

CITY OF RIO COMMUNITIES, NEW MEXICO

CODE OF CONDUCT and ETHICS POLICY RESOLUTION 2016-57

A RESOLUTION OF THE CITY OF RIO COMMUNITIES GOVERNING BODY ADOPTING A OF CODE OF CONDUCT AND ETHICS POLICY FOR THE MEMBERS OF THE CITY OF RIO COMMUNITIES GOVERNING BOARD AND FOR ALL MEMBERS, BOARDS AND COMMISSIONS APPOINTED BY THE CITY OF RIO COMMUNITIES GOVERNING BODY.

WHEREAS, the citizens and businesses of the City of Rio Communities are entitled to have fair, ethical and accountable local government which continually strives to earn the public's full confidence; and

WHEREAS, in keeping with the City of Rio Communities commitment to excellence, all public officials, both elected and appointed, must comply with both the letter and spirit of the laws affecting the operation of government; and

WHEREAS, the City of Rio Communities Governing Body has determined that the adoption of a Code of Conduct and Ethics for its members and the members of all boards, committees, commissions, staff and volunteers will assist in achieving these ends.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF RIO COMMUNITIES GOVERNING BODY THAT THE FOLLOWING CODE OF CONDUCT AND ETHICS IS HEREBY PASSED, APPROVED AND ADOPTED.

Resolved: In the Regular Board Session this 23rd day of February 2016.

City of Rio Communities Governing Body

Mark Gwinn, Mayor

Mary Lee Serna, Councilor Mayor Pro-tem

Robert Chavez, Councilor

Margaret (Peggy) Gutjahr, Councilor

ATTEST:

Elizabeth (Lisa) Adair, Municipal Clerk

Frank Stasi, Councilor

CODE OF CONDUCT AND ETHICS

Preamble:

The citizens and businesses of the City of Rio Communities are entitled to have fair, ethical and accountable government, which continually strives to earn the public's full confidence for integrity. In keeping with the City of Rio Communities commitment to excellence, goals and mission, the effective functioning of democratic government therefore requires that public officials, both appointed and elected, comply with both the letter and spirit of laws and policies affecting the operations of Government; that public officials be independent, impartial and fair in their judgment and actions; that public office is used for public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the City of Rio Communities Governing Body has adopted this Code of Conduct and Ethics for members of the Governing Body, members of the boards, commissions, committees, employees, staff and volunteers who serve the City of Rio Communities to assure the public's confidence in the integrity of local government and its effective and fair operation.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the City of Rio Communities and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims, and transactions coming before the City of Rio Communities Governing Body, boards, committees, and commissions.

2. Comply with the Law

Members shall comply with the laws of the Nation, the State of New Mexico and the City of Rio Communities in the performance of their public duties. These laws include, but are not limited to: The United States and the State of New Mexico Constitutions; the City of Rio Communities Ordinances and laws pertaining to

conflict of interest, election campaigns, financial disclosure, employer responsibilities, and open processes of government.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Governing Body, boards, commissions, communities, volunteers, the staff or public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City of Rio Communities Governing Body and the boards, committees, and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the Governing Body and staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the City of Rio Communities Governing Body or boards, committees and commissions, which they may have received from sources outside of the public decision-making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence

government decisions in which they have a material financial interest or where they have an organizational responsibility or personal relationship that may give the appearance of a conflict of interest. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

9. Gifts and Favors

Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

10. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City of Rio Communities. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

11. Use of Public Resources

Members shall not use public resources that are not available to the public in general, such as staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Private Interests

In keeping with their role as stewards of the public interest, members of the Governing Body, boards, committees, commission and volunteer organizations shall not appear on behalf of the private interests of third parties before the Governing Body or any boards, committees, commissions or proceeding of the City of Rio Communities, nor shall members of boards, organizations, committees or commissions appear before their own bodies or before the Governing Body on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. Advocacy

Members shall represent the official policies or positions of the Governing Body, boards, commissions or committees to the best of their ability when designated

as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their Governing Body, nor will they allow the inference that they do.

14. Policy Role of Members

The Governing Body determines the policies of the City of Rio Communities with the advice, information and analysis provided by the public, boards, commissions, and committees, and City Staff. The Governing Body delegates authority for the administration of the City to the City Manager. Members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Governing Body policy decisions.

15. Independence of Governing Body and Commissions

Because of the value of the independent advice of boards, committees and commissions to the public decision-making process, members of the Governing Body shall refrain from using their positions to unduly influence the deliberations or outcomes of board, committee or commission proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the city. Members shall recognize their special role in dealings with City employees and in no way create the perception of inappropriate direction to staff.

17. Implementation

As an expression of the standards of conduct for members expected by the city, the City of Rio Communities Code of Conduct and Ethics is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, ethical standards shall be included in the regular orientations for candidates for the City of Rio Communities Governing Body, applicants to boards, committees and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understood the City of Rio Communities Code of Conduct and Ethics. In addition, the Governing Body, boards, committees and commissions, shall annually review the Code of Ethics and the Governing Body shall consider recommendations from boards, committees and commissions to update it as necessary.

18. Prohibited Political Activities

1. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
2. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or City officer or employee to pay, lend, or contribute anything of value to a party, committee, or organization, agency, or person for a political purpose.
3. Threatening to deny promotions to any individual who does not vote for certain candidates, requiring individuals to contribute financially to a political fund, influencing subordinate individuals to buy tickets to political fund-raising events and similar events, advising individuals to take part in political activity and matters of a similar nature.
4. Engaging in political activity while on duty or campaigning on City property.

19. Nepotism

A. Definition of Nepotism

Nepotism, for purposes of this code, is defined as the practice of giving preferential treatment in areas of employment, including but not limited to, selection, benefits, pay, promotion and discipline to an employee's **near relatives**.

1. For purposes of this nepotism policy, **near relatives** are defined as the employee's spouse, children, parents, siblings, grandparents, grandchildren, aunts, uncles, first cousins and all like-relations of the employee's spouse and any former spouse(s), or unrelated persons sharing a spousal relationship. This definition covers any person related to the employee by birth, adoption, or marriage.

B. Prohibited Practices

The practice or appearance of nepotism is prohibited. Near-relatives shall not work in the same department when there is a supervisory relationship between them. Any problems arising from such a situation should be referred to the City Manager for review. Near-relatives cannot fill or be promoted into a position that requires supervision by a near-relative. Neither shall any elected official or appointee or City employee give employment as clerk, deputy, assistant or other class of departmental employee to any near relative when that person's compensation is six hundred (\$600) dollars or more per year. NMSA 1978, §10-1-10 (1987 Repl. Pamp.). Any exceptions to this rule must be approved by the City Council.

20. **Sexual Harassment**

A. Policy Regarding Sexual Harassment

The City is committed to enforcing a policy prohibiting sexual harassment that:

1. Provides for an environment free from all forms of sexual harassment.
2. Applies to the actions of all City employees, elected and appointed officials, commissions and volunteers.
3. Ensures that appropriate corrective measures, up to and including dismissal and appropriate legal action, will be taken if this policy is violated.
4. Establishes a complaint procedure that is fair and confidential and protects against retaliation for filing or testifying as a witness to a complaint.
5. Ensures that all complaints are investigated promptly, thoroughly and fairly.
6. Ensures that all elected officials, department heads and supervisors are fully aware of their responsibilities under this policy.

21. **Equal Opportunity**

Members representing the City shall not harass or discriminate against individuals on the basis of race, age, religion, color, national origin, ancestry, sex, gender identity, physical or mental handicap or medical condition.

22. **Use of Alcohol or Illegal use of Drugs**

A. Use of Alcohol or Illegal Drugs

The use of controlled substances, drugs or alcohol prescribed and non-prescribed, is a concern to the City when it interferes with job performance, conduct, attendance, safety, or when it is in violation of the law. The unlawful manufacture, distribution, possession or use of a controlled substance or alcohol by an employee while on City premises or while on City business is prohibited. Conducting City business that includes driving vehicles or operating City equipment while under the influence of alcohol or other drugs is also prohibited. This Applies to all City employees, elected and appointed officials, commissions and volunteers. Engaging in any of these prohibited activities may result in disciplinary action up to and including termination from employment or position.

B. Reasonable Suspicion Testing

Any individual shall be tested for alcohol and drugs if the City has reasonable grounds to suspect that the individual is engaging in the use of drugs or alcohol on the job or is reporting to work under the influence of drugs or alcohol. Reasonable suspicion includes, but is not limited to, the following:

1. Job accidents involving loss of life, limb and damage to property including City property, where the individual is a contributing factor to the accident; or
2. Evidence of alcohol or drugs or paraphernalia discovered at the individual's work place; or
3. Any individual showing signs of erratic behavior, changes in mood, altered appearance or speech patterns, smell of alcohol on breath and person, an increase in absenteeism, tardiness and deterioration of work performance.

22. **Compliance and Enforcement**

The City of Rio Communities Code of Conduct and Ethics expresses standards of ethical conduct expected of members of the City of Rio Communities Governing Body, boards, committees, commissions and volunteers. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have *full* confidence in the integrity of government. The chairs of boards, committees and commissions and the Mayor of the City of Rio Communities have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Conduct and Ethics are brought to their attention. The Governing Body may impose sanctions on members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or committee assignment, or budget restriction. Where allowed by law, the Governing Body also may remove members of Board-appointed boards, committees and commissions from office. A violation of this Code of Conduct and Ethics shall not be considered a basis for challenging the validity of Governing Body, board, committee or commission decision.