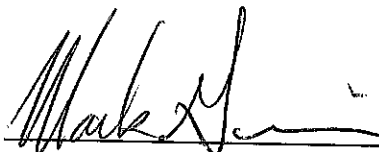


**City of Rio Communities, New Mexico
ORDINANCE 2018-63**

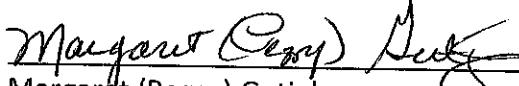
**AN ORDINANCE SUPERSEDING OR REPEALING ORDINANCE NO. 2016-43, DATED:
FEBRUARY 9, 2016. CHAPTER 02, ADMINISTRATION AND PERSONNEL: ARTICLE 6
PERSONNEL POLICY MANUAL**

**PASSED, APPROVED AND ADOPTED THIS 24TH DAY OF APRIL 2018 BY THE GOVERNING BODY
OF THE CITY OF RIO COMMUNITIES, NEW MEXICO.**


City of Rio Communities Governing Body



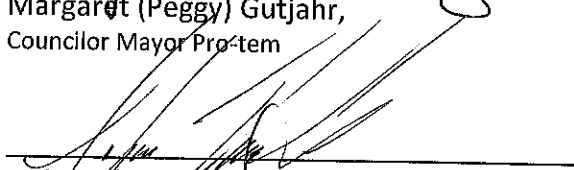
Mark Gwinn,
Mayor



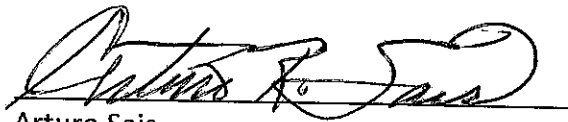
Margaret (Peggy) Gutjahr,
Councillor Mayor Pro-tem



Bill Brown,
Councillor

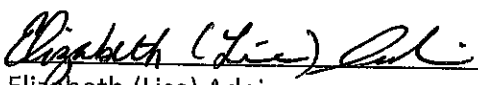


Joshua Ramsell,
Councillor

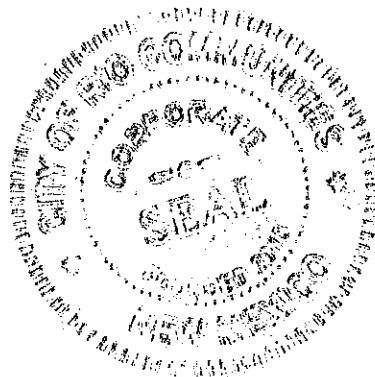


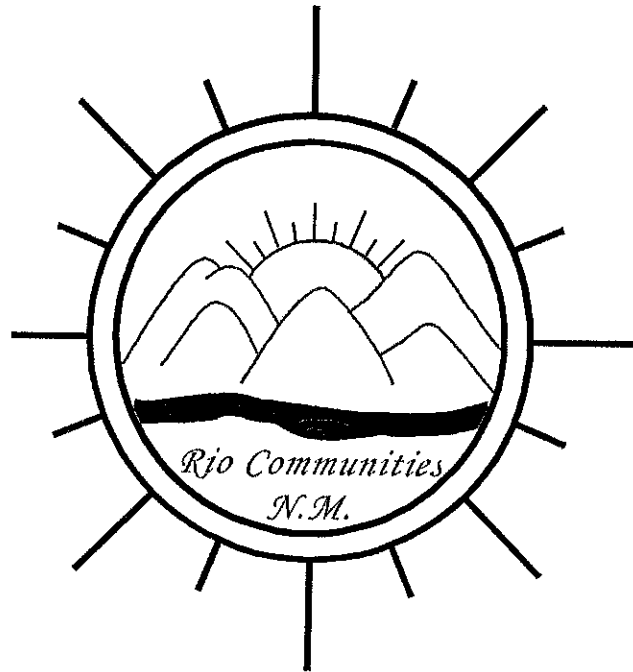
Arturo Sais,
Councillor

ATTEST:



Elizabeth (Lisa) Adair,
Municipal Clerk





The City of Rio Communities

PERSONNEL POLICY MANUAL

Ordinance# 2018-63

AN ORDINANCE REPEALING ORDINANCE NO. 2016-43

DATED: FEBRUARY 9, 2016

Adopted April 28, 2015

Re-adopted April 24, 2018

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SECTION 1. GENERAL PROVISIONS

- 1.1 PURPOSE.** The purpose of this Personnel policy Manual is to establish basic and consistent policies and practices concerning relations between the City of Rio Communities (hereafter the City) and its employees. This Personnel Policy Manual further establishes the formal grievance procedure available to regular employees to hear grievances with respect to demotions, dismissals and suspensions, and provides the method by which the Personnel Board hears formal grievances. The provisions of this Personnel Policy Manual shall apply to all City employees, except for those provisions that govern merit promotions, disciplinary and grievance actions for the City Manager who is at will.
- 1.2 SCOPE.** Definitive rules and regulations cannot be readily formulated for every possible problem and situation. Therefore, this ordinance serves as the bases for a general guide for the proper, efficient and effective administration of personnel matters for the employees of the City. The personnel rules contained herein replace and supersede all previously issued personnel rules and regulations, written or oral, applicable to employees of the City, including but not limited to the City. Nothing in the Personnel Policy Manual is intended to unlawfully restrict an employee's rights as guaranteed by Section 7 of the National Labor Relations Act, including but not limited to, the right to engage in concerted protected activity for the purposes of their mutual aid and/or protection. Violations of any policy in the Personnel Policy Manual may result in disciplinary action, up to, and including immediate termination of employment.
- 1.3 AMENDMENT OF POLICY.** There shall be no resolution or other action of the Governing Body of the City or other City officials that is inconsistent with this policy, except by amendment of this Ordinance as required by law. The City Council reserves the right to amend this Personnel Policy Manual at its discretion. All policy updates will be approved and provided to employees, by the City Manager, in writing. Oral statements or representations cannot change this Personnel Policy Manual.
- 1.4 EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY.** The City Manager shall provide a copy of this policy to present employees and all new employees with instructions to read and know the provisions of these rules. Employees shall sign an acknowledgement that they have reviewed the manual. (See Acknowledgement Signature Form at the end of this document)
- 1.5 EQUAL EMPLOYMENT OPPORTUNITY POLICY.** The City shall not discriminate against individuals on the basis of race, age, religion, color, national origin, ancestry, sex, sexual orientation, military or veteran status, pregnancy, genetic information, spousal or child support withholding, gender identity, citizenship or immigration status, physical or mental handicap or medical condition, in consideration for employment, duration of employment, transfers, leaves of absence, disciplinary action, compensation, terms,

conditions, or privileges of employment. This policy also includes all other legally protected classifications as defined by federal, state and local laws and regulations. The City will promptly investigate all complaints made related to this policy.

- 1.6 REASONABLE ACCOMODATIONS.** The City, in compliance with the Americans with Disabilities Act (ADA) and its amendments (ADAAA), provides qualified applicants and employees with disabilities reasonable accommodations to allow them to perform the essential functions of their jobs if the accommodations do not impose undue hardship on the City.

Employees must notify the City Manager to request reasonable accommodations. The City is committed to engaging in a timely, good faith and interactive process to determine if effective reasonable accommodations may be made.

- 1.7 ADMINISTRATION BY CITY MANAGER.** The City Manager shall administer the personnel system and the terms of this Personnel Policy Manual, its amendments, and all future approved personnel policies and operating procedures.

- 1.8 PRONOUNS.** All pronouns used in this *Personnel Policy Manual* shall include the masculine, feminine and neutral gender, and shall include the singular and plural; the context of this *Personnel Policy Manual* shall be read accordingly.

SECTION 2 DEFINITIONS

- 2.1 ADMINISTRATIVE LEAVE WITH PAY.** Leave with pay shall be granted at the City Manager's discretion for good cause.
- 2.2 ANNIVERSARY DATE.** The day twelve (12) months from an employee's date of hire.
- 2.3 PAID TIME OFF (PTO).** Leave with pay granted to a regular or qualified appointed employee after accrual at a specific rate to be used by an employee at the employee's discretion.
- 2.4 APPEAL.** Written request that a decision of a formal grievance be reconsidered at a further stage in the grievance procedure.
- 2.5 APPLICANT.** A person who has made a formal application on an official City personnel application form for a position in the service of the City.
- 2.6 APPOINTED EMPLOYEE.** Appointed employees include: The City Manager.
- 2.7 CASUAL EMPLOYEE.** An employee paid by the hour that may be called on short notice and/or on an occasional basis.
- 2.8 DAYS.** Wherever the term "day or days" is used in this manual, it shall mean a calendar day or days and not a working day or days, unless otherwise specifically stated.
- 2.9 DEMOTION.** A personnel action that reduces the employee's responsibilities and pay. Demotions may be voluntary or may be the result of disciplinary actions.
- 2.10 DEPARTMENT HEAD.** The City Council appointee or City employee who has responsibility for supervising or administering a department of City government as determined and designated by the City Council.
- 2.11 DISMISSAL.** An action recommended by the City Manager for a department head dismissal must have the approval of the Mayor and a majority of the City Council, will terminate an individual's employment with the City. An action recommended by a department head for whom the employee works be approved by the City Manager, which terminates an individual's employment with the City.
- 2.12 DUE PROCESS.** The right granted to a full-time or part-time regular employee who has completed the probationary period, to pre-and post-disciplinary hearings, for actions of suspension, demotion or dismissal.

- 2.13 ELECTED OFFICIAL.** An individual elected by popular vote or appointed to fill vacancies in elective office (i.e., City councilor, mayor or municipal judge).
- 2.14 EXEMPT EMPLOYEES.** All executive, administrative and professional employees as defined in Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation/wage is based on a fixed annual salary. Once an exempt employee uses all accrued leave, the employee will not be paid for time absent from work.
- 2.15 FULL-TIME.** All employees who work a minimum of thirty-five (35) hours per week are considered full-time employees.
- 2.16 GRIEVANCE.** A formal complaint by an employee concerning actions taken by management that result in loss of pay to the employee or in dissatisfaction with the working conditions or relationships.
- 2.17 IMMEDIATE FAMILY.** Defined as spouse, parent, child or adopted child, grandchild, grandparent or sibling; or spouse's parent, child, grandchild, grandparent or sibling.
- 2.18. LAYOFF (Reduction in Force)** The involuntary separation of an employee from City service without fault on the part of the employee due to reorganization, lack of work or lack of funds.
- 2.19 MEDICAL DISABILITY TERMINATION.** The termination of an employee from City employment when the employee is unable to perform the essential functions of the position due to a medical condition.
- 2.20 NONEXEMPT EMPLOYEES.** All employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labors Standards Act. Nonexempt employees shall receive overtime pay for actual hours worked in a normal workweek in excess of the hours set forth on Page 34 of this manual.
- 2.21 PART-TIME EMPLOYEE.** A position in which the employee works less than thirty-four (34) hours per week.
- 2.22 PERFORMANCE EVALUATION.** The written objective review made by the employee's supervisor of an employee's performance relating to the employee's assigned duties.
- 2.23 POST-DISCIPLINARY HEARING.** A formal hearing conducted by the personnel board at the request of an employee who is grieving a suspension or demotion, or a former employee who is grieving a dismissal, held after the pre-disciplinary hearing conducted by the mayor.
- 2.24 PREDISCIPLINARY HEARING.** A hearing conducted by the Governing Body before the imposition of the disciplinary actions of suspension, demotion or dismissal.

- 2.25 PROBATIONARY EMPLOYEE.** A full-time or part-time employee hired to fill a regular position who has not yet completed the six (6) month probationary period of employment during which time the employee is terminable-at-will. Law enforcement personnel shall serve a one (1) year probationary period.
- 2.26 PROMOTION.** Transfer to a position requiring higher responsibilities and salary.
- 2.27 REGULAR EMPLOYEE.** A full or part-time employee who has completed the probationary period, who shall be disciplined only for cause, and who is entitled to all the rights and benefits of the City's Personnel Policy Manual. A regular employee must be specifically designated as such on a personnel action form that will be made part of the employee's personnel file.
- 2.29 PTO (Paid Time Off) ABUSE.** Use of accrued PTO at a rate faster than fifty percent (50%) of the hours being accrued on a monthly basis for non-major medical problems. Employees abusing PTO leave shall be disciplined up to and including dismissal.
- 2.30 SUSPENSION.** An enforced leave of absence without pay for disciplinary reasons that becomes effective after the mayor has conducted the pre-disciplinary hearing and rendered his decision.
- 2.31 TEMPORARY/SEASONAL POSITION.** A position that is vacant due to the temporary absence of an employee or a position that is seasonal in nature. Temporary/seasonal employment will not exceed a four (4) month period.
- 2.32 TERMINATION-AT-WILL.** A termination-at-will employee is one who fills an appointed, temporary or casual position, or an employee who has not completed his probationary period. A termination-at-will employee serves at the discretion of the City and their employment can be terminated without cause. A termination-at-will employee cannot grieve suspension, demotion, dismissal, or other disciplinary actions.
- 2.33 TRANSFER.** The transfer of an employee from one department or office to another department or office in the City service, or to a position in another geographic location or to a position having the same salary.
- 2.34 CITY BUSINESS.** The performance of duties of a City position at an employee's normal workstation or at a location authorized by the City.

SECTION 3 EMPLOYMENT STATUS

3.1 FULL-TIME REGULAR EMPLOYEE. A full-time regular employee is one who has completed the probationary period and who normally is scheduled to work a minimum of thirty-five (35) hours per week. A full-time regular employee is eligible for all rights and benefits provided by the City.

3.2 PART-TIME REGULAR EMPLOYEE. A part-time regular employee is an employee who has completed the probationary period and who works less than thirty-five (35) hours per week. Part-time regular employees are eligible for leave and benefit plans at a prorated basis.

3.3 OTHER CLASSES OF EMPLOYEES

A. Appointees of Elected Officials

The appointees of elected officials are as follows: City Manager. Appointees of elected officials shall receive a salary or hourly wage set by the City Council. Appointed employees are terminable-at-will and cannot avail themselves of the grievance procedure set forth herein but are entitled to all other benefits provided by the City.

B. Probationary Employee

The purpose of the probationary period is to evaluate the employee's ability, potential and performance. A full-time or part-time probationary employee is one who is hired to fill a regular position who has not yet completed the probationary period of employment during which time he is terminable-at-will and may not avail himself of the grievance procedure set forth herein but is entitled to all other City benefits provided herein.

1. A probationary employee accrues leave but may not use annual leave-time accrued until the probationary period is completed.
2. To determine whether an employee has satisfactorily completed the probationary period, the employee's department head will evaluate the employee's performance and the employee's ability to work with the public, peers, supervisors and management. A probationary employee will be evaluated at the end of the probationary period and may be evaluated at any other time during the probationary period.
3. During the probationary period, an employee hired to fill a law enforcement position shall obtain the statutorily required certification for the position. Failure to obtain such certification within the one (1) year period bars the employee from becoming a regular employee and shall result in the employee's dismissal.
4. If an employee does not satisfactorily complete the probationary period, the employee will be dismissed. Proposed dismissal of a probationary employee must be discussed with the City Manager. The Mayor/Council must approve the dismissals of department head probationary employees only.

5. An employee who fills a temporary position and is subsequently hired to fill a regular position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to probationary status.
6. A regular employee who transfers to a new position shall serve the normal probationary period.
7. A former City employee rehired more than six (6) months after termination or rehired at any time to fill a different position shall serve the required probationary period.
8. A probationary employee may not apply for other positions in any City office.
9. If the employee is hired to a full-time or part-time regular position, the first day of work in that position shall be used in computing the beginning of the probationary period.

C. Temporary or Seasonal Employee

A temporary or seasonal employee is hired on either a full-time or part-time basis to a seasonal position or to a temporary position established for a period of no more than four (4) months. A temporary employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive benefits, and does not accrue leave.

D. Casual Employee

A casual employee is an employee paid by the hour that may be called on short notice, on an emergency basis or on an occasional or irregular basis. A casual employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive benefits, and does not accrue leave.

SECTION 4 RECRUITMENT AND SELECTION

4.1. RECRUITMENT POSTING PROCEDURE. Whenever filling a regular position, the department head will notify the City Clerk/Administrator of the position to be filled. The vacancy will be posted until filled in the City office and advertised to the public.

4.2 EXCEPTIONS TO POSTING. Posting is waived, with the approval of the City Manager when an applicant is authorized to perform the duties of a position on a temporary or casual basis.

4.3 PERMISSION FOR TRANSFER. No City employee or department head can deny another City employee who has completed the probationary period and who is not the subject of disciplinary action, permission to apply for a job vacancy in any other City office or department for which the employee is qualified.

4.4. APPLICANT RESPONSIBILITY

A. Submission of Applications

Applications for employment shall be accepted in the City Manager's office during normal business hours. Applicants shall be considered for positions for which they have applied and are qualified. Applications must be submitted on the employment application form provided by the City.

B. Proof of Qualifications

The applicant is responsible for furnishing proof of qualifications or possession of any license, certificate or degree when these requirements are necessary and set forth in the job description. Any misrepresentations, falsifications, or material omissions on an application, resume or other employment documents, may result in exclusion from consideration for employment or, if hired, actions up to and including discharge.

C. Immigration Act Compliance

The applicant is responsible for furnishing proof of identification and right to work in accordance with the Immigration Reform and Control Act of 1986 and to fulfil the City's requirements of the Federal Form I-9. Failure to provide appropriate and required documentation within three (3) days of hire and upon expiration (when applicable) may result in discharge, in compliance with federal regulations.

D. Certification

The applicant is responsible for signing the employment application and certifying as to the truth of all statements made in the application.

E. Referral to Department Head

The City Manager will refer applicants, who have met the qualifications, to the department head for interviews.

4.5 SELECTION. Selection shall be made by the City Manager in consultation with all department heads and will be based on the following: skills, educational background, experience, personal interview, references and results of pre-employment examinations when required.

A. Employment Reference Check

References provided by the applicant shall be checked. Applicants will be asked by the City to sign a written authorization for the City to check references. Only those applicants who sign this written authorization will be considered for the position for which they have applied.

We ask that employees don't provide references for other employees but that all contacts for references or verifications of employment be forwarded to the City Manager.

B. Physical Examinations and Drug Testing

Applicants to whom positions have been offered may be required to undergo medical examinations that may include urinalysis, blood testing and radiographic examinations. Drug testing will be done for specifically identified safety sensitive positions, including heavy road equipment operators and law enforcement officers. Pre-employment medical examinations will generally be completed and reviewed before actual employment begins. Offers of employment are contingent upon the physician's statement that the individual can perform the assigned duties and tasks of that position and is drug free. Pre-employment medical examinations will be paid for by the City.

C. Background Check

To protect the city, our people and our employees, and to ensure a workforce that reflects the City's commitment to integrity, the City conducts background checks upon hire and throughout employment. All employment offers are made contingent upon successful completion and passing of a background check, and any unfavorable outcome may result in withdrawal of the offer.

A background check may include, but is not limited to, the following:

- A credit check – if applicable to the job
- Verification of a high school degree or diploma or a degree or diploma granted by an institution of higher learning
- Employment verifications and reference checks

- Multi-state criminal records checks - when these checks are not prohibited by state or local law, statute or regulation
- Motor vehicle check – if driving is a job requirement
- Social security and/or work eligibility verification
- Other checks as applicable to a specific job position and department

4.6 INELIGIBILITY FOR HIRE AND REHIRE. An applicant shall be considered ineligible for hire or rehire by the City if the applicant has:

- A. Made any false statement or omission on the employment application;
- B. Not met the requirements of the position; or
- C. Failed to complete pre-employment examinations or other requirements as directed by the city; or
- D. Not met the criteria for insurance or bonding as required by law; or
- E. Been dismissed from City service as a disciplinary measure; or
- F. Not been certified by a physician that the applicant can perform the physical requirements of the position; or
- G. Been convicted of a felony or a misdemeanor, which would affect the employee’s ability to perform the job’s essential functions or convicted of an infamous crime.

The above list is not necessarily exhaustive and may not include all of the reasons that would make an applicant ineligible for hire or rehire.

4.7 INELIGIBILITY OF APPLICANTS FOR LAW ENFORCEMENT POSITIONS. No person under indictment, who is generally known for having a bad character or as a disturber of the peace shall be eligible to serve as a law enforcement officer.

SECTION 5 CHANGES IN EMPLOYMENT STATUS

- 5.1 PROMOTION.** Employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify. The City Manager shall have final approval of all in house promotions.
- 5.2 DEMOTION.** An employee may be demoted to a vacant position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished due to a lack of funds or lack of work and there are no appropriate vacancies at the same level; when the employee does not possess the necessary ability to render satisfactory performance in the position presently held; or when the employee voluntarily requests such a demotion. Demoted employees will receive a reduction in pay. Only a regular employee demoted due to an inability to render satisfactory performance in the position presently held is entitled to grievance proceedings.
- 5.3 TRANSFER.** Employees may be moved from one position to another at the same rate of pay either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the City. Involuntary transfers are not grounds for grievance.
- 5.4 RESIGNATION.** An employee voluntarily resigning shall submit, in writing, a two-week notice of resignation. Failure to provide a written two-week notice of resignation may be grounds for refusal of future employment with the City. Unauthorized absence from work for a period of three (3) consecutive regularly scheduled working days shall be considered a voluntary resignation. An exit interview will be required.
- 5.5 REDUCTION-IN-FORCE/LAYOFF.** If it is necessary for the City to reduce the number of City employees because of lack of funds or lack of work, the City Manager, after consulting with the relevant department head, shall make recommendations to the mayor, who shall make the determination of the necessity for layoffs. The reduction will occur in the following manner:
- A. Casual, temporary, and probationary employees will be laid off before full or part-time regular employees unless they are filling positions, which require specific skills and knowledge.
 - B. Layoffs of regular employees shall be determined by department head based on the employee's suitability for the jobs remaining, ability to perform available work, past job performance, and length of service with the City.
 - C. Employees to be laid off shall be notified at any time during the pay period and shall be allowed to work through the end of that regular pay period or receive pay to the end of that period.