle Prosequi. Certified Police Officers may dismiss a charge anytime before trial.

RULE 11 - B

PLEA AGREEMENTS

Plea Agreements shall be submitted to the Court on form found in NMRA Section 9 used in accordance with NMRA Section 8. The parties are free to recommend sentences to the Court, however, no sentence shall be included as part of the written plea. Sentencing will be in the discretion of the Court.

RULE 12

NOTICE

It shall be the obligation of each party or attorney to give notice to all witnesses to ensure their appearance for all court settings.

RULE 13

COUNSEL

- 13.1 Defendants have the right to be represented by counsel before the Municipal Court.
- 13.2 Before trial, the Court will evaluate cases to determine whether there is a significant possibility that, if the defendant is convicted, the Judge will impose jail.
- 13.3 If a defendant faces potential incarceration and meets the financial requirements for the appointment of a Public Defender, the defendant may apply for the appointment of a Public Defender. The Court will require specific documents and sworn statement of assets, income, liabilities and debts.
- 13.4 If the Court determines that the Defendant faces incarceration and meets the financial needs requirements, a Public Defender shall be appointed at no cost to the defendant.
- 13.5 Any false statements knowingly made in any application for Public Defender shall be grounds for denying the application and may subject the defendant to additional criminal and/or felony perjury charges and/or require reimbursement of Public Defender fees paid by the Court on the defendant's behalf.
- 13.6 If the Court determines that the defendant is not facing incarceration if convicted, the Court will enter a ruling to that effect and further rule that the Village of Los Ranchos De Albuquerque, New Mexico is not required to furnish legal counsel for the defendant.

13.7 No attorney will be permitted as security for fines or costs nor shall any attorney act as surety on any case for purposes of appearance or appeal without the Court's approval.

13.8 An attorney entering an appearance orally must file a written Entry of Appearance within three (3) calendar days.

RULE 14 PRETRIAL MOTIONS

14.1 All pretrial motions and matters requiring a ruling by the Court shall be made in writing and submitted to the Court, but only after notice to opposing parties or counsel.

14.2 Motions for Continuance shall be made at least five (5) days prior to scheduled court date. Ex parte Motions for Continuance may be granted only upon the written waiver of the Six Month Rule. If no waiver the matter may be set for hearing.

14.3 All other motions shall be filed at least ten (10) days prior to the scheduled court date. Motions filed after that day must contain a reason for the late filing.

14.4 Answers to motions shall be filed no later than fifteen (15) days after receipt of the motion, and if deemed necessary by the Court or the parties, a hearing will be scheduled.

14.5 Moveant shall determine concurrence or opposition of motion prior to submitting the motion to the Court. Attorney will gain signature of opposing counsel if motion is concurred with. If concurrence is denied, the motion shall state such. Exceptions shall be Motions to Suppress or Dismiss.

RULE 15 SERVICE AND FILING BY FACSIMILE

15.1 A pleading or paper may be faxed directly to the court if:

A. a fee is not required to file the pleading or paper,

B. only one copy of the pleading or paper is required to be filed:

C. the pleading or paper is not more than ten (10) pages in length excluding the facsimile cover page; and

D. the pleading or paper to be filed is preceded by a cover sheet with the names of the sender and the intended recipient, any applicable instructions, the voice and facsimile telephone numbers of the sender, an identification of the case, the docket number and the number of pages transmitted.

15.2 A notice, order, writ, pleading or paper may be faxed to a party or attorney who has:

- A. listed a facsimile telephone number on a pleading or paper filed with the court in the action,
- B. a letterhead with a facsimile telephone number; or
- C. agreed to be served with a copy of the pleading or paper by facsimile transmission.

Service by facsimile is accomplished when the transmission of the pleading or paper is completed.

15.3 Proof of facsimile service must include:

- A. a signed statement that the pleading or paper was transmitted by facsimile transmission and that the transmission was reported as complete and without error;
- B. the time, date and sending and receiving facsimile machine telephone numbers; and
- C. the name of the person who made the facsimile transmission.

All facsimile filings must be immediately followed up by the mailing of the original document, two copies, and a self addressed stamped envelope. The Court will accept the filing date on the facsimile copy as the original file date.

RULE 16

DISCOVERY

In addition to SCRA 8-504, the following rules apply to Discovery:

- 16.1 Witness interviews must be requested within five (5) days of receipt of Discovery material.
- 16.2 Failure to keep scheduled interview may result in a Court Order deeming Discovery complete or, the Court may grant a continuance charged against the party whose attorney or witness fails to appear.
- 16.3 The Court, upon request of either party or upon its own motion, may require a hearing on discovery issues.

RULE 17

EVIDENCE

- 17.1 Unless otherwise ordered by the Court, evidence introduced as an exhibit will be retained for fifteen (15) days following the expiration of the appeal period or final disposition of the case. All contraband and weapons shall be stored in the evidence room of the Village of Los Ranchos De Albuquerque, New Mexico Department of Public Safety and shall not be released except by order of the Court. All other exhibits shall be stored in the case file maintained by the Village Attorney and may be retrieved there from.
- 17.2 Release of exhibits in advance of the above stated retention period might be obtained by Court Order. Exhibits not retrieved within the above stated retention period shall be deemed abandoned, and shall be disposed of in accordance with law.

RULE 18

SUBPOENAS

- 18.1 Subpoenas, including Subpoenas Duces Tecum, may be requested of the Clerk no later than fourteen (14) days prior to the scheduled court date.
- 18.2 In the case of the Public Defender, or a party pro se, the Clerk may prepare the subpoenas when necessary. Delivery may be made by the Department of Public Safety if the address is within the village limits, if not service will be by mail.
- 18.3 Private Attorney's may use subpoenas obtained by the Court Clerk or on forms prepared in compliance with State Statute. The Private Attorney will be responsible for obtaining the Clerk's signature on the subpoena(s) and for the delivery of the subpoena(s) to the witness(es). The same time line should be adhered to as outlined in Rule 18.1.
- 18.4 All subpoenas shall be returned to the Village of Los Ranchos Municipal Court once they have been served so they can be placed in the case file.

RULE 19

GOOD TIME JAIL CREDIT

Upon request of the Detention Center and with approval of the Court, an incarcerated defendant may be allowed to work for the Village. For each two (2) days worked, the Defendant shall be given credit for one (1) day against his/her jail term.

RULE 20

SEALING OR EXPUNGING RECORDS

No records shall be sealed or expunged unless by order of an appellate court.

RULE 21

CHECKS

Checks shall not be accepted for bail except by Court Order. Personal checks may be accepted for payment of fines, fees, and costs only if drawn upon a local institution, and then only upon proof of identification and sufficiency of funds. Returned checks for non-sufficient fund status will be assessed an additional twenty dollars (\$20.00). Certified checks or money orders in the proper amount and payable to the Municipal Court shall be accepted as cash. The Court reserves the right to refuse personal checks, loose coin, or defaced money. Refunds must come through the Village Treasury with payment request from the court.

RULE 22

COSTS AND FEES

The following schedule of costs and fees shall be assessed:

Background Checks \$ 10.00

Bench Warrant Fee \$100.00

Certification, (per document) \$ 2.00

Community Service Admin. Fee \$40.00

Copies, (per page) \$.25

Driver Improvement School \$ 75.00

First Offender Program \$105.00

First Offender Program Admin. Fee \$25.00

First Offender Program Reschedule Fee \$50.00

Late Fee (Late for court or payments) \$25.00 1st offense, \$50.00 2nd offense, \$75.00 3rd offense, \$100.00 4th and subsequent offenses

The Court maintains the option of ordering a bench warrant and/or suspension at any time in lieu of the assessment of a late fee.

Government Corrections Fee \$20.00

NSF (returned check fee) \$20.00

(Fees Continued)

Private Criminal Complaint Packet \$10.00

Probation Fee (DWI) \$180.00

Public Defender Application fee \$10.00

Screening Admin. Fee \$25.00

State Automation Fee \$6.00

State Crime Lab Fee (assessed upon conviction of \$75.00 distribution or possession of a controlled substance)

State DWI Community Prevention Fee (assessed upon \$75.00 each conviction of DWI)

State Judicial Education Fee (assessed upon each conviction) \$3.00

State Laboratory Fee (intoxilizer fee assessed upon \$65.00 each conviction of DWI)

Traffic Safety Fee \$10.00

RULE 23 AMENDMENT OF COURT RULES

These Rules may be amended by order of the Court.

RULE 24 PUBLICATION OF RULES

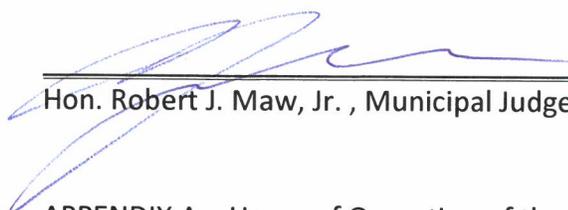
These Rules shall be printed and made available to all interested parties at \$.25 per page.

RULE 25 SEVERABILITY

If any of the foregoing Rules are invalidated by court action or otherwise, the remainder of the Rules shall remain in force.

RULE 26 SUPREME COURT RULES CONTROL

If any of the foregoing Rules are found to conflict with the Rules of Procedure for Municipal Courts as adopted by the Supreme Court of New Mexico, the latter shall control.



1-5-2016
Hon. Robert J. Maw, Jr. , Municipal Judge Dated 01/05/2016

APPENDIX A – Hours of Operation of the Court

The Court shall operate as necessary to ensure the efficient flow of arraignments and cases as needed.

To ensure compliance with State Law, Court Personnel will arrange for transport with the Presiding Judge for those individuals unable to bond out of jail.

APPENDIX B - OBSERVED HOLIDAY SCHEDULE

Martin Luther King Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veteran's Day
Thanksgiving
Christmas Eve
Christmas Day
New Year's Day
Rosh Hashanah
Yom Kippur