

**City of Rio Communities, New Mexico**

**Ordinance No: 2016-43**

**CHAPTER 02: ADMINISTRATION AND PERSONNEL  
ARTICLE 6: PERSONNEL POLICY MANUAL**

**PLEASE SEE ORDINANCE NO: 2018-63  
CHAPTER 02: ADMINISTRATION AND PERSONNEL  
ARTICLE 6: PERSONNEL POLICY MANUAL**

**For the current document**

# City of Rio Communities, New Mexico

## Ordinance No: 2016-43

### REVISION

#### TITLE: AN ORDINANCE REVISING OR ADDING TO MUNICIPAL ORDINANCE NO. 2015-32 PERSONNEL POLICY MANUAL

##### REVISION 1: Section 1. General Provisions 1.5 page 4

- A. sexual orientation, replace with:
- B. gender identity

##### REVISION 2: Section 2 Definitions 2.21 page 6

- A. (35) change to read:
- B. (34)

##### REVISION 3: Section 3 Employment Status 3.2 page 8

- A. Time Regular Employee: Part-time regular employees are eligible for leave at a prorated basis but do not receive health or life insurance benefits, except those that are statutorily required.
- B. Revised to read: Part-time regular employees are eligible for leave and benefit plan at a prorated basis.

##### REVISION 4: Section 6 Conditions of Employment 6.1 Performance Evaluation (A) page 14

- A. Add to the paragraph: The employee's performance is evaluated periodically (2, 4 & 6 months) during the probationary period.

##### REVISION 5: Section 9 Personnel Board 9.2 (A)(C)

- A. (2) member change to read
- B. (1) member
- C. Three (2) change to read
- D. (3)

##### REVISION 6: SECTION 10 compensation and Benefit Program 10.10 & 10.12 page 32

- A. Remove strike through ~~INSURANCE BENEFITS~~. A stipend for Health/Major Medical insurance is offered for to all regular full-time employees who have met the eligibility criteria. ~~New employees provide for and pay 100% of the cost for Health/major Medical insurance during the first six (6) months of employment. After that period upon becoming a regular employee, the City will contribute a maximum of \$200 per month toward major medical insurance for those employees who provide proof of insurance coverage. The employer contribution may be revised annually as the budget allows. Proof of medical insurance coverage must be provided on an annual basis in order for employer contribution to continue.~~ change paragraph to
- B. **NOMINAL FEE BENEFIT**, A nominal fee benefit is offered to all regular full-time employees who have met the eligibility criteria. After that period upon becoming a regular employee, the City will contribute a maximum of \$200 per month. Part-time employees receive the nominal fee benefit at a prorated amount.
- C. Add Section 10.12 Compensatory Time:

**NON-EXEMPT EMPLOYEES**

Non-exempt employees are not permitted to earn compensatory time. Any adjustment to an employee’s normal working schedule must have supervisory approval and may not total more than forty (40) hours in a single week and seventy (70) hours in a payroll period. All exceptions to this 40/70 rule require the prior approval of the Authorized staff.

**EXEMPT EMPLOYEES**

Compensatory time may be earned by exempt staff with the approval of the supervisor, when a client crisis or special circumstances demand. Compensatory time will not be granted for completion or normal work responsibilities.

Compensatory time may be accrued up to sixteen (16) hours and may be used at the mutual convenience of the employee and the supervisor.

The City of Rio Communities applies a use-it or lose-it rule for Compensatory time. Each qualified / salaried employee may carry over a maximum of eight (8) of Compensatory time each year. For all salaried employees for this purpose, a year will end on December 31<sup>st</sup> of each year.

**REVISION 7: Section 11 Leave and holidays: 11.3 (A), 11.4 (A)(D)(E), 11.5, 11.12 (D)**

- A. Remove strike throughs. All part-time employees ~~working twenty (20) hours or more~~ will receive holiday benefits at their regular rate of pay on a basis pro-rated to the full-time (35 hour) work week. Employees on leave without pay status will not be paid for holiday time. Casual employees temporary employees ~~or part-time employees working less than twenty (20) hours per week~~ are not entitled to holiday pay and add to read:
- B. All part-time employees will receive holiday benefits at their scheduled hours and regular rate of pay on a basis pro-rated to the full-time (35 hour) work week. Employees on leave without pay status will not be paid for holiday time. Casual employees and temporary employees are not entitled to holiday pay.
- C. Remove strike throughs. ~~ANNUAL LEAVE WITH PAY~~ and replace with:
- D. **PAID TIME OFF**
- E. Remove strike throughs Annual leave will accrue on a ~~monthly~~ basis from the date of employment. Upon termination of employment, an employee shall be compensated for accrued annual hours. And replace to read:
- F. Annual leave will accrue on a pay period basis from the date of employment. Upon termination of employment, an employee shall be compensated for accrued annual hours.
- G. Replace all Annual leave with
- H. Paid Time Off (PTO)
- I. Add the part-time rate as the chart below:

<u>Regular Pay Period</u>	<u>Accrued Pay Period</u>	<u>Yearly</u>	<u>Maximum</u>
<b><u>1-3 Years’ Service</u></b>			
Part-time	0.044 Hours	40 Hours	50 Hours
<b><u>3-7 Years’ Service</u></b>			
Part-time	0.053 Hours	48 Hours	60 Hours

City of Rio Communities  
PERSONNEL POLICY MANUAL

Ordinance No. 2015-32  
Adopted: April 28, 2015


BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES HEREBY ADOPTS AN ORDINANCE FOR THE ESTABLISHMENT OF A MERIT SYSTEM AND GENERAL PROVISIONS PURSUANT TO SECTION 3-13-4, NMSA 1978.

WHEREAS, in Chapter 3, Article 13, Section 4, NMSA 1978, the State of New Mexico enables municipalities to adopt and amend policies and regulations for establishing a merit system for the hiring, promotion, discharge and general regulation of municipal employees.

WHEREAS, in 2015, the City of Rio Communities adopted Ordinance No. 2015-32, and incorporated thereto as the Code of Ordinances, Chapter 2, Article 6; *A Personnel Policy Manual* that hereafter governs the basic "rules of employment" between the City of Rio Communities and its employees.

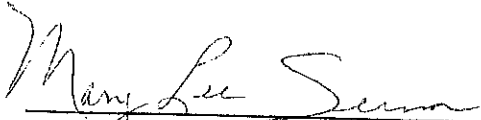
NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES, VALENCIA COUNTY, NEW MEXICO that Code of Ordinances Chapter 2, Article 6, *Personnel Policy Manual*, is hereby adopted.

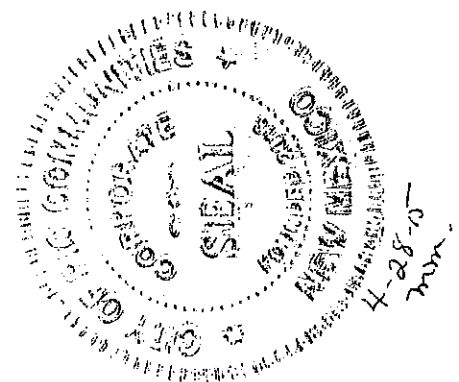
INTRODUCED, PASSED, ADOPTED AND APPROVED on this day of 28, in the month of April, in the year 2015.

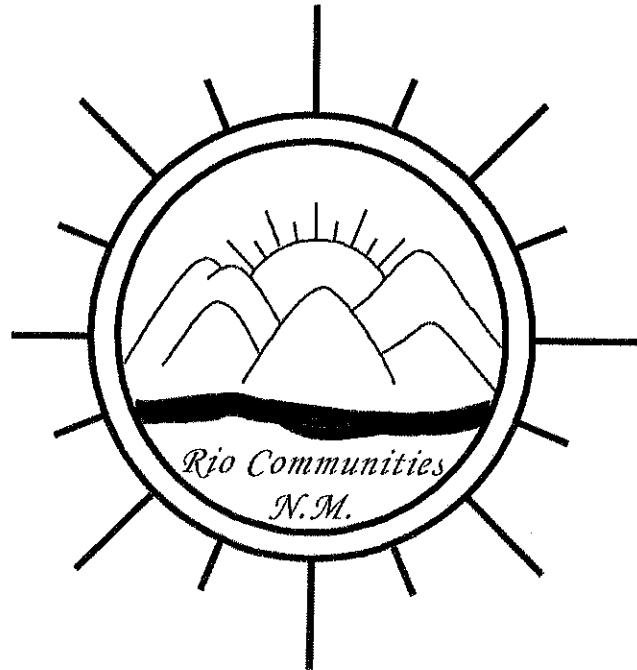
  
\_\_\_\_\_  
Mark Gwinn, MAYOR

ATTEST:

  
\_\_\_\_\_  
Marilyn Winters, INTERIM CITY CLERK

  
\_\_\_\_\_  
Mary Lee Serna, MAYOR PRO-TEM





**The City of Rio Communities**  
**PERSONNEL POLICY MANUAL**

**Ordinance# 2016-43**

Adopted April 28, 2015  
Effective April 28, 2015  
Revised February 9, 2016

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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 (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, the City Clerk, the City Treasurer and the Police Chief.
- 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 applicable to employees of the City, including but not limited to The City.
- 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.
- 1.4 EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY.** The City Manager shall provide a copy of this policy to present employees and to 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 on page 45)
- 1.5 EQUAL EMPLOYMENT OPPORTUNITY POLICY.** The City shall not be discriminated against individuals on the basis of race, age, religion, color, national origin, ancestry, sex, gender identity, physical or mental handicap or medical condition, in consideration for employment, duration of employment, compensation, terms, conditions, or privileges of employment.
- 1.6 ADMINISTRATION BY CITY MANAGER.** The City manager shall administer the personnel system and the terms of this personnel policy manual and its amendments, and all future approved personnel policies and operating procedures.
- 1.7 PRONOUNS.** All pronouns used in this *Personnel Manual Policy* shall include the masculine, feminine and neuter gender, and shall include the singular and plural; and the context of this *Personnel Policy Manual* shall be read accordingly.

- 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 in §10.5 (page 35) 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

## 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 plan 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, Treasurer, City Clerk and Police Chief. 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

## **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 in the City office for five (5) days and advertised in a newspaper of general circulation at least once.

**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 Qualification**

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.

#### **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.

#### **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 Mayor, in consultation with the department head and the City Manager and will be based on the following: skills, educational background, experience, personal interview, references and results of pre-employment

## 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 Governing Body 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.
- 5.5 REDUCTION-IN-FORCE/LAY-OFF.** 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. Lay off 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.

## SECTION 6 CONDITIONS OF EMPLOYMENT

### 6.1 PERFORMANCE EVALUATION

#### A. Probationary Period Evaluations

The department head shall discuss performance with the employee during the probationary period as required in §3.3(B)(ii). The employee's performance is evaluated periodically (2, 4 & 6 months) during the probationary period. The employee must receive a performance evaluation of satisfactory or better at the end of the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status.

#### B. Other Evaluations

Other employees may be evaluated upon the following conditions:

1. On an annual basis. Department heads will initiate annual reviews of their employees at a time twelve (12) months from the date of hire or twelve (12) months from the date on which an employee transfers to a new position, and annually thereafter.
2. A change of status.
3. Recommendations of any type of salary increase.
4. Demotion or suspension.
5. Any other time that a department head or immediate supervisor wishes to make the particularly good or poor performance of an employee a matter of record.

Department heads will initiate annual reviews of their employees at a time twelve (12) months from the date of hire or twelve (12) months from the date, which an employee transfers to a new position, and annually thereafter.

#### C. Contents of Evaluation

A performance evaluation shall contain an overall appraisal of the employee's performance such as satisfactory, outstanding or unsatisfactory. The performance evaluation shall state areas of responsibilities and standards of performance.

#### D. Employee Rebuttal

The employee may submit a rebuttal statement to the performance evaluation, which will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within ten (10) days of the evaluation.

#### E. Unsatisfactory Evaluation

In the event a regular employee receives an overall evaluation of unsatisfactory, the employee shall be provided with written information in the evaluation as to specific areas of deficient performance and steps for improvement. The employee also, shall be warned that failure to meet reasonable performance standards of the position

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.

## **6.4 CONFLICTS**

### **A. Conflict Ban**

No employee shall engage in any business or transaction, or accept private employment or other public employment that is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety.

### **B. Outside Employment**

Because each employee represents the City, the City requires each employee to obtain the express written permission of the City Manager or supervisor to whom the employee reports for each position of outside employment. The approval document will be placed in the employee's personnel file.

### **C. Approval of Outside Employment**

The City Manager shall determine whether:

1. The duties or services of the proposed supplemental/outside employment will create a conflict of interest for the employee or the employee's subordinates while serving in an official capacity with the City; or
2. The proposed supplementary/outside employment will defame, embarrass or reflect discredit upon the City; or
3. The employee is serving the City satisfactorily and will be able to continue to do so if the employee undertakes supplementary/outside employment; or
4. The employee's sick leave usage does not in any way reflect or give the appearance of abuse.

### **D. Termination of Outside Employment**

Upon request of the City Manager and/or the Mayor/Council, no employee shall continue in supplementary/outside employment if such employment has a negative impact on the employee's job performance. A determination that such employment has a negative impact on an employee's job performance is not subject to the formal grievance procedure.

## **6.5 SEXUAL HARASSMENT**

### **A. Prohibition of Sexual Harassment**

Employees of the City are prohibited from sexually harassing any other City employee(s). Sexual harassment is any unwanted sexual attention or such attention when submission to such conduct is made, either explicitly or implicitly, a term of an individual's employment; submission to or rejection of such conduct by an individual is

**A. Illegal Use of Drugs or Alcohol**

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. Engaging in any of these prohibited activities may result in disciplinary action up to and including termination from employment.

**B. Pre-employment Drug Testing**

A successful employment applicant for a law enforcement position, maintenance department position or heavy equipment operator position shall be tested for alcohol or drugs when he reports for his medical examination. A confirmed positive test result shall be grounds for rejecting the applicant.

**C. Reasonable Suspicion Testing**

Any The City employee shall be tested for alcohol and drugs if the City has reasonable grounds to suspect that the employee 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 employee is a contributing factor to the accident; or
2. Evidence of alcohol or drugs or paraphernalia discovered at the employee's work place; or
3. Any employee 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.

**6.7 REFUSAL TO SUBMIT TO DRUG TESTING.** Refusal by the employee to submit to drug testing based on reasonable suspicion shall be grounds for disciplinary action, up to and including dismissal.

**6.8 POSITIVE RESULTS OF ALCOHOL AND DRUG TESTING.** The guidelines established by the National Institute of Drug Abuse will be used to determine whether an employee tests positive. If an employee tests positive for drugs or alcohol, the employee will be suspended from employment without pay. To avoid dismissal the employee will be required to successfully complete an approved drug rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment. Upon the employee's return to work after completion of the drug rehabilitation program, the employee shall be required to test for drugs for a period of two (2) years. If the employee tests positive during this testing period, the employee shall be subject to disciplinary action, up to and including, dismissal.

## SECTION 7 EMPLOYEE DISCIPLINE

### 7.1 BASIS FOR EMPLOYEE DISCIPLINE

#### A. Just Cause Discipline

Disciplinary actions for regular employees are based on **just cause** in order to promote the efficiency of the services rendered by the City and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

#### B. Definition of Just Cause

Just cause is defined as any conduct, action or inaction arising from, or directly connected with, the employee's work that is inconsistent with the employee's obligation to the City and reflects the employee's disregard of the City's interest. Just cause includes, but is not limited to, inefficiency, incompetency, misconduct, negligence, insubordination, performance that continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor as described in NMSA 1978, §28-2-1 *et seq.*

#### C. Disciplinary Action

Any department head may take disciplinary action in the form of a verbal or written reprimand, or may recommend suspension, demotion, or dismissal of an employee under the department head's authority, consistent with departmental policies and this personnel policy manual. Copies of any documented disciplinary action must be furnished to the City Manager's office for placement in the employee's file with the signature of the recipient acknowledging receipt of the action.

#### D. Consultation with City Manager

Dismissal, involuntary demotion and suspension require consultation with the City Manager before the action is recommended to the Governing Body. Whenever such consultation is not practical because of urgent circumstances, necessary action may be taken and the situations reviewed with the City Manager as soon as practical. Recommendations by department heads for dismissals will be discussed by the City Manager with the state's Risk Management Division, and dismissals, involuntary demotions and suspensions require approval by the majority of the in accordance with the procedures set forth below.

**7.2 PROGRESSIVE DISCIPLINE.** A regular employee shall be progressively disciplined whenever possible. Each case of inadequate performance or act of misconduct shall be judged individually. All actions involving substandard work performance, leading up to and including dismissal, require progressive warnings. The step of corrective action used depends on the severity of the infraction and the employee's previous work record.

#### **D. Demotion**

An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed. Demotion is not an appropriate disciplinary action for an employee who has a record of excessive absences or tardiness. The demotion of a regular employee is subject to the formal grievance procedures.

#### **E. Dismissal**

Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance. Dismissal is also the appropriate disciplinary measure, despite the absence of previous disciplinary actions, when the employee has engaged in behavior that is of a serious nature, which is unacceptable for City employees. The dismissal of a regular employee is subject to the formal grievance procedure. Causes for dismissal shall include, but are not limited to:

1. All causes listed for the previous four (4) disciplinary actions if continuing after attempts to correct has failed; or
2. Theft of City property or unapproved use of City property for personal reasons; or
3. Conviction of a job related felony or misdemeanor as described in the Criminal Offender Employment Act, NMSA 1978, §28-2-1 *et seq.*; or
4. Serious acts of negligence causing damage to City property or to persons; or
5. Conduct unbecoming an employee of the City; or
6. Deliberate falsification of information on the employee's job application or other City records; or
7. Unlawful manufacturing, distributing, dispensing, possessing of using controlled substances or alcohol on the job or reporting to work under the influence of an unlawful controlled substance or alcohol; or
8. Intentional abuse or destruction of City equipment; or
9. Refusal to carry out reasonable orders when a threatening condition exists; or
10. Failure to meet standards of substance abuse rehabilitation programs.

The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations that may arise. The City reserves the right to exercise judgment and render disciplinary action or dismissal as determined appropriate based on the circumstances of each case.

**7.3 APPROVAL BY MAYOR AND CITY COUNCIL.** The Governing Body, as the pre-disciplinary hearing officer, will approve or disapprove all suspensions, demotions and dismissals. Suspensions without pay and demotions become effective when the Governing Body approves the action. Dismissals become effective after Council approval. If an employee does not grieve a suspension, demotion, or dismissal to the personnel hearing board, the City Council will either approve or disapprove the mayor's suspension, demotion or dismissal of the employee. The employee will not be given an opportunity to speak at this meeting. The employee must follow the grievance procedure set forth in section 8 of this

## SECTION 8 FORMAL GRIEVANCE PROCEDURES

**8.1 INITIAL STEPS IN FORMAL GRIEVANCE PROCEDURE.** The following are the formal grievance procedures that apply to suspensions, involuntary demotions and dismissal of regular employees.

**A. Written Notification**

The City Manager shall present the employee with written notification of intent to suspend, demote or dismiss at least **three (3) working days** in advance of the proposed action. The written notification shall explain the reasons for the proposed action, the employee's right to a pre-disciplinary hearing and contain the scheduled time and place of the pre-disciplinary hearing. The notification shall be hand-delivered to the employee, receipt of which shall be acknowledged by the employee. The pre-disciplinary hearing shall not be set less than **three (3) working days** after the hand delivery of the notice.

**B. Immediate Suspension**

In cases where City property, other employees or citizens are at risk because of the employee's actions, the department head, in consultation with the City Manager, shall put the employee on administrative leave with pay while the appropriate disciplinary action is contemplated and until the pre-disciplinary hearing is held and the decision is rendered.

**8.2 PRE-DISCIPLINARY HEARINGS.** An employee shall pursue grievances according to the rules contained herein.

**A. Request for Pre-disciplinary Hearing**

Within **two (2) working days** of the receipt of the disciplinary notice, the employee is required to notify the City Manager, in writing and advise whether or not the employee will participate in the pre-disciplinary hearing. The time, place and date of the pre-disciplinary hearing can be rescheduled upon the written agreement of the parties.

**B. Pre-Disciplinary Hearing Procedure**

The City Manager shall meet with the employee and the employee's department head at the appointed time. At this pre-disciplinary hearing, the employee shall have the opportunity to respond to the proposed disciplinary action. The parties may be represented by counsel at the pre-disciplinary hearing at their own expense.

**C. Pre-disciplinary Hearing Decision**

The City Manager will issue a decision in writing within **three (3) working days** of the hearing. The written decision shall include the time, date and location of the meeting; persons present and the determination. The written decision shall be either delivered directly to the employee (obtaining employee's signature of receipt of the decision) or

3. Follow the evidentiary standard for administrative agencies.
  4. Issue a written ruling, including findings of fact and conclusions of law.
- D. The following persons are required to be present at all grievance proceedings unless otherwise excused by the personnel board or by agreement of the parties: the grievant, grievant representative (if any), and the department's designated representative.
  - E. The parties shall stipulate to the facts and issues to the greatest extent possible prior to the hearing.
  - F. Prior to the hearing, representatives shall prepare copies of all exhibits and evidence, which are expected to be presented. Representatives shall stipulate to exhibits to the extent possible and bring to the hearing adequate copies for the personnel board as well as the opposing representative.
  - G. At least **five (5) calendar days** prior to the hearing; all parties must submit to the personnel board: a statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence.
  - H. Witnesses in grievance hearings are not admitted into the hearing room until called upon to testify. This ban excludes those individuals listed in Section iv above.
  - I. Notice of the hearing will be sent by certified mail to the grievant and postmarked at least **five (5) days** prior to the scheduled hearing. Copies of the hearing notice shall be sent concurrently to all relevant parties.
  - J. Either a tape recorded or stenographic record of all post-disciplinary grievance hearings will be made.

## **8.5 CONDUCT OF HEARINGS**

- A. The City, which carries the burden of proof by a preponderance of the evidence, shall present its statements of issues involved in the case, followed by the grievant. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten minutes without permission of the personnel board.
- B. Order of Presentation
  1. The City will present its case first. Witnesses for the City may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the City will have the opportunity to cross-examine the witness. The personnel board will then have the opportunity to question the witness on matters related to the witness' testimony. The personnel board shall

conclusions and its recommendation; no further testimony will be heard at the council meeting at which the vote is taken. The City Council will meet to vote on a recommendation of the Personnel Board within **five (5) working days** after the Personnel Board issues its decision.

#### **8.8 APPEAL OF CITY COUNCIL'S DECISION**

- A. Either party may appeal the City Council's decision in the Thirteenth Judicial District Court by filing a notice of appeal within thirty (30) days of the decision.
- B. This personnel policy manual may be included in the record on appeal at the request of any one of the respective parties at any time before forwarding the record to district court.

#### **8.9 PROCEDURE FOR GRIEVING WORKING CONDITIONS AND OTHER WORK RELATED PROBLEMS.**

- A. With respect to those conditions about which an employee wishes to grieve, but which are not subject to the formal grievance procedure set forth in Sections 8.1 through 8.4 of this manual, the employee shall discuss the problem with the department head in an attempt to work out a solution. Included in this type of grievance are complaints, charging discrimination based on race, color, religion, sex, sexual orientation, age, national origin, physical or mental handicap, or medical condition. If the employee is not satisfied with the proposed solution, the employee may address the problem to the City Manager, whose decision shall be final.

inclusion into the personnel manual. After the City Council has reviewed and considered the same, the City Council may adopt or reject in total or in part those recommendations or amendments presented to them. The City Council may adopt personnel policies, procedures, regulations, definitions, rules, and the like, either upon the recommendation of the Personnel Board, or *sua sponte*, (of their own mind). The proposed recommendations or amendments shall be incorporated into the personnel manual by majority vote of the City Council at a duly called meeting of the Council at which a quorum is present. The City Council shall provide reasonable notice of the same, in accordance with law. The Personnel Manual and all changes thereto shall be binding on all parties from the time employment is approved by the City Council.

- C. Grievances.** The Personnel Board shall hear appeals of grievances of employees pursuant to Section 8 of this manual.

**10.9 PERA BENEFITS.** No PERA or other retirement benefits are offered at the current time. Individuals are encouraged to manage their own private retirement accounts.

**10.10 NOMINAL FEE BENEFIT, A nominal fee benefit** is offered to regular full-time employees who have met the eligibility criteria. After that period upon becoming a regular employee, the City will contribute a maximum of \$200 per month. Part-time employees receive the nominal fee benefit at a prorated amount.

**10.11 FINAL PAY CHECK.** An employee who resigns shall receive a final paycheck on the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed shall receive a final paycheck by 5:00 p.m. on the fifth (5) day following dismissal. Day one begins the day of dismissal and includes Saturday and Sunday. In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary or, if unnamed, to the employee's estate.

#### **10.12 COMPENSATORY TIME**

##### **NON-EXEMPT EMPLOYEES**

Non-exempt employees are not permitted to earn compensatory time. Any adjustment to an employee's normal working schedule must have supervisory approval and may not total more than forty (40) hours in a single week and seventy (70) hours in a payroll period. All exceptions to this 40/70 rule require the prior approval of the Authorized staff.

##### **EXEMPT EMPLOYEES**

Compensatory time may be earned by exempt staff with the approval of the supervisor, when a client crisis or special circumstances demand. Compensatory time will not be granted for completion or normal work responsibilities.

Compensatory time may be accrued up to sixteen (16) hours and may be used at the mutual convenience of the employee and the supervisor.

The City of Rio Communities applies a use-it or lose-it rule for Compensatory time. Each qualified / salaried employee may carry over a maximum of eight (8) of Compensatory time each year. For all salaried employees for this purpose, a year will end on December 31<sup>st</sup> of each year.

- B. No annual leave will be granted or taken before it is accrued. When a legal holiday that would have been a regular work day for the employee occurs during annual leave, the leave for that day will be charged as a holiday.
- C. Hours worked in addition to the regularly scheduled work week (such as overtime) will not entitle an employee to additional annual leave hours.
- D. Paid time off (PTO) must be requested in advance of the time it is to be taken, except under approved instances. Leave request forms should be submitted to supervisor at least two weeks prior to leave date to allow for proper coverage within department and office. Leave request will be approved contingent upon appropriate staff coverage within the City offices.
- E. Paid time off (PTO) is accrued at the following rates, conditioned on successful completion of one (1) year of employment:

<u>Regular Pay Period</u>	<u>Accrued Pay Period</u>	<u>Yearly</u>	<u>Maximum</u>
<b><u>1-3 Years' Service</u></b>			
70 Hours	3.08 Hours	80 Hours	100 Hours
Part-time	0.044 Hours	40 Hours	50 Hours
<b><u>3-7 Years' Service</u></b>			
70 Hours	3.69 Hours	96 Hours	120 Hours
Part-time	0.053 Hours	48 Hours	60 Hours
<b><u>7-11 Years' Service</u></b>			
70 Hours	4.61 Hours	120 Hours	145 Hours
Part-time	0.066 Hours	60 Hours	72.5 Hours
<b><u>11+ Years' Service</u></b>			
70 Hours	5.54 Hours	144 Hours	160 Hours
Part-time	0.079 Hours	72 Hours	80 Hours

- F. Part-time employees will receive annual leave benefits on a basis prorated to the full-time (35 hour) work week. Employees on leave without pay status will not accrue annual leave time. Temporary and casual employees do not accrue annual leave.
- G. Any employee within 24 hours of their maximum accrual will be notified in writing by the City Manager with a copy of the notice being sent to their supervisor.
- H. A probationary employee shall accrue annual leave, but shall not be able to use accrued annual leave hours until completion of the employee's probationary period. However, if a probationary employee resigns or is dismissed before completing the

- D. Reporting Procedure.** All work related injuries requiring medical attention must be reported to the employee's department head as soon as possible. A *First Report of Injury Form* must be filed with the City Manager within fifteen (15) days of the injury. The report shall be signed by the employee and the employee's department head. In addition, the department head's accident investigation report must be filed on the day following the day the department head receives the employee's first accident report. All accidents shall be reported, however minor.
- E. Medical Procedure.** In the event that an employee of the City is injured at work or otherwise suffers a workers' compensation injury, the employer will not initially select or direct health care for the worker. The worker will initially select/direct their own medical treatment by selecting a health care provider (HCP). Pursuant to the rules of the New Mexico Workers' Compensation Administration, the City may request, consultation with the City's designated health care provider.
- F. Return to Work.** An employee shall return to his former position or be reassigned to a comparable position if the employee's physician certifies that the employee can return to work within four (4) months.
- G. Modified Work Schedule.**
1. An employee returning from Worker's Compensation disability may return to light duty if an appropriate position is available and the employee's physician certifies that the employee can return to a modified work schedule.
  2. Light duty is defined either as performing the same job as the employee held before the injury, or as performing the duties of another position for which the employee is qualified, for fewer than eight (8) hours each day or having reduced physical requirements for the full day or less than the full day.
  3. The times and conditions of light duty will be determined by the employee's department head in conjunction with the City Manager.
- H. Re-employment of City Employees Injured on the Job.** If the City is hiring a regular full-time employee who has received or is due to receive benefits pursuant to the Worker's Compensation Act and who was unable to return to work during the four (4) month period for which the City shall hold the employee's position open, may apply for his pre-injury job, a modified job similar to the pre-injury job, or any job that pays less than the pre-injury job, provided that the employee is qualified for the job. The City shall rehire the regular full-time employee provided that the employee's treating health care provider certifies that the employee is fit to carry out the job without significant risk of injury.

relieved from training or duty, or from hospitalization continuing after discharge for a period of not more than one (1) year.

1. The returning employee will be deemed to have accrued seniority and length of service rights as though his employment with the City had been continuous since the date of initial employment.
2. The returning employee shall have all annual and sick leave accrued at the time of his departure for military service restored.

**11.11 LACK OF WORK & INCLEMENT WEATHER.** The City may at its discretion send an employee home when there is no work available as determined by the City Manager, and may close offices and send employees home due to inclement weather declared by the Mayor, or in his absence the City Manager. Employees who are sent home by the City due to inclement weather, or other circumstances not covered in this policy manual, shall not be charged with leave for all normal work hours missed. Hours paid pursuant to this provision shall not be counted as hours worked for the computation of overtime.

**11.12 LEAVE WITHOUT PAY.** The Governing Body may grant regular employees leave without pay (LWOP) for a period not to exceed three (3) months, when the Mayor/Council deems that such leave without pay is in the best interest of the City. Reasons for such a leave may include, but are not limited to: education, medical disability; pregnancy or birth or adoption of a child; and the need to care for a family member, including a newborn. Leave without pay is subject to the following conditions:

- A. Re-employment Upon Return.** If an employee returns to work within three (3) months, the employee will be returned to the same position. If the employee is on leave without pay for more than three (3) months, the City will attempt to return an employee to the same or similar position for which the employee is qualified. The position of an employee on leave without pay, for more than three (3) months shall not be guaranteed.
- B. Use of All Leave.** Prior to going on leave without pay, an employee requesting leave without pay shall use all available annual leave, except those going on military leave without pay. If the employee is seeking leave without pay for medical or pregnancy related reasons, the employee shall first use all available annual and sick leave.
- C. Physician's Certificate.** Leave without pay requested because of medical reasons or pregnancy related reasons must be accompanied by a physician's written statement indicating the estimated time of disability or recommended time for post-natal recovery. An employee returning to work from leave without pay due to medical or pregnancy related reasons must be released by the employee's physician to return to work. Proof of release must be presented to the employee's department head.

## SECTION 12 MISCELLANEOUS

- 12.1 DESIGNATED WORK AREAS.** All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep them neat and clean. Other than a drink, no food shall be consumed at their desk. Lunch and break meals shall be reserved for the break room.
- 12.2 PERSONAL BUSINESS.** Personal business shall not be conducted during work hours while on City premises.
- 12.3 SAFETY.** The City is committed to having all work conducted in a safe manner. All safety precautions shall be followed.
- 12.4 CITY PROPERTY.** Employees shall not misuse City property, records, or other material in their care, control, or custody; nor shall any City property, records, or other material be removed from the premises of the City offices unless written permission has been given. Employees shall not use City property, records or equipment for personal use.
- 12.5 DISCHARGE— RETURNING CITY PROPERTY.** At the time that an employee is voluntarily or involuntarily discharged, the employee shall return all City property to the appropriate department head, including but not limited to: any keys, vehicles, supplies, equipment, and uniforms that may be in the employee's possession.
- 12.6 CITY VEHICLES.** No City vehicles will be taken out of The The City without permission of the City Manager and employees shall notify the City Manager of their destinations and itineraries. City vehicles may be used only for City business and commuting to and from work, if required for a work-related purpose. City vehicles shall not be used for personal business, except as is incidental in commuting as determined by the employee's department head.
- 12.7 DRESS AND APPEARANCE.** Employees are constantly in the public eye, consequently it is important that the employees present the best possible image to the public. Employees should always be clean and neatly dressed in clothing suitable for their work assignments.
- 12.8 CONTENTS OF EMPLOYEE FILES.** Subsequent to hiring, two separate files shall be prepared and maintained for each employee: a personnel file, and an evaluation file. These records shall be kept in the City Manager's office. It is the responsibility of each department head to insure that the records of the employees are completed and up-to-date.

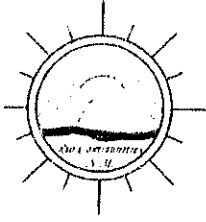
**A. Personnel File.** The personnel file shall contain the following records:

1. The original application form.

All local travel expenditures by City personnel must be supported by detailed expense reports. These reports should include point of origin and destination and total mileage for each trip. Parking charges and tolls will be reimbursed when receipts are submitted. All travel outside the State must be cleared with the Authorized staff City Manager, Governing Body of the City in advance. An expense account must be submitted monthly itemizing expenditures and appending receipts. Expenses will not be reimbursed more than thirty (30) days after they are incurred.

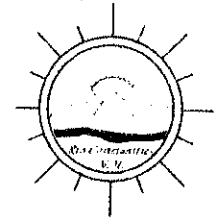
**12.12 CONFERENCES AND SEMINARS.** Attendance at conferences, workshops or other training sessions aimed at improving job performance is encouraged and can be scheduled during work time provided that approval by the Authorized staff, City Manager, Governing Body has been received prior to the activity.

A. Out of State travel must be approved sixty (60) days in advance by the appropriate funding sources.



# CITY OF RIO COMMUNITIES

360 Rio Communities Blvd  
PO Box 565  
Rio Communities, NM 87002  
505-861-6803  
www.riocommunities.net



## ACKNOWLEDGEMENT SIGNATURE FORM

I acknowledge that I have received a copy of the City's Personnel Practices that provides guidelines on the policies, procedures, and programs affecting my employment with this organization. I understand that the City can, at its sole discretion, modify, eliminate, revise, or deviate from the guidelines and information in these practices as circumstances or situations warrant.

I also understand that any changes made by the City with respect to its policies, procedures, or programs can supersede, modify or eliminate any of the policies, procedures, or programs outlined in this policy. I accept responsibility for familiarizing myself with the information in the Personnel Practices and will seek additional guidance when necessary.

Furthermore, I acknowledge that this policy is neither a contract of employment nor a legal document and nothing in these practices creates an expressed or implied contract of employment. I understand that I should consult my supervisor or the City Manager if I have any questions that are not answered in the City's Personnel Practices.

Name: \_\_\_\_\_  
(Please Print)

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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**7-11 Years' Service**

Part-time                      0.066 Hours                      60 Hours                      72.5 Hours

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**11+ Years' Service**

Part-time                      0.079 Hours                      72 Hours                      80 Hours

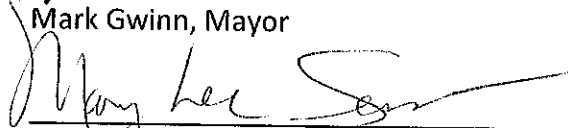
- J. Remove Section 11.5 (A)(B)(C)(D)(E)(F)(G) add paragraph to read as follows
- K. Employees with PTO (Paid Time Off) may be granted for absences from work because of personal or immediate family illness, injuries and scheduled doctor's appointments for treatment, examinations and evaluations, providing the employee have sufficient PTO hours accumulated.
- L. Remove strike throughs: an employee on leave without pay does not accrue leave, nor does the employee receive City benefits. ~~An employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the City's share of the premium to the City Manager on the regular pay day.~~

PASSED, ADOPTED AND APPROVED this 9<sup>th</sup> day of February, 2016 by the Governing Body of the City of Rio Communities.

**City of Rio Communities Governing Body**



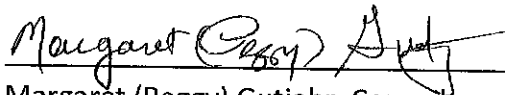
Mark Gwinn, Mayor



Mary Lee Serna, Councilor Mayor Pro-temp

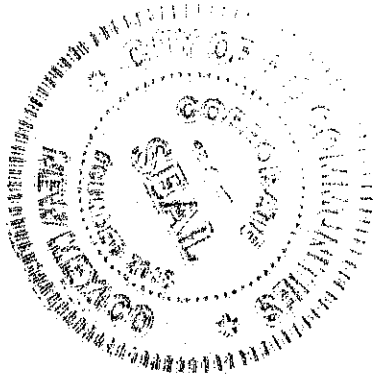


Robert Chavez, Councilor




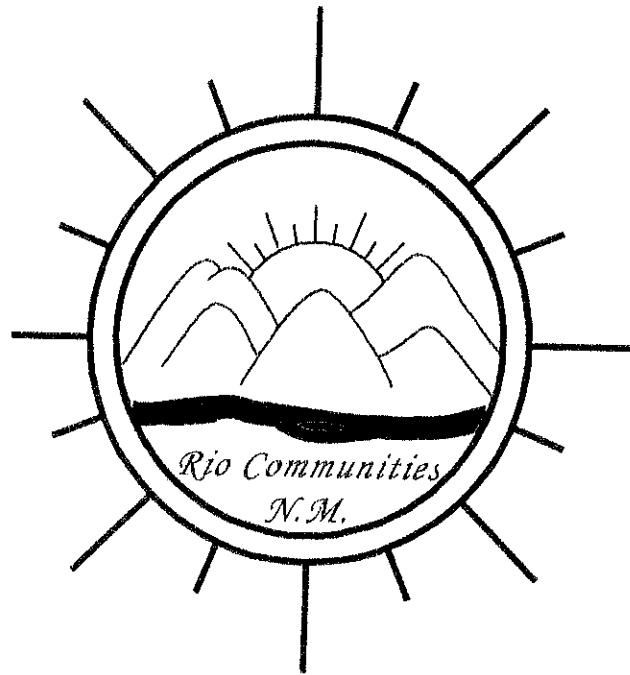
Margaret (Peggy) Gutjahr, Councilor

\_\_\_\_\_  
Frank Stasi, Councilor



ATTEST:

  
Elizabeth (Lisa) Adair, Municipal Clerk



**The City of Rio Communities**  
**PERSONNEL POLICY MANUAL**

**Ordinance# 2016-43**

Adopted April 28, 2015  
Effective April 28, 2015  
Revised February 9, 2016

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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 (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, the City Clerk, the City Treasurer and the Police Chief.
- 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 applicable to employees of the City, including but not limited to The City.
- 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.
- 1.4 EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY.** The City Manager shall provide a copy of this policy to present employees and to 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 on page 45)
- 1.5 EQUAL EMPLOYMENT OPPORTUNITY POLICY.** The City shall not be discriminated against individuals on the basis of race, age, religion, color, national origin, ancestry, sex, gender identity, physical or mental handicap or medical condition, in consideration for employment, duration of employment, compensation, terms, conditions, or privileges of employment.
- 1.6 ADMINISTRATION BY CITY MANAGER.** The City manager shall administer the personnel system and the terms of this personnel policy manual and its amendments, and all future approved personnel policies and operating procedures.
- 1.7 PRONOUNS.** All pronouns used in this *Personnel Manual Policy* shall include the masculine, feminine and neuter gender, and shall include the singular and plural; and the context of this *Personnel Policy Manual* shall be read accordingly.

- 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 in §10.5 (page 35) 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

### **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 plan 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, Treasurer, City Clerk and Police Chief. 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

## **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 in the City office for five (5) days and advertised in a newspaper of general circulation at least once.

**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 Qualification**

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.

#### **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.

#### **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 Mayor, in consultation with the department head and the City Manager and will be based on the following: skills, educational background, experience, personal interview, references and results of pre-employment

## 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 Governing Body 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.
- 5.5 REDUCTION-IN-FORCE/LAY-OFF.** 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. Lay off 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.

## **SECTION 6 CONDITIONS OF EMPLOYMENT**

### **6.1 PERFORMANCE EVALUATION**

#### **A. Probationary Period Evaluations**

The department head shall discuss performance with the employee during the probationary period as required in §3.3(B)(ii). The employee's performance is evaluated periodically (2, 4 & 6 months) during the probationary period. The employee must receive a performance evaluation of satisfactory or better at the end of the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status.

#### **B. Other Evaluations**

Other employees may be evaluated upon the following conditions:

1. On an annual basis. Department heads will initiate annual reviews of their employees at a time twelve (12) months from the date of hire or twelve (12) months from the date on which an employee transfers to a new position, and annually thereafter.
2. A change of status.
3. Recommendations of any type of salary increase.
4. Demotion or suspension.
5. Any other time that a department head or immediate supervisor wishes to make the particularly good or poor performance of an employee a matter of record.

Department heads will initiate annual reviews of their employees at a time twelve (12) months from the date of hire or twelve (12) months from the date, which an employee transfers to a new position, and annually thereafter.

#### **C. Contents of Evaluation**

A performance evaluation shall contain an overall appraisal of the employee's performance such as satisfactory, outstanding or unsatisfactory. The performance evaluation shall state areas of responsibilities and standards of performance.

#### **D. Employee Rebuttal**

The employee may submit a rebuttal statement to the performance evaluation, which will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within ten (10) days of the evaluation.

#### **E. Unsatisfactory Evaluation**

In the event a regular employee receives an overall evaluation of unsatisfactory, the employee shall be provided with written information in the evaluation as to specific areas of deficient performance and steps for improvement. The employee also, shall be warned that failure to meet reasonable performance standards of the position

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.

## **6.4 CONFLICTS**

### **A. Conflict Ban**

No employee shall engage in any business or transaction, or accept private employment or other public employment that is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety.

### **B. Outside Employment**

Because each employee represents the City, the City requires each employee to obtain the express written permission of the City Manager or supervisor to whom the employee reports for each position of outside employment. The approval document will be placed in the employee's personnel file.

### **C. Approval of Outside Employment**

The City Manager shall determine whether:

1. The duties or services of the proposed supplemental/outside employment will create a conflict of interest for the employee or the employee's subordinates while serving in an official capacity with the City; or
2. The proposed supplementary/outside employment will defame, embarrass or reflect discredit upon the City; or
3. The employee is serving the City satisfactorily and will be able to continue to do so if the employee undertakes supplementary/outside employment; or
4. The employee's sick leave usage does not in any way reflect or give the appearance of abuse.

### **D. Termination of Outside Employment**

Upon request of the City Manager and/or the Mayor/Council, no employee shall continue in supplementary/outside employment if such employment has a negative impact on the employee's job performance. A determination that such employment has a negative impact on an employee's job performance is not subject to the formal grievance procedure.

## **6.5 SEXUAL HARASSMENT**

### **A. Prohibition of Sexual Harassment**

Employees of the City are prohibited from sexually harassing any other City employee(s). Sexual harassment is any unwanted sexual attention or such attention when submission to such conduct is made, either explicitly or implicitly, a term of an individual's employment; submission to or rejection of such conduct by an individual is

**A. Illegal Use of Drugs or Alcohol**

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. Engaging in any of these prohibited activities may result in disciplinary action up to and including termination from employment.

**B. Pre-employment Drug Testing**

A successful employment applicant for a law enforcement position, maintenance department position or heavy equipment operator position shall be tested for alcohol or drugs when he reports for his medical examination. A confirmed positive test result shall be grounds for rejecting the applicant.

**C. Reasonable Suspicion Testing**

Any The City employee shall be tested for alcohol and drugs if the City has reasonable grounds to suspect that the employee 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 employee is a contributing factor to the accident; or
2. Evidence of alcohol or drugs or paraphernalia discovered at the employee's work place; or
3. Any employee 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.

**6.7 REFUSAL TO SUBMIT TO DRUG TESTING.** Refusal by the employee to submit to drug testing based on reasonable suspicion shall be grounds for disciplinary action, up to and including dismissal.

**6.8 POSITIVE RESULTS OF ALCOHOL AND DRUG TESTING.** The guidelines established by the National Institute of Drug Abuse will be used to determine whether an employee tests positive. If an employee tests positive for drugs or alcohol, the employee will be suspended from employment without pay. To avoid dismissal the employee will be required to successfully complete an approved drug rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment. Upon the employee's return to work after completion of the drug rehabilitation program, the employee shall be required to test for drugs for a period of two (2) years. If the employee tests positive during this testing period, the employee shall be subject to disciplinary action, up to and including, dismissal.

## SECTION 7 EMPLOYEE DISCIPLINE

### 7.1 BASIS FOR EMPLOYEE DISCIPLINE

#### A. Just Cause Discipline

Disciplinary actions for regular employees are based on **just cause** in order to promote the efficiency of the services rendered by the City and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

#### B. Definition of Just Cause

Just cause is defined as any conduct, action or inaction arising from, or directly connected with, the employee's work that is inconsistent with the employee's obligation to the City and reflects the employee's disregard of the City's interest. Just cause includes, but is not limited to, inefficiency, incompetency, misconduct, negligence, insubordination, performance that continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor as described in NMSA 1978, §28-2-1 *et seq.*

#### C. Disciplinary Action

Any department head may take disciplinary action in the form of a verbal or written reprimand, or may recommend suspension, demotion, or dismissal of an employee under the department head's authority, consistent with departmental policies and this personnel policy manual. Copies of any documented disciplinary action must be furnished to the City Manager's office for placement in the employee's file with the signature of the recipient acknowledging receipt of the action.

#### D. Consultation with City Manager

Dismissal, involuntary demotion and suspension require consultation with the City Manager before the action is recommended to the Governing Body. Whenever such consultation is not practical because of urgent circumstances, necessary action may be taken and the situations reviewed with the City Manager as soon as practical. Recommendations by department heads for dismissals will be discussed by the City Manager with the state's Risk Management Division, and dismissals, involuntary demotions and suspensions require approval by the majority of the in accordance with the procedures set forth below.

**7.2 PROGRESSIVE DISCIPLINE.** A regular employee shall be progressively disciplined whenever possible. Each case of inadequate performance or act of misconduct shall be judged individually. All actions involving substandard work performance, leading up to and including dismissal, require progressive warnings. The step of corrective action used depends on the severity of the infraction and the employee's previous work record.

#### **D. Demotion**

An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed. Demotion is not an appropriate disciplinary action for an employee who has a record of excessive absences or tardiness. The demotion of a regular employee is subject to the formal grievance procedures.

#### **E. Dismissal**

Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance. Dismissal is also the appropriate disciplinary measure, despite the absence of previous disciplinary actions, when the employee has engaged in behavior that is of a serious nature, which is unacceptable for City employees. The dismissal of a regular employee is subject to the formal grievance procedure. Causes for dismissal shall include, but are not limited to:

1. All causes listed for the previous four (4) disciplinary actions if continuing after attempts to correct has failed; or
2. Theft of City property or unapproved use of City property for personal reasons; or
3. Conviction of a job related felony or misdemeanor as described in the Criminal Offender Employment Act, NMSA 1978, §28-2-1 *et seq.*; or
4. Serious acts of negligence causing damage to City property or to persons; or
5. Conduct unbecoming an employee of the City; or
6. Deliberate falsification of information on the employee's job application or other City records; or
7. Unlawful manufacturing, distributing, dispensing, possessing of using controlled substances or alcohol on the job or reporting to work under the influence of an unlawful controlled substance or alcohol; or
8. Intentional abuse or destruction of City equipment; or
9. Refusal to carry out reasonable orders when a threatening condition exists; or
10. Failure to meet standards of substance abuse rehabilitation programs.

The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations that may arise. The City reserves the right to exercise judgment and render disciplinary action or dismissal as determined appropriate based on the circumstances of each case.

**7.3 APPROVAL BY MAYOR AND CITY COUNCIL.** The Governing Body, as the pre-disciplinary hearing officer, will approve or disapprove all suspensions, demotions and dismissals. Suspensions without pay and demotions become effective when the Governing Body approves the action. Dismissals become effective after Council approval. If an employee does not grieve a suspension, demotion, or dismissal to the personnel hearing board, the City Council will either approve or disapprove the mayor's suspension, demotion or dismissal of the employee. The employee will not be given an opportunity to speak at this meeting. The employee must follow the grievance procedure set forth in section 8 of this

## SECTION 8 FORMAL GRIEVANCE PROCEDURES

**8.1 INITIAL STEPS IN FORMAL GRIEVANCE PROCEDURE.** The following are the formal grievance procedures that apply to suspensions, involuntary demotions and dismissal of regular employees.

### **A. Written Notification**

The City Manager shall present the employee with written notification of intent to suspend, demote or dismiss at least **three (3) working days** in advance of the proposed action. The written notification shall explain the reasons for the proposed action, the employee's right to a pre-disciplinary hearing and contain the scheduled time and place of the pre-disciplinary hearing. The notification shall be hand-delivered to the employee, receipt of which shall be acknowledged by the employee. The pre-disciplinary hearing shall not be set less than **three (3) working days** after the hand delivery of the notice.

### **B. Immediate Suspension**

In cases where City property, other employees or citizens are at risk because of the employee's actions, the department head, in consultation with the City Manager, shall put the employee on administrative leave with pay while the appropriate disciplinary action is contemplated and until the pre-disciplinary hearing is held and the decision is rendered.

**8.2 PRE-DISCIPLINARY HEARINGS.** An employee shall pursue grievances according to the rules contained herein.

### **A. Request for Pre-disciplinary Hearing**

Within **two (2) working days** of the receipt of the disciplinary notice, the employee is required to notify the City Manager, in writing and advise whether or not the employee will participate in the pre-disciplinary hearing. The time, place and date of the pre-disciplinary hearing can be rescheduled upon the written agreement of the parties.

### **B. Pre-Disciplinary Hearing Procedure**

The City Manager shall meet with the employee and the employee's department head at the appointed time. At this pre-disciplinary hearing, the employee shall have the opportunity to respond to the proposed disciplinary action. The parties may be represented by counsel at the pre-disciplinary hearing at their own expense.

### **C. Pre-disciplinary Hearing Decision**

The City Manager will issue a decision in writing within **three (3) working days** of the hearing. The written decision shall include the time, date and location of the meeting; persons present and the determination. The written decision shall be either delivered directly to the employee (obtaining employee's signature of receipt of the decision) or

3. Follow the evidentiary standard for administrative agencies.
  4. Issue a written ruling, including findings of fact and conclusions of law.
- D. The following persons are required to be present at all grievance proceedings unless otherwise excused by the personnel board or by agreement of the parties: the grievant, grievant representative (if any), and the department's designated representative.
  - E. The parties shall stipulate to the facts and issues to the greatest extent possible prior to the hearing.
  - F. Prior to the hearing, representatives shall prepare copies of all exhibits and evidence, which are expected to be presented. Representatives shall stipulate to exhibits to the extent possible and bring to the hearing adequate copies for the personnel board as well as the opposing representative.
  - G. At least **five (5) calendar days** prior to the hearing; all parties must submit to the personnel board: a statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence.
  - H. Witnesses in grievance hearings are not admitted into the hearing room until called upon to testify. This ban excludes those individuals listed in Section iv above.
  - I. Notice of the hearing will be sent by certified mail to the grievant and postmarked at least **five (5) days** prior to the scheduled hearing. Copies of the hearing notice shall be sent concurrently to all relevant parties.
  - J. Either a tape recorded or stenographic record of all post-disciplinary grievance hearings will be made.

## **8.5 CONDUCT OF HEARINGS**

- A. The City, which carries the burden of proof by a preponderance of the evidence, shall present its statements of issues involved in the case, followed by the grievant. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten minutes without permission of the personnel board.
- B. Order of Presentation
  1. The City will present its case first. Witnesses for the City may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the City will have the opportunity to cross-examine the witness. The personnel board will then have the opportunity to question the witness on matters related to the witness' testimony. The personnel board shall

conclusions and its recommendation; no further testimony will be heard at the council meeting at which the vote is taken. The City Council will meet to vote on a recommendation of the Personnel Board within **five (5) working days** after the Personnel Board issues its decision.

#### **8.8 APPEAL OF CITY COUNCIL'S DECISION**

- A. Either party may appeal the City Council's decision in the Thirteenth Judicial District Court by filing a notice of appeal within thirty (30) days of the decision.
- B. This personnel policy manual may be included in the record on appeal at the request of any one of the respective parties at any time before forwarding the record to district court.

#### **8.9 PROCEDURE FOR GRIEVING WORKING CONDITIONS AND OTHER WORK RELATED PROBLEMS.**

- A. With respect to those conditions about which an employee wishes to grieve, but which are not subject to the formal grievance procedure set forth in Sections 8.1 through 8.4 of this manual, the employee shall discuss the problem with the department head in an attempt to work out a solution. Included in this type of grievance are complaints, charging discrimination based on race, color, religion, sex, sexual orientation, age, national origin, physical or mental handicap, or medical condition. If the employee is not satisfied with the proposed solution, the employee may address the problem to the City Manager, whose decision shall be final.

inclusion into the personnel manual. After the City Council has reviewed and considered the same, the City Council may adopt or reject in total or in part those recommendations or amendments presented to them. The City Council may adopt personnel policies, procedures, regulations, definitions, rules, and the like, either upon the recommendation of the Personnel Board, or *sua sponte*, (of their own mind). The proposed recommendations or amendments shall be incorporated into the personnel manual by majority vote of the City Council at a duly called meeting of the Council at which a quorum is present. The City Council shall provide reasonable notice of the same, in accordance with law. The Personnel Manual and all changes thereto shall be binding on all parties from the time employment is approved by the City Council.

- C. Grievances.** The Personnel Board shall hear appeals of grievances of employees pursuant to Section 8 of this manual.

**10.9 PERA BENEFITS.** No PERA or other retirement benefits are offered at the current time. Individuals are encouraged to manage their own private retirement accounts.

**10.10 NOMINAL FEE BENEFIT, A nominal fee benefit** is offered to regular full-time employees who have met the eligibility criteria. After that period upon becoming a regular employee, the City will contribute a maximum of \$200 per month. Part-time employees receive the nominal fee benefit at a prorated amount.

**10.11 FINAL PAY CHECK.** An employee who resigns shall receive a final paycheck on the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed shall receive a final paycheck by 5:00 p.m. on the fifth (5) day following dismissal. Day one begins the day of dismissal and includes Saturday and Sunday. In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary or, if unnamed, to the employee's estate.

#### **10.12 COMPENSATORY TIME**

##### **NON-EXEMPT EMPLOYEES**

Non-exempt employees are not permitted to earn compensatory time. Any adjustment to an employee's normal working schedule must have supervisory approval and may not total more than forty (40) hours in a single week and seventy (70) hours in a payroll period. All exceptions to this 40/70 rule require the prior approval of the Authorized staff.

##### **EXEMPT EMPLOYEES**

Compensatory time may be earned by exempt staff with the approval of the supervisor, when a client crisis or special circumstances demand. Compensatory time will not be granted for completion or normal work responsibilities.

Compensatory time may be accrued up to sixteen (16) hours and may be used at the mutual convenience of the employee and the supervisor.

The City of Rio Communities applies a use-it or lose-it rule for Compensatory time. Each qualified / salaried employee may carry over a maximum of eight (8) of Compensatory time each year. For all salaried employees for this purpose, a year will end on December 31<sup>st</sup> of each year.

- B. No annual leave will be granted or taken before it is accrued. When a legal holiday that would have been a regular work day for the employee occurs during annual leave, the leave for that day will be charged as a holiday.
- C. Hours worked in addition to the regularly scheduled work week (such as overtime) will not entitle an employee to additional annual leave hours.
- D. Paid time off (PTO) must be requested in advance of the time it is to be taken, except under approved instances. Leave request forms should be submitted to supervisor at least two weeks prior to leave date to allow for proper coverage within department and office. Leave request will be approved contingent upon appropriate staff coverage within the City offices.
- E. Paid time off (PTO) is accrued at the following rates, conditioned on successful completion of one (1) year of employment:

<u>Regular Pay Period</u>	<u>Accrued Pay Period</u>	<u>Yearly</u>	<u>Maximum</u>
<b><u>1-3 Years' Service</u></b>			
70 Hours	3.08 Hours	80 Hours	100 Hours
Part-time	0.044 Hours	40 Hours	50 Hours
<b><u>3-7 Years' Service</u></b>			
70 Hours	3.69 Hours	96 Hours	120 Hours
Part-time	0.053 Hours	48 Hours	60 Hours
<b><u>7-11 Years' Service</u></b>			
70 Hours	4.61 Hours	120 Hours	145 Hours
Part-time	0.066 Hours	60 Hours	72.5 Hours
<b><u>11+ Years' Service</u></b>			
70 Hours	5.54 Hours	144 Hours	160 Hours
Part-time	0.079 Hours	72 Hours	80 Hours

- F. Part-time employees will receive annual leave benefits on a basis prorated to the full-time (35 hour) work week. Employees on leave without pay status will not accrue annual leave time. Temporary and casual employees do not accrue annual leave.
- G. Any employee within 24 hours of their maximum accrual will be notified in writing by the City Manager with a copy of the notice being sent to their supervisor.
- H. A probationary employee shall accrue annual leave, but shall not be able to use accrued annual leave hours until completion of the employee's probationary period. However, if a probationary employee resigns or is dismissed before completing the

- D. Reporting Procedure.** All work related injuries requiring medical attention must be reported to the employee's department head as soon as possible. A *First Report of Injury Form* must be filed with the City Manager within fifteen (15) days of the injury. The report shall be signed by the employee and the employee's department head. In addition, the department head's accident investigation report must be filed on the day following the day the department head receives the employee's first accident report. All accidents shall be reported, however minor.
- E. Medical Procedure.** In the event that an employee of the City is injured at work or otherwise suffers a workers' compensation injury, the employer will not initially select or direct health care for the worker. The worker will initially select/direct their own medical treatment by selecting a health care provider (HCP). Pursuant to the rules of the New Mexico Workers' Compensation Administration, the City may request, consultation with the City's designated health care provider.
- F. Return to Work.** An employee shall return to his former position or be reassigned to a comparable position if the employee's physician certifies that the employee can return to work within four (4) months.
- G. Modified Work Schedule.**
1. An employee returning from Worker's Compensation disability may return to light duty if an appropriate position is available and the employee's physician certifies that the employee can return to a modified work schedule.
  2. Light duty is defined either as performing the same job as the employee held before the injury, or as performing the duties of another position for which the employee is qualified, for fewer than eight (8) hours each day or having reduced physical requirements for the full day or less than the full day.
  3. The times and conditions of light duty will be determined by the employee's department head in conjunction with the City Manager.
- H. Re-employment of City Employees Injured on the Job.** If the City is hiring a regular full-time employee who has received or is due to receive benefits pursuant to the Worker's Compensation Act and who was unable to return to work during the four (4) month period for which the City shall hold the employee's position open, may apply for his pre-injury job, a modified job similar to the pre-injury job, or any job that pays less than the pre-injury job, provided that the employee is qualified for the job. The City shall rehire the regular full-time employee provided that the employee's treating health care provider certifies that the employee is fit to carry out the job without significant risk of injury.

relieved from training or duty, or from hospitalization continuing after discharge for a period of not more than one (1) year.

1. The returning employee will be deemed to have accrued seniority and length of service rights as though his employment with the City had been continuous since the date of initial employment.
2. The returning employee shall have all annual and sick leave accrued at the time of his departure for military service restored.

**11.11 LACK OF WORK & INCLEMENT WEATHER.** The City may at its discretion send an employee home when there is no work available as determined by the City Manager, and may close offices and send employees home due to inclement weather declared by the Mayor, or in his absence the City Manager. Employees who are sent home by the City due to inclement weather, or other circumstances not covered in this policy manual, shall not be charged with leave for all normal work hours missed. Hours paid pursuant to this provision shall not be counted as hours worked for the computation of overtime.

**11.12 LEAVE WITHOUT PAY.** The Governing Body may grant regular employees leave without pay (LWOP) for a period not to exceed three (3) months, when the Mayor/Council deems that such leave without pay is in the best interest of the City. Reasons for such a leave may include, but are not limited to: education, medical disability; pregnancy or birth or adoption of a child; and the need to care for a family member, including a newborn. Leave without pay is subject to the following conditions:

- A. Re-employment Upon Return.** If an employee returns to work within three (3) months, the employee will be returned to the same position. If the employee is on leave without pay for more than three (3) months, the City will attempt to return an employee to the same or similar position for which the employee is qualified. The position of an employee on leave without pay, for more than three (3) months shall not be guaranteed.
- B. Use of All Leave.** Prior to going on leave without pay, an employee requesting leave without pay shall use all available annual leave, except those going on military leave without pay. If the employee is seeking leave without pay for medical or pregnancy related reasons, the employee shall first use all available annual and sick leave.
- C. Physician's Certificate.** Leave without pay requested because of medical reasons or pregnancy related reasons must be accompanied by a physician's written statement indicating the estimated time of disability or recommended time for post-natal recovery. An employee returning to work from leave without pay due to medical or pregnancy related reasons must be released by the employee's physician to return to work. Proof of release must be presented to the employee's department head.

## SECTION 12 MISCELLANEOUS

- 12.1 DESIGNATED WORK AREAS.** All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep them neat and clean. Other than a drink, no food shall be consumed at their desk. Lunch and break meals shall be reserved for the break room.
- 12.2 PERSONAL BUSINESS.** Personal business shall not be conducted during work hours while on City premises.
- 12.3 SAFETY.** The City is committed to having all work conducted in a safe manner. All safety precautions shall be followed.
- 12.4 CITY PROPERTY.** Employees shall not misuse City property, records, or other material in their care, control, or custody; nor shall any City property, records, or other material be removed from the premises of the City offices unless written permission has been given. Employees shall not use City property, records or equipment for personal use.
- 12.5 DISCHARGE— RETURNING CITY PROPERTY.** At the time that an employee is voluntarily or involuntarily discharged, the employee shall return all City property to the appropriate department head, including but not limited to: any keys, vehicles, supplies, equipment, and uniforms that may be in the employee's possession.
- 12.6 CITY VEHICLES.** No City vehicles will be taken out of The The City without permission of the City Manager and employees shall notify the City Manager of their destinations and itineraries. City vehicles may be used only for City business and commuting to and from work, if required for a work-related purpose. City vehicles shall not be used for personal business, except as is incidental in commuting as determined by the employee's department head.
- 12.7 DRESS AND APPEARANCE.** Employees are constantly in the public eye, consequently it is important that the employees present the best possible image to the public. Employees should always be clean and neatly dressed in clothing suitable for their work assignments.
- 12.8 CONTENTS OF EMPLOYEE FILES.** Subsequent to hiring, two separate files shall be prepared and maintained for each employee: a personnel file, and an evaluation file. These records shall be kept in the City Manager's office. It is the responsibility of each department head to insure that the records of the employees are completed and up-to-date.

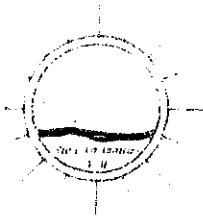
**A. Personnel File.** The personnel file shall contain the following records:

1. The original application form.

All local travel expenditures by City personnel must be supported by detailed expense reports. These reports should include point of origin and destination and total mileage for each trip. Parking charges and tolls will be reimbursed when receipts are submitted. All travel outside the State must be cleared with the Authorized staff City Manager, Governing Body of the City in advance. An expense account must be submitted monthly itemizing expenditures and appending receipts. Expenses will not be reimbursed more than thirty (30) days after they are incurred.

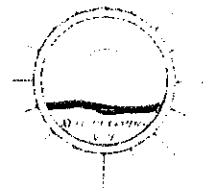
**12.12 CONFERENCES AND SEMINARS.** Attendance at conferences, workshops or other training sessions aimed at improving job performance is encouraged and can be scheduled during work time provided that approval by the Authorized staff, City Manager, Governing Body has been received prior to the activity.

- A. Out of State travel must be approved sixty (60) days in advance by the appropriate funding sources.



## CITY OF RIO COMMUNITIES

360 Rio Communities Blvd  
PO Box 565  
Rio Communities, NM 87002  
505-861-6803  
www.riocommunities.net



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### ACKNOWLEDGEMENT SIGNATURE FORM

I acknowledge that I have received a copy of the City's Personnel Practices that provides guidelines on the policies, procedures, and programs affecting my employment with this organization. I understand that the City can, at its sole discretion, modify, eliminate, revise, or deviate from the guidelines and information in these practices as circumstances or situations warrant.

I also understand that any changes made by the City with respect to its policies, procedures, or programs can supersede, modify or eliminate any of the policies, procedures, or programs outlined in this policy. I accept responsibility for familiarizing myself with the information in the Personnel Practices and will seek additional guidance when necessary.

Furthermore, I acknowledge that this policy is neither a contract of employment nor a legal document and nothing in these practices creates an expressed or implied contract of employment. I understand that I should consult my supervisor or the City Manager if I have any questions that are not answered in the City's Personnel Practices.

Name: \_\_\_\_\_  
(Please Print)

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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**6-1-3 STATUTORY COMPLIANCE**

The City of Rio Communities is granted authority to regulate the development of all subdivisions within its jurisdiction, and further, to require that all subdividers be in compliance with Section 3-19-6 and Sections 3-20-1 through 3-20-16 of NMSA, 1978. Failure of any subdivider to conform to these sections may result in the disapproval of a subdivision application, whether previously approved by another jurisdiction. See Section 6-1-14(B). Note: Concurrent jurisdiction between the City of Rio Communities and Valencia County may exist in some subdivisions, per § 3-20-5, NMSA 1978.

**6-1-4 PURPOSE**

This chapter is intended to provide for the orderly development of the City and its environs by controlling and regulating the subdivision of land. The standards contained herein are intended to assure:

- A. The development of economically sound and stable urban and residential areas;
- B. The timely provisions of required streets, utilities other facilities, and services that support new land developments;
- C. The adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian in and through new land developments;
- D. The provision of needed public open space and building sites in new land developments through the dedication or preservation of land for recreational, educational and other public purposes;
- E. Comprehensive water conservation for residential, commercial or industrial uses by encouraging low water use for landscape as well as domestic use;
- F. That drought contingency plans and adequate drainage plans are addressed in all proposals;
- G. The wise and timely development of new areas that are in harmony with the City's comprehensive plan.
- H. Any rule that applies to the platting process also applies to a "re-plat."

**6-1-5 APPLICATION OF ORDINANCE**

- A. Before filing with the Valencia County Clerk, any plat of a subdivision of any land within the platting jurisdiction of the City of Rio Communities, as permitted by State statute, shall first be submitted to and approved by the Planning and Zoning

5. The variance has been shown to be in the best interest of the general public and not solely in the interest to the developer, land owner or other interested party; or
  6. The hardship must not be pecuniary and must be a direct result of the land location, topography or other characteristic; or
  7. Where a variance is requested from the required provision of sidewalks, an alternate ADA complaint route to the nearest bus stop or school shall be required. If an alternate route cannot be provided, a variance shall not be approved.
- B. Procedure:** An application for a variance shall be submitted in writing by the subdivider, on prescribed forms provided by the City, at the time the preliminary plat is filed for consideration by the Commission.
1. The application shall state fully the facts relied upon and the grounds for the variance to include adequate responses to the criteria for a variance as stated above in Section 6-1-7A.
  2. The applicant shall post notification for the requested variance on a sign provided by the City at the property line closest to a street, a minimum of five (5) days before to the Commission hearing the request. The sign shall state the date, time, and location of the Commission hearing and a description of the requested variance.
  3. The Commission shall hear the request at its next regularly scheduled meeting. The Commission may approve, approve with conditions, deny, continue or defer the request. In the case of deferral or continuance, the Commission shall make a decision within 90 days of the initial hearing.
- C. Appeal:** Should the Commission deny the variance, the subdivider/applicant may request an appeal in writing to the Commission.
1. The subdivider/applicant shall include in the request for appeal, any additional and relevant information that may further their request for variance.
  2. The Commission shall, upon receipt of the subdivider/applicant's written appeal, notify the subdivider/applicant via certified mail of a rehearing.
  3. If the Commission denies the subdivider/applicant's written appeal, the subdivider/applicant may request a full hearing before the City Council. Such hearing shall be scheduled by the City Council at the first available opportunity

B. Whenever this chapter imposes a higher standard than required by other resolutions, ordinances, rules or regulations, or by easements, covenants or agreements, the provisions of this chapter shall govern. When the provisions of any other statute impose higher standards, the provisions of such statute shall govern.

**6-1-11 SEPARABILITY AND VALIDITY**

Should any section, paragraph, clause, phrase or provision of this chapter be judged invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole, or any part of provision thereof, other than that part so decided to be invalid or unconstitutional.

**6-1-12 REPEAL OF CONFLICTING ORDINANCES**

All ordinances or parts of ordinances in conflict herewith are repealed to the extent necessary to give this chapter full force and effect.

**6-1-13 EFFECTIVE DATE**

This chapter shall take effect and be in force five (5) days after the publication of adoption by the City Council.

**6-1-14 GRANDFATHER CLAUSE**

A. Subdivisions that have received full approval for their preliminary plats by other entities other than the Rio Communities' Commission or City Council prior to the effective date of this chapter, and that have not expired, shall not be subject to the provisions of this chapter.

B. Final plats within the City limits of Rio Communities that were recorded before the adoption of this chapter, but where no improvements were constructed or made, or where no financial guarantee is in place, may be rejected if not in full compliance with this chapter upon commencement of any construction. See: *Miller v. SF County Bd. Co. Commn*, 2008-NMCA-124, 144 N.M. 841, 192 P.3d 1218.

sign shall state the date, time, and location of the Commission hearing and a general description of the requested subdivision.

3. Failure on the part of the subdivider/petitioner to properly post this notification may jeopardize the subdivider/petitioner's alternate summary procedure.
4. The petitioner shall provide to the Commission at the time of the meeting, a simple drawing of the proposed project that clearly indicates the address of the project, placement of the parcel in relationship to surrounding property, and a description of what they are attempting to accomplish.
5. If the Commission approves the proposed subdivision, the petitioner shall then submit to the City Clerk one (1) Mylar and three (3) copies of the final plat, all signed in permanent black ink by a *registered agent* (See definition section) and completed appropriate parts of Appendix A.
6. Upon determination by the Commission that the final plat conforms to the standards of this and other applicable ordinances, the Planning and Zoning Commission may approve the plat.
7. If the proposed subdivision is approved, the Commission Chairman and Secretary shall sign the Mylar and all three (3) copies of the plat.
  - a. One (1) copy will be retained in the Commission files;
  - b. One (1) copy will be retained by the subdivider to file with the Valencia County Clerk's office; and
  - c. The remaining copy will be returned to the subdivider.
  - d. Approved and signed Mylar will be retained by City Clerk.
8. If the plat is disapproved, the Mylar and all three (3) copies shall be:
  - a. Signed by Commission Chairman and Secretary with notation that it was disapproved.
  - b. The Commission shall also note on the Mylar and all three (3) copies, their recommended changes.
  - c. One (1) signed copy with disapproved notation and recommended changes will be returned to the subdivider.

#### **F. Petitioner's Appeal Process**

1. The petitioner may appeal to the City Council by filing a written statement with the City Clerk.

- G. On approval of said plat as preliminary plat, the petitioner may proceed with the preparation of the final plat and other documents required in connection therewith as specified in Section 6-2-6 below, and the improvements set forth in Article V of this document.

**6-2-3 SPECIFIC PROCEDURES— PRE-DEVELOPMENT MEETING**

Prior to the preparation of the plans and plats required herein, the subdivider is encouraged to consult with the Commission in a ***Pre-Development Meeting*** to discuss and confirm the requirements of this chapter, land subdivision practices generally, and the provisions of the City's Comprehensive Plan as appropriate.

**6-2-4 SPECIFIC PROCEDURES— SKETCH PLAN**

- A. **Submission:** Prior to the preliminary plat application, a ***sketch plan*** shall be submitted to the City Clerk. The purpose of the sketch plan is to enable the City staff to assist the subdivider prior to extensive site planning and engineering work necessary for the preparation of a preliminary plat and a final plat as required.
- B. **Conference:** For the purpose of informal and confidential review and discussion, a conference shall be held between the subdivider (or their agent), the Commission Chairman (or their designee), and other technical staff, as appropriate.
- C. **Review:** Following the conference, and based on the information shown on the sketch plan, the conferring officials shall, as promptly as possible, advise the subdivider of the extent to which the proposed subdivision conforms to the applicable requirements of this chapter and shall further suggest any modifications to the plan that are deemed advisable or necessary to secure conformance.

**6-2-5 SPECIFIC PROCEDURES— PRELIMINARY PLAT**

- A. **Submission:** The subdivider shall submit to the City Clerk, a preliminary plat of the proposed subdivision as prepared by a licensed surveyor on size "D" Mylar; together with an electronic PDF copy, five (5) size "D" paper copies, as well as any relevant construction drawings and supplemental material that will aid in the review process. Such drawings and support documentation shall be submitted to the City Clerk within five (5) days of the Commission's review.
- B. **Review:** The plat will be reviewed for adherence to this Ordinance. The Commission may submit the preliminary plat to any appropriate agencies for their review prior to final action. The subdivider may be asked by the Commission to provide additional copies of the preliminary plat as needed.

for fourteen (14) days prior to final action by the Council. Copies of the subdivision shall be available for inspection at City Hall and on the City's webpage.

3. Notice of the day, time, and place of the public hearing shall be sent by certified mail to the subdivider whose name and address appear on the required application for the preliminary plat. Such notice shall be sent not less than five (5) days before the date fixed for the meeting. At this meeting, the Council shall approve; approve conditionally; disapprove the plat; opt to continue discussion of the plat at a later specified meeting (continuance); or defer discussion and decision to a subsequent meeting (deferral).
4. The public is encouraged to voice their concerns about the pending subdivision by submitting in writing their concerns or comments, either by direct hand delivery to City Hall, by U.S. Mail, or by email to: [admin@riocommunities.net](mailto:admin@riocommunities.net).
5. The City Council will review oral complaints at the scheduled Public Forum and consider any submitted written concerns or comments made during the posting period of the proposed subdivision. All such concerns or comments shall become part of the public record.

#### J. Disposition of Preliminary Plat

1. **Disapproved or Approved Conditionally:** If the preliminary plat is disapproved or approved conditionally, the reasons for such actions shall be stated in writing and signed by the City Mayor. The reasons for disapproval shall reference specifically those parts of this Ordinance, the Comprehensive Plan, or other regulation to which the plat does not conform.
  - a. One (1) copy of the reasons shall be retained in the records of the Council and one (1) copy shall be given to the applicant.
  - b. If the preliminary plat is disapproved, a challenge may be obtained by filing a written appeal on a City form that shall contain a detailed listing of the items the subdivider wishes to challenge.
  - c. The challenge hearing shall be scheduled by the City Council at a normal meeting as soon as possible. It will follow the normal public review process for posting and conducting the meeting. The result of this review by the City Council is final.
2. **Conditional Approval:** If the preliminary plat is approved with conditions, the Council shall require the subdivider to resubmit the plat, incorporating all recommended changes before approving the plat.

- b. Subsurface conditions on the tract, if required by the Commission: groundwater conditions and depth to groundwater unless test pits are dry at a depth of five (5) feet.
  - c. Other conditions on the tract, if required by the Commission including, isolated and preferable trees one (1) foot or more in diameter, houses, barns, shacks, retaining walls, and any other conditions.
  - d. Other conditions on adjacent land, if required by the Commission, including, but not limited to, approximate direction and gradient of ground slope, including any embankments or retaining walls.
  - e. The Commission may require the applicant to provide a detailed hydrological study prepared by a qualified hydrologist. Such study shall provide information as to the flow of surface water, the effects of the proposed subdivision on the drainage system that is located on the land to be subdivided, and other data sufficient to determine the adequacy of drainage proposals or treatment.
  - f. If a proposed subdivision is located all or in part within an area of special flood hazard as determined by the Federal Emergency Management Agency, it shall be noted on the preliminary plat.
3. The preliminary plat shall be drawn to a minimum scale of one (1) inch to one-hundred (100) feet (1": 100') and shall show the following:
    - a. All significant features as determined from topographic and location maps.
    - b. Significant features of the proposed subdivision to include as applicable:
      - (1) Streets names, right-of-ways, widths and approximate grades; and
      - (2) Other right-of-ways, easements, locations, widths, and their purpose; and
      - (3) Location of utilities, if not shown on other exhibits; and
      - (4) Lot lines, lot numbers, and block numbers; and
      - (5) Sites, if any, for multi-family dwellings, shopping centers, and family dwellings; and

property is located within three-hundred (300) feet of the proposed subdivision, by posting a sign provided by the City at the property line closest to a street. The sign shall state the date, time and location of the Commission hearing and a general description of the requested subdivision.

**M. Expiration of Preliminary Plat:** Preliminary plats and associated construction drawings shall expire two (2) years from approval date, if construction has not begun. An extension of up to one (1) year may be granted by the Planning and Zoning Commission, if progress is being made toward the construction of infrastructure improvements.

**N. Agency Review Process:** During the initial preliminary review process, the Commission may require the subdivider to furnish additional preliminary plat copies, along with supporting documentation to other agencies for their review. Failure to provide such copies shall be grounds for rejection of the Preliminary Plat by the Commission. Such agencies may include, but is not limited to:

1. New Mexico Highway and Transportation Department
2. New Mexico State Engineer's Office
3. New Mexico Environment Department
4. City or County Fire Marshal
5. Soil and Water Conservation District
6. Army Corps of Engineer
7. Mid Rio Grande Conservancy District

Each agency shall have sixty (60) days from the receipt of the plat to review and comment to Rio Communities Planning and Zoning Commission concerning the proposed subdivision.

#### **6-2-6 SPECIFIC PROCEDURES— FINAL PLAT**

**A. Submission:** The subdivider shall prepare and submit a final plat to the City Clerk before the first Friday of the month, and before the next month's regularly scheduled Planning and Zoning meeting at which the subdivision is to be considered. The plat submission package shall consist of:

1. One (1) size "D" Mylar;
2. Three (3) paper copies;
3. One (1) electronic file copy (in PDF format); and
4. An application requesting approval of the plat.
5. All plat drawings (Mylar and paper copies) shall be signed in permanent black ink by the appropriate registered agents.

approved Mylar. Such approval shall be dated and verified thereon by the signature, in black ink, of the Mayor and City Clerk in the spaces provided.

3. The subdivider shall provide the City Clerk with an electronic file (in PDF format) of the approved final plat.
4. If the final plat is disapproved by the Council, the reason(s) for disapproval shall be cited to specific references. Such references shall be dated and signed by the Mayor in black ink and attached to two (2) copies of the final plat.
5. In either event, one (1) of the two (2) signed copies shall be returned to the subdivider and the other shall become part of the files of the Council.
6. If a final plat is approved, the original drawing of the plat shall be retained in the files of the Council or County Clerk. If the final plat is disapproved, the original drawing shall be returned to the subdivider. A non-recorded subdivision plat shall be invalid and no building permit shall be issued. None of the requirements of this paragraph shall be modified or waived.
7. Final plats shall be recorded with the Valencia County Clerk within ten (10) days after by the approval by the Council. Recording of the plat shall constitute an irrevocable offer to dedicate all streets, parks, school sites, and other public ways shown thereon to the public for the use so specified. If no offer of dedication is made by the subdivider, a notation shall be placed on the plat and approved by the Council.

**1. General Information:**

- a. Proposed name of subdivision. The name shall not duplicate subdivision within the city or its platting jurisdiction;
- b. North arrow, graphic scale legends, and date including the month, day, and year for each revision of the original drawing;
- c. Name of record owner, subdivider and registered land surveyor; and
- d. Names and locations of all abutting subdivisions, if any; and
- e. Existing zoning classification of the tract, and any proposed rezoning.

**2. Existing Site Data:**

- a. The distance and bearing of one (1) of the corners of the boundary of the subdivision to the nearest intersection of existing streets or roads; and
- b. Total tract boundaries of the property being subdivided, showing bearings and distances, and a statement of total acreage of the property;
- c. Contour lines at vertical intervals of two (2) feet or less. The location and elevation of the bench mark to which contour elevations refer shall be known; and
- d. All existing municipal boundaries, property lines, rights-of-way, culverts, bridges, storm drainage ditches, watercourses, buildings, floodplain areas based on a 100-year flood and all other significant manmade or natural features within the proposed subdivision and within fifty (50) feet from the boundaries of the proposed subdivision; and
- e. All existing streets, including streets of record (recorded but not constructed), on or abutting the tract including the names, rights-of-way widths, pavement widths and approximate grades. See Section 6-4-2(L).

**3. Proposed Site Data:**

- a. Street and alley rights-of-way and street names shall be provided; and
- b. Lot lines, lot dimensions, lot and block numbers and minimum building setback lines along street rights-of-way; and
- c. Other easements and rights-of-way including location, dimensions, and purposes; and

- e. Typical road cross-section(s) and other details for construction of sanitary and storm sewers, water supply, drainage and other proposed improvements; and
- f. A drainage plan indicating topographic changes with contour intervals of not less than two (2) feet, local embankments, retaining ponds, retaining walls, and location of soil percolation test holes as may be required to determine subsurface conditions.

**6-3-3 FINAL PLAT**

A. **Platting Information:** The final plat shall be clearly and legibly drawn at a minimum, on Size D (24" x 36") Mylar at an appropriate scale. The final plat shall contain or be accompanied by the following minimum design standards:

1. **General information**

- a. Name of subdivision;
- b. Name of record owner, subdivider and registered certifying surveyor;
- c. North arrow, graphic, written scales, legends, and filing date;
- d. Name and locations of all abutting subdivisions, if any, and location.

2. **Platting Information:**

- a. The boundary lines of the area being subdivided shall be in accordance with the physical plat.
- b. Correct course distances to the nearest established street lines or subdivision.
- c. Street designations according to the provisions of the Comprehensive Plan.
- d. Names, widths and lines of all streets within or on the perimeter of the angles to streets, alleys and lot lines to the nearest second.
- e. Radii, central angles, tangents, lengths of arcs and curvatures of all rights of way.
- f. Lines and widths of all easements provided for or held by public including notation of any limitations on such easements.

- d. A statement from the different private utility companies having a franchise in the area where the subdivision is located, indicating that required improvements have been satisfactorily installed in accordance with plans and specifications or that adequate financial guarantees have been provided in accordance with section 6-5-3 of this chapter.
  - e. Certification by other entities having easements directly affected by the subdivision such as CID, pipeline companies, or others, indicating that required improvements will not negatively affect the operation of the facility or service.
  - f. A statement from the Planning and Zoning Chairman indicating that required site improvements have been installed to the City's satisfaction, or that an adequate financial guarantee has been posted securing to the City the actual construction and installation of required site improvements.
  - g. Appropriate notations for transfer and recording by the Valencia County Clerk indicating date and time of recording, the plat book location thereof and instrument number.
  - h. The signature of the chair and secretary of the Commission together with the seal of the City.
5. **Improvement Plans & Data:**  
The subdivider shall submit construction plans and specifications for all improvements and installations required by Article 5 of this chapter. The construction plans and specifications shall consist of all cross sections, profiles and other engineering data deemed necessary by the City Planning and Zoning Commission for the proper design and construction of all required improvements and installations.
6. **Financial Guarantees:**  
Financial guarantees as required in Section 6-7-1 shall be submitted to the Commission along with the final plat. Approval of the final plat shall not be granted in the absence of such guarantees.

1. **Arterial Streets & Highways  $\geq$  80 Feet:** Arterial streets are those to be used primarily for fast or heavy traffic;
  2. **Highways  $\geq$  150 Feet:** Highways are those primarily used for the fastest or heaviest traffic.
  3. **Collector streets  $\geq$  60 Feet:** Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways and include the principal entrance streets of a residential development and streets for major circulation within such a development;
  4. **Local streets  $\geq$  60 Feet:** Local streets are those streets that primarily permit direct access to abutting lands and connect to collector and arterial streets. Service to through-traffic movement should be deliberately discouraged.
  5. **Dead-end/Cul-de-Sacs:** The minimum diameter of a cul-de-sac is 100 feet. Cul-de-Sacs are permanent dead-end streets or courts that may not exceed 800 feet in length or 15 dwelling units, and are designed so that they cannot be extended in the future;
  6. **Rural streets.  $\geq$  60 Feet:** Rural streets include:
    - a. Those streets where development density is not more than one dwelling unit per one (1) acre; or
    - b. Streets developed in the 3-mile planning and platting jurisdiction of the City.
  7. **Loop streets  $\geq$  60 Feet:** Loop streets are streets open at both ends and connected to only one residential street. Loop streets have a maximum length of 1,200 feet or 24 dwelling units.
  8. **Alleys  $\geq$  20 Feet:** Alleys are minor public ways used primarily for service access to the back or side of properties otherwise abutting on a street.
  9. **Residential streets  $\geq$  60 Feet:** Residential streets are streets so designated and designed to carry low traffic volumes primarily through residential areas and neighborhoods.
- D. **Additional Widths on Existing Streets:** Subdivisions adjoining existing streets shall dedicate and provide additional right-of-ways to meet the above minimum street requirements.

temporary turn-around having a finished roadway diameter of at least eighty (80) feet.

- J. **Private Streets & Reserve Strips:** There shall be no private streets platted in any subdivision, except in Planned Development (PD) districts. Every subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips or easements controlling access to streets, except where the control of such strips is definitely placed with the City under conditions approved by the Commission.
- K. **Drainage:** All streets and roads shall be designed to accommodate the 25-year storm event without overtopping the curb and gutter. Excess runoff shall be held on-site in storm water retention ponds. There shall be no blocking of natural drainage areas.
- L. **Streets Names:** Any proposed street that is obviously in alignment with, or an extension of another existing and named street, shall bear the name of the existing street. In no case shall the name for a proposed street duplicate the name of an existing street within Rio Communities, regardless of its use (e.g. whether distinguished by Avenue, Boulevard, Drive, Place, Court or similar). Utilizing the indexed list of street names on file, the Commission can assist the subdivider in avoiding duplication. The Commission shall have the authority to approve or change a street name.
- M. **Alleys:** Alleys shall be provided at the rear of all lots used for business purposes and shall be provided in residential blocks except where the Commission determines it is not feasible due to topography, or where the developer will have all utilities placed underground. Alleys shall be a minimum of twenty (20) feet in width and may have an asphalt or concrete driving surface, but shall, at a minimum, have a six (6) inch thick base course surface from edge to edge of driving surface.
- N. **Sidewalks**
  - 1. **Residential:** Residential lots within the City-limits, regardless of size, and residential lots outside the City limits of one-half (1/2) acre or less in size, shall have concrete sidewalks constructed a minimum of four (4) feet wide and four (4) inches thick. Sidewalks shall be placed directly adjacent to the back of curb and gutter or, directly adjacent to the property line within the right-of-way, and the location of sidewalks shall be consistent throughout the proposed development. Where a variance is approved from the required provision of

#### 6-4-4 LOTS

- A. **Arrangement:** In so far as practical, side lot lines shall be at right angles (90-degrees) to straight street lines, or radial to curved street lines. Each lot must front a minimum of seventy (70) feet in width on a platted street, except on cul-de-sacs or loop streets. Easements do not constitute street frontage.
- B. **Minimum Size**
1. **Residential:** The minimum lot size is dependent on zoning. The City's Zoning Ordinance should be consulted when determining lot size. The minimum residential lot size shall not be less than seventy (70) feet wide at the front building setback line nor less than 8,000 square feet (SF) in area.
  2. **Commercial:** The minimum commercial or industrial lot size shall be adequate to provide for off-street service and parking facilities required by the type, use and development contemplated. Platting of individual lots should be avoided in favor of an overall design of the land to be used for such purposes.
- C. **Building Setbacks Lines:** Building setback lines shall comply with the City's Zoning Ordinance. (See Chapter 4: The Zoning Code)

#### 6-4-5 PUBLIC USE AND SERVICE AREA

Due consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas as determined by the Commission and in accordance with the City's Comprehensive Plan.

- A. **Drainage & Utility Easements:** Drainage and utility easements shall be provided on each side and rear lot lines. The easements shall be designed to adequately provide utilities and drainage for all lots in the proposed subdivision. Where drainage is proposed to cross any lot, the plat shall indicate the size of the pipe necessary to carry the proposed runoff. Each cul-de-sac shall have provisions for a fifteen (15) foot utility easement to prevent dead-end water mains. Easements of the same or a greater width shall be required along the lines of or across lots, where necessary, for the extension of existing or planned utilities.
- B. **Storm Sewers:** When water flow cannot be accommodated with surface drainage, storm sewers may be required. The Commission shall determine, on the basis of the watershed and the probable runoff, the size of storm sewers. In determining

## ARTICLE 5 IMPROVEMENTS

### 6-5-1 GENERAL PROVISIONS

### 6-5-2 REQUIRED IMPROVEMENTS

### 6-5-1 GENERAL PROVISIONS

- A. **Approval of Final Plat:** The Commission shall not approve the final plat for recording unless the subdivider has installed the following improvements specified and required herein, or has provided a financial guarantee as specified in Section 6-7-1.
- B. **Right of Free Access and Inspection:** Any authorized agent of the Commission or the City shall be granted the right of free access to the subdivision at all times for the purpose of inspecting the construction and installation of improvements. Inspection or lack of inspection by the City shall not diminish the obligation of the subdivider to install required improvements in accordance with approved plans and specifications and the requirements of this chapter.
- C. **Changes in Approved Plans and Specifications:** If the Commission identifies conditions or circumstances that emerge during construction that necessitate changes, the Commission may delegate the responsibility for reviewing and approving said changes to a qualified agent of the City. The subdivider shall not proceed with any identified construction changes until obtaining approval by the Commission.
- D. **Filing of Plans:** One set of "as built" plans and specifications certified by a professional engineer of the approved subdivision, shall be filed with the Commission.
- E. **Maintenance of Improvements:** The completion of construction of any improvement shall not obligate the governing authority or the City to maintain said improvement.

### 6-5-2 REQUIRED IMPROVEMENTS

Every subdivision developer shall be required to install all improvements in accordance with specifications established by the City. In previously platted subdivisions where streets and other improvements were not constructed, the current developer shall install all currently required improvements prior to further subdivision or development of the lots.

5. **Fill:** All suitable material from roadway cuts may be used for fill as needed. The fill shall be spread in layers not to exceed six (6) inches loose and compacted in accordance with the New Mexico Department of Transportation (NMDOT) specifications. All excess material shall be removed from the development site.
- C. **Storm Drainage:** On-site detention of storm water shall be required where existing public drainage facilities are insufficient or non-existent. An adequate drainage system shall be provided for proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full width roadway and the required slopes. The size openings to be provided shall be determined by *Talbot's formula*, but in no case shall the pipe be less than 15 inches in diameter. Cross drains shall be built on straight line and grade and shall be laid on firm base but not on rock. Pipes shall be laid with spigot ends pointing in the direction of the flow and with the ends fitted and matched to provide tight joints and a smooth uniform invert. *Talbot's formula* shall then be used to determine adequate pipe size, but in no case shall the pipe size be less than 15 inches in diameter. The drainage study shall determine existing (historic) flows to and from the site and shall provide for on-site detention of flows that exceed historic flows by means of detention ponds, landscape areas or other water harvesting methods. Detention facilities must be designed to release all flows within a five (5) day period following a storm event. In addition, the following shall be required:
1. On-site detention facilities shall, at a minimum, be designed to accommodate the 25-year, 24-hour storm event as defined by the National Oceanic and atmospheric Administration (NOAA) Atlas 14, Volume I for New Mexico.
  2. Drainage calculations and design of such facilities shall be certified by a Professional Engineer licensed in the State of New Mexico.
  3. The methodology used to compute storm water runoff depends on the size of the drainage basin and/or lot area:
    - a. For drainage basins and/or lot area that is less than or equal to five (5) acres, the *Rational Method* shall be used. Intensity values will be derived from the City of Rio Communities' Intensity-Duration-Frequency Curve Spreadsheet or the one closest to Rio Communities.
    - b. For drainage basins and/or lot area that are greater than five (5) acres:
      - 1) New Mexico Department of Transportation (Current Method).

protection. The size of water mains, the location and type of valves and hydrants, the amount of soil cover and the pipes and other features of the installation shall be approved by the Commission upon the recommendation of the applicable inspection agencies and shall conform to acceptable industry standards of good practice for public water systems.

2. **Sanitary Sewers:** All sanitary sewer systems in new subdivisions within the corporate limits of the City shall be constructed in compliance with the City's minimum standards, and any applicable State or Federal regulations. New individual septic systems are not permitted within the City limits. Each sanitary sewer system shall be inspected during the construction by an authorized agent to insure minimum standards are met.

- B. Maintenance of the open space shall be the responsibility of the subdivider or other entity created for this purpose (see Section 6-6-5 below).
- C. A percentage of the lot area shall be designated as open space as required by Table 6-1 below. Determining the amount of open space required the acreage of all lots, excluding road rights-of-way, and easements, shall be totaled. The required open space shall be a percentage of this total as required by Table 6-1. Land to be designated as open space shall meet the standards set forth in Section 6-6-3 below. In addition to the lands recommended below, any land designated as a future greenway on any official plan adopted by the City shall be designated as open space. The land to be designated as open space must be approved by the Commission as part of the subdivision preliminary plat approval process.

**Table 6-1**  
**Open Space Requirements**

Number of Lots	Open Space Requirement
Less than 8	None
8 – 20	10% of the total lot area
21 – 50	15% of the total lot area
More than 51	20% of the total lot area

**Note:** Total lot area excludes road right-of-ways and easements

**6-6-3 OPEN SPACE DESIGN, LOCATION & USE**

- A. The following areas within the proposed subdivision are optimal considerations for the preservation of open space and shall be given the highest priority for designation as open space on the plat of any major subdivision:
  1. Designated floodways and special flood hazard areas identified on the Flood Insurance Rate Maps for Rio Communities as prepared by the Federal Emergency Management Agency (FEMA).
  2. Natural watercourses and any adjoining areas required to be maintained in a natural vegetated and unaltered state.
  3. Steep slopes or areas adjacent to rivers, creeks, streams, and other water bodies that may serve as buffers for the water bodies.

**Table 6-2**  
**What Qualifies as Open Space**

<b>Included as Open Space:</b>	<b>Not Included as Open Space:</b>
Wooded, uncleared and undeveloped areas in a natural state that may provide wildlife habitat	Public or private sheds, open or enclosed storage facilities, barns, or similar accessory structures
Recreation areas that alter the natural ground cover (e.g. swimming pools, tennis courts, basketball courts, shuffleboard courts, batting cages), and other uses befitting the intent of this ordinance	Areas for motorized recreational use such as boat ramps and off-road two and four-wheeling trails
Water bodies and streams and their buffers, including trout stream buffers	Any public or private road, driveway, or parking area, whether paved, unpaved, gravel, tile, or brick; right-of-ways and areas reserved for any existing or future road are also excluded
Greenways dedicated to environmental, scenic, or recreational purposes	Solid waste disposal areas (including dumpster location sites)
Lands for passive, non-motorized recreation, including activities such as running/walking, hiking, biking, primitive camping, and similar low-impact outdoor activities	Areas for aboveground utility structures as well as cleared areas for solar panels or telecommunications installations (such as satellite dishes), whether for public or private use
Active recreational facilities including volleyball courts, playing fields, and playgrounds provided they have pervious surfaces	Land that is contaminated with hazardous or toxic waste or materials as defined by state or federal regulations (except land covered by an approved mitigation plan and deemed acceptable to the County)
In the community open space, community amenities such as public decks, plazas, picnic shelters, gazebos, outdoor stages, or similar accessory structures	All other impervious or unnatural ground covers or land uses

**6-6-4 OPEN SPACE DEDICATION OR RESERVATION**

Open space shall be dedicated or reserved in accordance with the standards contained herein.

- A. To meet the requirements of this section, land designated as open space shall be conveyed to a property owners' association or similar legal entity or to a public agency or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the open space for its intended purpose and that will ensure subdivision property owners access to and use of the open space.
- B. Each dedicated or reserved open space parcel shall be shown on all subdivision plans and on a record plat recorded with the county register of deeds, with a notation of the area and its intended open space use. The owner of an open space parcel may rededicate or re-reserve the parcel for another open space use allowed under this section by recording a record plat showing the parcel and its new intended open space use.
- C. The open space area, with the prior written consent of the City, shall be designated prior to, or concurrent with, the recording of the final subdivision plat. The method of conservation shall be stated on the submitted subdivision plat(s) and shall be approved by the Commission. Open space shall be dedicated to, owned, and maintained in perpetuity by any of the following:
  - 1. A homeowners' association<sup>1</sup>, having acquired fee simple, the title to the open space from the developer, in which membership is mandatory for all homeowners within the development; or
  - 2. A perpetual conservation easement on the open space held and enforced by an established land trust or conservation organization;
  - 3. With prior express written consent, a governmental body (e.g. City of Rio Communities, Valencia County, New Mexico Department of Parks and Recreation, United States Government); or

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<sup>1</sup> Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Planning Director and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before any homes are sold, where membership is mandatory for the initial home buyer and any successive buyer, the association is responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities.

- D. Where practical, the collected fees for each project shall be designated for specific parks and recreation acquisitions and/or enhancements by the City. The use of the fee in lieu option, and the amount of the fee, shall be approved by the Planning Board as part of the subdivision preliminary plat review.

**6-6-7 MITIGATION PROGRAM**

- A. For all open space requirements not involving property designated as a *greenway* on any official plan adopted by the City, a property owner may elect to donate property of equal value located in any area of the City to a program that would preserve it as public open space accessible to all residents of and visitors to Rio Communities in lieu of providing open space within the proposed development.
- B. The value of the property required for open space shall be calculated by using the *pro rata* value of the designated property relative to the value of the entire site to be developed using tax appraisal data. The value of the property to be donated shall be calculated in the same way. The value of properties covered by agricultural or other exemptions may be calculated by the City using a separate appraisal method at its sole discretion.

**6-6-8 STANDARD FOR PROPERTY TO BE DONATED**

Property to be donated to the City in lieu of dedicating open space within a subdivision shall meet the following standards:

- A. The property shall be maintained as public open space, with a written agreement guaranteeing the preservation of the open space.
- B. The property must be donated to a unit of government, public agency, or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the property for its intended purpose as open space and that will ensure City residents and visitors have direct access to and use of the property as public open space.
- C. Direct access to the property by the public must be maintained in perpetuity, with a written agreement guaranteeing direct access by the public.
- D. Donation of the property as mitigation in lieu of providing all or any portion of the required open space within the subdivision must be approved by the Commission.
- E. The property to be donated as mitigation must be identified in an official plan adopted by the City as suitable and desirable for public open space.

- E. **Plats and Restrictive Covenants:** The plat of an estate lot subdivision shall bear a notation identifying the maximum disturbed area, the maximum impervious surface, any area protected for primary conservation areas, and any restrictive covenants so limiting the use and/or development of any such lot. The plat shall be recorded in the Office of the Valencia County Clerk. However, any restrictive covenants shall be reviewed and approved by the Commission prior to recordation.

#### 6-6-11 CONSERVATION DESIGN FOR MAJOR SUBDIVISIONS

- A. **Purpose:** Provide for a subdivision design that is more efficient and better suited to the natural features of the land, or would blend into the character of a rural area. Conservation subdivisions shall be designed with development areas situated on those parts of the subdivision site best suited to accommodate development with the least adverse impact. Conservation design allows smaller and less costly networks of roads and utilities, encourages closer-knit and potentially safer neighborhoods, preserves sensitive farmland, woodlands, scenic views and open space, and reduces the amount of impervious surface and resulting storm water runoff. The open space provided by conservation design can be used to provide recreational opportunities for the subdivision's residents or employees, to conserve and protect significant natural areas and environmentally sensitive areas, or conserve important historic resources.
- B. **Required Open Space:** Land within the subdivision site that is not dedicated to lots or right-of-ways, or parcels devoted to accommodating necessary roads and utilities, shall be in one or more connected parcels dedicated or reserved as permanent open space. Lands identified as optimal conservation areas pursuant to Section 6-6-12A below, shall be deemed permanent open space in accordance with this section.
  - 1. When optimal conservation areas do not equal or exceed twenty (20) percent of the land area of the subdivision, additional open space shall be designated so that at least twenty (20) percent of the area of the subdivision is made permanent open space.
  - 2. Subdivisions within Commercial Area intended for commercial uses shall be exempt from the open space requirement contained herein, but shall comply with the requirements for preservation of water areas.

- D. Sidewalks, as approved by the Commission, shall be provided by the developer, if they lead to a pedestrian destination point, such as a school, park, etc.
- E. The location, size, character, and shape of required open space shall be appropriate to its intended use (e.g. active recreational facilities such as ball and play fields should be located on land that is relatively flat and dry, and designed to be conveniently and safely reached and used by those it is intended to serve).

**6-6-13 DESIGN PROCEDURE**

The following conservation design procedures shall be used in evaluating major subdivision applications. However, recognizing the variability of site conditions, and that resources may vary widely by importance, when evaluating the layout of a site, the following evaluation criteria will be considered in determining the site's features, thus allowing for site design flexibility.

- A. **Existing features & site analysis:** An existing features and site analysis map shall be submitted to the Commission. The map shall indicate all features that exist on the subject site as described in this section.
- B. **Identification of Open Space Conservation Areas:** Open space areas shall be identified and classified as open space areas based upon the following:
  - 1. The open space shall be reasonably contiguous and shall abut existing open space on adjacent sites.
  - 2. Wetlands, flood hazard areas and natural watercourses with associated buffers shall not be cleared, filled or graded except as authorized by state, federal and other applicable regulations and as may be approved by the Commission. Water features shall constitute no more than 50 percent of the open space area.
  - 3. Dwellings shall be located in unwooded parts of the site to prevent unnecessary clearing practices. Exceptions may be made when a site investigation by Commission staff reveals all or parts of wooded areas are not worth saving due to tree decay/disease or unsightly overgrowth.
  - 4. The impacts on larger woodlands over five acres shall be minimized as much as practical.
  - 5. Where farmland preservation is the goal of a site design, dwellings shall be located away from active farming areas, as is practical.

## **ARTICLE 7 FINANCIAL RESPONSIBILITIES**

### **6-7-1 FINANCIAL GUARANTEES**

#### **A. General Provisions**

Financial guarantees covering all improvements required by this chapter shall be a prerequisite to Commission action on the application for final plat approval. The subdivider shall submit such guarantees to the Commission and the City Council in accordance with the requirements of this section.

#### **B. Certification of Construction**

In subdivisions where the subdivider completes the construction and installation of all required improvements, the subdivider shall file with the Commission written certification by a New Mexico approved professional engineer, affirming improvements have been completed according to the final plat, design drawings, and specifications submitted, and in accordance with the requirements of this chapter.

#### **C. Performance Bond**

Prior to completion of any or all required improvements by the subdivider, the subdivider may post a performance bond with the City Clerk guaranteeing the completion of said improvements in compliance with the following requirements:

1. The City shall have the right to refuse a performance bond for any and/or all required improvements and require construction and installation thereof by the subdivider.
2. Where accepted by the City, the performance bond shall:
  - a. Issued to the City of Rio Communities;
  - b. Be in an amount equal to 100 percent of the cost, as estimated by the City, of any improvements that have not been constructed, installed and completed in compliance with the requirements of this chapter prior to the posting of said bond, and for which sufficient certification has been furnished in compliance with subsection;
  - c. Be with surety as approved by the City;
  - d. Specify that all required improvements shall be completed in accordance with the requirements of this chapter within a period not to exceed one (1) year from the date of posting of bond; provided, however, that the City may, by proper application and for good cause shown, extend the time of

## DEFINITIONS

Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions. For the purpose of this chapter, certain words or terms used are defined as follows:

1. **Abut/Abutting/Adjacent/Adjoining/Contiguous:** Lots or parcels separated by common property lines, lot lines, or an alley, street or other public right-of-way.
2. **Alley:** An unnamed public right-of-way that is designed to serve as a secondary access to the rear or side of any property where the principal frontage is on another street.
3. **Americans with Disabilities Act (ADA):** A civil rights bill passed in 1990 that gives people with disabilities the same protection from discrimination as other minority groups. Title I of the Act prohibits discrimination against qualified applicants and employees on the basis of disability. Title II of the Act prohibits local and state governments from discriminating based on an individual with disabilities.
4. **Appellant:** A person who applies to a higher court or authority for a reversal of the decision of a lower court or authority.
5. **Applicant:** A person submitting an application in accordance with the procedures established in this Code.
6. **Arroyo:** A dry wash or draw that flows only occasionally and in response to rainfall or other water runoff from higher elevations.
7. **Block:** A parcel of land entirely surrounded by streets, highways, a railroad right-of-way, waterways, or by a combination thereof.
8. **Board of Appeals:** An official body of regulatory or governing officials that represent the interests of the City of Rio Communities (e.g. the Planning and Zoning Commission hears appeals to this Ordinance; the City Council hears appeals of the Planning and Zoning Commission decisions).
9. **Building Line:** The line that any structure shall not extend beyond unless specifically permitted. An overhang of up to twenty-four (24) inches is permitted.
10. **City Council:** The legally constituted and elected governing body for the City of Rio Communities, New Mexico.
11. **Channel:** Any arroyo, stream, wash, swale, gully, ditch, diversion, or watercourse, including man-made facilities or barrier that conveys storm runoff.
12. **City Administrator:** The chief administrative officer of the City or their designee.
13. **City Engineer:** A person designated by the City Administrator and certified in the State of New Mexico as a Professional Engineer.
14. **Code Enforcement Officer:** The person, office or department designated by the City Administrator to enforce any provisions of any City code.
15. **Commission:** The City of Rio Communities Planning and Zoning Commission.
16. **Commission Designee:** The City Administrator or their designee.
17. **Comprehensive Plan:** That document or documents adopted by the City Council as the City of Rio Communities Comprehensive Plan or portions thereof.

33. **Engineer:** A registered professional engineer in good standing with the New Mexico Board of Registration for Engineers and Surveyors.
34. **Erosion:** The movement of soil due to wind or water.
35. **Erosion control:** Those best management practices used to prevent or reduce erosion or sedimentation that is necessary when ground disturbances occur.
36. **Excavation:** Digging and removing earth by mechanical means.
37. **Extra-territorial Zoning Jurisdiction:** An area within two (2) miles of the City limits where extraterritorial zoning applies.
38. **Fill:** The placement of material such as soil or rock to replace existing material, or to create an elevated embankment. Fill also refers to the material that is placed.
39. **Flag Lot:** A lot meeting minimum lot frontage requirements and where access to a public or private street is provided by means of a long, narrow driveway between abutting lots.
40. **French Drain:** A ditch filled with gravel or rock that redirects surface and ground water away from an area. French drains are commonly used to prevent ground and surface water from penetrating or damaging building foundations. Alternatively, the French drain technique may be used to distribute water that flows from the outlet of a typical septic tank sewage treatment system. French drains are also used behind retaining walls to relieve ground water pressure. Also called *Drain Tile, Land Drain, or Dry Well*.
41. **Frontage:** The distance measured along a right-of-way, property line, or access easement.
42. **Frontage, Street:** The distance between the side property lines of a lot as measured along the street property line or the street right-of-way line.
43. **Greenway:** A belt of land intended exclusively for recreational or pedestrian use rather than a typical street corridor, as well as an emphasis on introducing or maintaining indigenous vegetation in a location where such vegetation is otherwise lacking. Some greenways include community gardens or park-style landscaping of trees and shrubs. They also tend to have a mostly contiguous pathway.
44. **Group Development:** Two (2) or more buildings that are: 1) Devoted to a common or related use; and 2) Constructed on a single lot in single or joint ownership; and 3) Made a part of an integrated industrial, commercial, residential or public project, according to a plan for development under specific requirements.
45. **Grading:** Any movement of rock, soil or vegetation by artificial means to include any or all of the following acts: clearing, excavating, leveling of land, grubbing, or placement of fill material.
46. **Individual Sewage Disposal System:** See Septic System.
47. **Interpretation:** Determination or explanation regarding the meaning of a provision or provisions contained in this Code.

67. **Plat, Preliminary:** A tentative plat of a subdivision, with supporting documentation and data, in substantial conformance with the requirements for a preliminary plat as determined by the Subdivision Ordinance of the City.
68. **Plat, Sketch:** A sketch of a proposed subdivision of sufficient accuracy and detail to be used for the purpose of discussion and classification.
69. **Pro-rate Value:** A determined share to be received or an amount to be paid based on the fractional share of ownership, responsibility, or time used.
70. **Properly Lines:** The lines bounding a lot.
71. **Public Hearing:** A duly advertised hearing open to the public and conducted in accordance with the requirements of this Code and applicable state law that provides an opportunity for interested parties to present their opinions and/or evidence.
72. **Public Meeting:** An informal meeting or other public gathering to discuss a topic or set of topics not requiring formal decision making.
73. **Registered Agent:** In the context of this regulation, a duly licensed professional or person with sufficient subject-matter expertise, to review, evaluate, and approve for accuracy, any architectural, engineering, or construction document, plan or specification.
74. **Reserve Strip:** A narrow parcel of land separating a street from adjacent properties.
75. **Reverse Curve:** A section of the horizontal alignment of a route in which a curve to the left or right is followed immediately by a curve in the opposite direction.
76. **Right-of-way:** Land across which there is an easement or is reserved and dedicated for use as an alley, crosswalk, or street for utilities, or for other public use or access.
77. **Roadway:** That portion of a street right-of-way developed for vehicular traffic.
78. **Sanitary Sewer System:** A system that transports liquid or water-carried wastes from a residence, business, institution, or an industrial establishment; and into which storm, surface, or groundwater are not intentionally admitted; including, but not limited to, a gravity fed system, septic tank, or such other systems that may be appropriate. As of the effective date of this ordinance, new septic systems are not permitted within the City limits.
79. **Septic System:** A subsurface wastewater system consisting of a settling tank and a subsurface disposal field. Also includes septic tanks.
80. **Setback:** An unobstructed, unoccupied, open area measured at its shortest distance to:
  - A. **Street or Front Setback:** The street or front setback shall be the distance between the front building line and the front property line, or street right-of-way line, or street easement whichever is closer. If there is no street right-of-way line, then it shall be the shortest distance between the front building line and the nearest edge of the street or curb, whichever is closer;
  - B. **Side Setback:** The side setback is the distance between the side building line and the side property line;

98. **Subdivider:** Any person, firm, corporation or other entity subdividing land within the jurisdiction of this chapter.
99. **Subdivision:** The division of a tract, parcel or lot into two (2) or more lots, building sites, or other divisions, whether immediate or in the future, for the purpose of sale, legacy, or building development; and includes all divisions of land involving a new street, or a change in existing streets, and includes the re-subdivision of land; and where appropriate, relates to the process of subdividing, or to the land or area subdivided.
100. **Surveyor:** A registered land surveyor in good standing with the New Mexico Board of Licensure for Professional Engineers and Surveyors.
101. **Traffic Impact Analysis (TIA):** A technical study performed by a qualified engineer for the purpose of assessing the impact of a proposed facility or development on existing and proposed right-of-ways. The analysis may also assess the impact on safety, intersections, circulation patterns, ingress/egress, traffic loads, parking and loading areas, on-site circulation and vehicles per day, and may set forth mitigation measures to eliminate or substantially reduce such impacts. Also referred to as a *traffic study*.
102. **Used or Occupied:** As applied to any land or building, used or occupied shall be construed to imply that any land or building is in actual use or occupancy, and shall be construed to be used concurrently with the words intended, arranged, or designed.
103. **Use:** The activity or function that actually takes place, or is intended to take place on a parcel.
104. **Utility, Basic:** Any infrastructure service required to be located in, or near the area where the service is provided. Examples include individual customer service lines, storm water retention and retention facilities, telephone exchanges and water and sewage pump stations, but shall not include telecommunication towers. Service may be public or privately provided. Accessory use may include control, monitoring, support and transmission or data equipment.
105. **Utility corridor:** A public or private passageway, to include, an easements for the express purpose of transmitting or transporting communication signals, electricity, gas, oil, sewage, water, or other similar services on a regional level.
106. **Utility, Intermediate:** Any infrastructure service required to be located in, or near the area where the service is provided, but which provides service on a larger scale than basic utility service. Examples include electrical substations, park and ride facilities for mass transit, public and private water treatment facilities, recycling drop-off stations and water towers and reservoirs, but shall not include telecommunication towers. Service may be public or privately provided. Accessory use may include control, monitoring, support and transmission or data equipment.
107. **Variance:** Any substantial deviation from the requirements of this Code.
108. **Vacate:** A formal action taken by the City whereby the public interest in a road, a right of way, or a public service easement is removed (abandoned) and is documented by a duly executed declaration of abandonment or vacation.

109. **Vacation of Plat:** To formally remove a plat from record, as recorded in the office of the Valencia County clerk, a vacation of plat must always be accompanied by replacement re- plat of all parcels associated with the transaction.
110. **Watercourse:** Any arroyo, channel, creek, lake, river, stream, or other body of water having banks and bed through which water flows at least periodically.
111. **Water Supply System:** A system that provides water for domestic use or human consumption.
112. **Yard:** The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance and as further defined herein.
113. **Yard, Front:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the front building line.
114. **Yard, rear:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the rear building line.
115. **Yard, side:** An open unoccupied space on the same lot as the building and between the side building line and the side lot line.
116. **Zoning Ordinance:** The officially adopted Zoning Ordinance of the City.

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## 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.** That day twelve (12) months from an employee's date of hire.
- 2.3 ANNUAL LEAVE.** 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, City Clerk, Treasurer and Police Chief.
- 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 department head for whom the employee works and the City Manager, and approved by the Mayor and a majority of the City Council, 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).

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.

**2.28 SICK LEAVE.** Leave with pay granted to a regular or qualified appointed employee, after accrual at a specific rate, when personal illness or quarantine keeps the employee from performing the duties of the position.

**2.29 SICK LEAVE ABUSE.** Use of accrued sick leave at a rate faster than fifty percent (50%) of the hours being accrued on a monthly basis for non-major medical problems. Employees abusing sick 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 his 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.

be discussed with the City Manager, who will discuss the situation with legal counsel. The Mayor/Council must approve dismissals.

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.

examinations when required. The Governing Body shall approve the appointment for budgetary purposes.

**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.

**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.

**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 or 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.

- D. Accrued annual leave shall be paid on the final day of employment.
- E. An employee on layoff must reapply to be considered for future employment.
- F. A laid-off employee returning to City employment within six months of lay off will not serve a probationary period if hired to the same position.

Such reductions-in-force will be approved by the City Council and are not grounds for grievance and shall include, but not be limited to, unsatisfactory performance or illegal activity or unacceptable conduct on the job. Employees, other than regular employees, may be dismissed with or without cause. In compliance with state statute, all dismissals of employees are subject to approval by the Mayor and the City Council. NMSA 1978, §3-11-6 (1985 Repl. Pamp.)

within a set time period, not to exceed ninety (90) days, shall result in dismissal. An employee who receives an overall evaluation of unsatisfactory shall be reevaluated at any time during the ninety (90) day period following the unsatisfactory evaluation, and, if performance remains unsatisfactory, shall be dismissed pursuant to the procedures in these rules.

## 6.2 PROHIBITED POLITICAL ACTIVITIES

### A. All employees are prohibited from:

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 employee who does not vote for certain candidates, requiring employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raising events and similar events, advising employees 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.

## 6.3 NEPOTISM

### A. Definition of Nepotism

Nepotism, for purposes of this personnel policy manual, 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)

used as the basis for employment decisions affecting such individual; or such conduct has the purpose of affecting or unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

**B. Policy Regarding Sexual Harassment**

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

1. Provides for a work environment free from all forms of sexual harassment.
2. Applies to the actions of all City employees, elected and appointed officials 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.

**C. Sexual Harassment Complaint Procedures**

1. Employees of the City are encouraged to resolve complaints of sexual harassment by reporting them to the City Manager. The City Manager shall document the complaint and provide a copy to the complaining employee. All such complaints shall be kept in a confidential file.
2. The City Manager shall meet with the alleged harasser immediately and in no event more than three (3) working days from the filing of the complaint. The purpose of the meeting will be to investigate the matter and, if necessary, take prompt corrective action. The investigation shall be complete, confidential and well documented. The principles of progressive discipline, up to and including dismissal from City employment, shall be followed by the supervisor for a person who is determined to have violated the sexual harassment policy. The discipline will vary depending on the nature of the activity of which was complained.
3. Nothing in these procedures shall prohibit the employee from filing a complaint directly with the Federal Equal Employment Opportunity office or the New Mexico Human Rights Division. This avenue should be used when the employee feels that the employee cannot obtain appropriate relief within the steps as explained above. However, employees are encouraged to seek consultation with the City Manager before filing a formal sexual harassment complaint.

**6.6 DRUG TESTING POLICY.** The City is committed to the goal of a drug-free work place in compliance with the Drug-Free Work Place Act of 1988. Drug testing of employees will not be conducted by the City except in compliance with legal requirements or with consent.

If the employee successfully completes this two (2) year testing period, all records of the previous tests and related case documentation shall be destroyed after three (3) years from the initial positive test.

**6.9 RETESTING.** An employee who tests positive on a drug test may elect to have, at the employee's expense, a retest of the original sample at a drug testing laboratory of the employee's choice, provided the request is made in writing within twenty-four (24) hours of the employee receiving notice of a positive test result. The City shall pay for the retest if the retest is negative.

**6.10 CONFIDENTIALITY.** No laboratory reports or test results shall appear in the employment personnel file unless they are a part of a disciplinary action, but shall be held confidential and placed in a special locked file.

Because of the serious nature of some infractions, the first disciplinary action may constitute dismissal.

**A. Verbal Reprimand**

A verbal reprimand is used for minor infractions such as informing the employee that his actions, behavior or conduct needs to change. Department heads will keep written notations of verbal reprimands and these will not be placed in the employee's personnel file. A verbal reprimand is not grounds for grievance. Causes of verbal reprimands include, but are not limited to:

1. Substandard work performance; or
2. Repeated absence or tardiness.

**B. Written Reprimand**

An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used or if a verbal reminder was not effective. Causes for written reprimands include, but are not limited to:

1. The causes listed for verbal reprimands; or
2. Refusal to carry out orders; or
3. Sleeping on the job; or
4. Failure to follow safety rules; or
5. Failure to follow other City rules and procedures.

Written reprimands shall be placed in the employee's personnel file by the employee's department head after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the comments by signing the statement. The employee may respond by noting on the reprimand that he does not agree or with a written rebuttal, which shall be placed in the employee's personnel file. The placement of a written reprimand in an employee's file is not grounds for grievance.

**C. Suspension**

An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed ten (10) working days. Suspension of a regular employee is subject to the formal grievance procedures. Causes for suspensions include, but are not limited to:

1. The causes listed for written reprimands; or
2. Continued instances of poor performance; or
3. Negligent damage to property and/or person(s).

manual if he wishes to pursue a grievance. If the City Council does not approve the City Manager's action, the employee will be reinstated and paid the wages he lost as a result of the disciplinary action.

**7.4 CONDITIONS OR ACTIONS NOT GRIEVABLE.** The following matters are not grounds for grievance

- A. Disputes as to whether or not an established City practice or policy is good.
- B. Matters where a method of review is mandated by law.
- C. Matters where the City is without authority to act or does not have the ability to provide a remedy.
- D. Temporary/seasonal employees released prior to or at the end of their anticipated employment period.
- E. Probationary employees dismissed prior to the expiration of their probationary period.
- F. Appointed employees dismissed at any point during their employment with the City.
- G. Performance evaluations, preferences for employment promotions, transfers, temporary assignments, removal from temporary assignments, and layoffs.

be sent by certified mail, return receipt requested. The employee has a right to appeal the decision to the City personnel board.

**D. Effect of Decision**

Demotions and suspensions will become effective at the time that the pre-disciplinary hearing decision is issued. A dismissal grieved by an employee will not become effective until the City Council approves the dismissal following a post-disciplinary hearing.

**8.3 POST-DISCIPLINARY HEARINGS/APPEALS TO THE PERSONNEL BOARD**

**A. Notice of Appeal**

Within **three (3) working days** of receipt of the written pre-disciplinary decision, the grievant must give written notice to the City Manager of the grievant intent to pursue a post-disciplinary hearing.

**B. Post-Disciplinary Hearing Scheduled**

The post-disciplinary hearing must be held within **ten (10) working days** of the receipt of notification of intent to pursue a post-disciplinary hearing by the City Manager. The parties must agree in writing to any postponement of the grievance hearing beyond **ten (10) working days**. At this hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross-examine the City's witnesses before the City personnel board. The grievant and the City may be represented by legal counsel. Each party bears its own costs and expenses with respect to the retention of legal counsel and the pursuit of post-disciplinary actions.

**8.4 POST-DISCIPLINARY PERSONNEL BOARD HEARING RULES OF PROCEDURES**

- A. The City Manager will determine the date and time of the post-disciplinary hearing and any continuances. Such hearings will be conducted at a time and place that is mutually convenient to all parties concerned. Requests for continuances of hearings shall be made at least **five (5) working days** prior to the scheduled hearing, absent extenuating circumstances. Requests for continuances of hearings shall be made in writing directly to the hearing officer with copies to all parties involved.
- B. Post-disciplinary hearings shall be conducted as open meetings with notice given to the public pursuant to the New Mexico Open Meetings Act, unless the grievant requests a closed hearing.
- C. A quorum of the personnel board shall, by majority vote:
  - 1. Make rulings on procedural and substantive issues of the hearing.
  - 2. Determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the board.

restrict its questions to those necessary to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the personnel board.

2. Witnesses for the grievant may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the City will have the opportunity to cross-examine the witness. The personnel board will then have the opportunity to question the witness on matters related to the witness' testimony. The personnel board shall restrict its questions to those necessary to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the personnel board.
- C. Following presentation of the grievant position, the City may offer rebuttal testimony. Such testimony shall be brief, and shall address only the issues brought forth in the grievant presentation.
- D. The City's closing statement shall be presented, followed by that of the grievant. These statements shall not exceed ten (10) minutes without the permission of the hearing officer, and at a minimum shall contain a request for the desired outcome. The City shall have the opportunity to make a final statement, not to exceed five (5) minutes, and which shall be limited to issues brought forth in the grievant closing statement.

## **8.6 COMMUNICATION OF PERSONNEL BOARD'S DECISION.**

- A. The personnel board's recommendation to the City Council shall include findings and conclusions, and shall be issued within **five (5) days** of the hearing and shall indicate whether the decision was unanimous or whether particular members dissented, and shall be transmitted to the grievant, department head, and the City Manager, who shall notify the City Council.
- B. The personnel board may only recommend upholding, modifying or reversing the decision and may recommend reinstating the employee and awarding back pay and benefits. The record of the proceedings will be retained by the City Manager's office or the certified court reporter for a period of not less than one (1) year from the hearing date, along with all of the physical evidence admitted by the personnel board.
- C. The verbal record shall be transcribed only in the case of appeal to the district court by one of the respective parties. The party requesting the transcription shall make arrangements to pay for the transcription.

## **8.7 APPROVAL/DISAPPROVAL OF RECOMMENDATION**

- A. The City Council will approve or disapprove the recommendation by majority vote. The City Council's vote will be based solely on the Personnel Board's findings and

## **SECTION 9 PERSONNEL BOARD**

**9.1 PURPOSE.** The Personnel Board shall be responsible for making recommendations to the City Council concerning personnel policies and shall conduct post disciplinary hearings with respect to the grievance procedure set forth in Section 8 of this manual.

**9.2 PERSONNEL BOARD MEMBERSHIP.** The Personnel Board shall consist of the following:

- A. One (1) member of the City Council elected by the City Council. The term shall be two (2) years, with an indefinite number of terms allowed. The City Council member will not participate or vote in employee grievances.
- B. The City Manager will be a nonvoting member of the Personnel Board except for the purpose of breaking a tie when the Personnel Board is considering issues other than employee grievances.
- C. Three (3) residents of the City s appointed by the mayor at a regular or special public meeting of the City Council. These appointments shall be with the advice and consent of the City Council. The term of the resident members shall be two (2) years, with an indefinite number of terms allowed. In cases of resignation from the Board by a resident member or termination of residency within the City, the mayor, with the advice and consent of the City Council, shall appoint a replacement for a full term.
- D. Personnel Board members perform their duties on a voluntary basis and shall not receive payment for their services.

**9.3 CHAIRPERSON.** The board shall elect a chairperson who shall conduct the business of the board and who shall provide timely reports to the City Council. Neither a City Council member, nor the City Manager shall serve as chairperson.

**9.4 POWERS AND DUTIES.**

**A. Personnel Policies.** The Board shall recommend to the City Council such personnel policies, which may be necessary and desirable. Such policies, procedures, regulations, definitions, and rules may include, but are not limited to: provisions governing the hiring, promotion, transfers, separations, employee evaluations, demotions, suspensions, dismissals, probation, reprimands, fringe benefits, hours and conditions of work, holidays, and retirement for the City employees.

Rules and regulations recommended by the Personnel Board shall be subject to approval by the City Council.

**B. Amendments to the Personnel Manual.** The City Council shall review for consideration the recommendations or amendments made by the Personnel Board for adoption and

## **SECTION 10 COMPENSATION AND BENEFIT PROGRAM**

- 10.1 HOURS OF WORK.** Employees will work their scheduled hours pursuant to work schedules established by the administration. The standard workday for employees will be from 8:00 a.m. to 5:00 p.m., unless otherwise directed by the department head. Employees will not be paid for travel time from home to the site of their work within the City or from the work site to their home. Actual work periods may fluctuate at the discretion of the department heads. Part-time employees are scheduled to work pursuant to scheduling set forth by their department heads. Part-time employees will generally work the same number of hours each week.
- 10.2 BREAKS.** Full-time employees take a one (1) hour lunch break. Full-time employees are entitled to two (2) fifteen minute breaks per day; employees working four (4) hours or less per day are entitled to one (1) fifteen minute break per day. Supervisors may limit or delay breaks if continuous work is required because of an emergency or unusual conditions. No breaks shall be taken until 1-1/2 hours after the shift has begun or after 1-1/2 hours before the shift ends.
- 10.3 PAY PERIODS.** Employees shall be paid every two (2) weeks.
- 10.4 TOUR OF DUTY.** Tour of duty is defined as the established 35-hour work week of an employee. An employee normally works Monday – Thursday, 8 hours during the day, usually 8:00 a.m. to 5:00 p.m., with a designated 1 hour off for lunch and Fridays, 9:00 a.m. – 12:00 noon. Some positions require attendance at Council and other evening meetings work hours to be flexible to accommodate.
- 10.5 OVERTIME PAY.** The rate shall be one and one half (1-1/2 ) times regular pay for each hour of overtime and such payment shall be made only in cases when a nonexempt employee works over forty (40) “actual work hours” in a normal work week. Fair Labor Standards Act exempt employees shall not receive overtime pay.
- 10.6 TIME CARDS.** Magnetic employee ID cards are used for all time card entries by employees. Weekly time card records are verified with employees, approved by the City Manager and forwarded to the City Clerk for payroll entry and processing.
- 10.7 GRATUITIES.** All employees are prohibited from accepting gifts or other considerations from vendors given with intent of modifying the employees’ performance of duties or encouraging the employees to make purchases from the vendor involved. Employees shall uphold the highest of ethics in all their interaction with the public.
- 10.8 PER DIEM AND MILEAGE.** All payments of per diem and mileage shall be made pursuant to policies established by the State of New Mexico. See miscellaneous Section 13 of this manual for travel and conference/seminar travel.

## **SECTION 11 LEAVE AND HOLIDAYS**

**11.1 AUTHORIZED LEAVE.** Leave is any authorized absence, with or without pay, during regularly scheduled work hours, which is approved by the department head. The department head is responsible for the maintenance and transmittal of leave records to the City Manager's office. Each department must submit a completed "Request for Leave" form to the City Manager's office for each leave taken by an employee.

**11.2 UNAUTHORIZED LEAVE.** Absence without approved leave is subject to disciplinary action and loss of pay.

**11.3 HOLIDAYS.** All full-time employees of the City are eligible for the legal holidays as adopted annually by resolution.

- A. All part-time employees will receive holiday benefits at their scheduled hours and regular rate of pay on a basis pro-rated to the full-time (35 hour) work week. Employees on leave without pay status will not be paid for holiday time. Casual employees and temporary employees are not entitled to holiday pay.
- B. Employees required to work on a holiday will be compensated for the holiday at two and one-half (2-1/2) times their rate of pay for the holiday hours actually worked, not to exceed twelve (12) hours. The holiday will begin at 6:00 p.m. of the eve of the holiday and end at 6:00 a.m. the day following the holiday, unless otherwise specified.
- C. When a holiday occurs during an employee's use of annual leave, the day shall be counted as a holiday and not a day of annual leave.
- D. Employees on a normally scheduled day off when the holiday occurs will not be charged a holiday. Such employees shall request in advance a day of leave to be taken and charged as a holiday. Holiday time earned on a normal day off must be used within four (4) weeks of the date of time accrued. If not taken within the four (4) week time period, the employee will be paid straight time for the day. The floating day for the employee's birthday must be used within the birthday month.
- E. Holidays that fall on Saturday will be taken off on Friday of the same week. Holidays that fall on Sunday will be taken off on Monday.

### **11.4 PAID TIME OFF (PTO)**

- A. Annual leave will accrue on a pay period basis from the date of employment. Upon termination of employment, an employee shall be compensated for accrued annual hours.

probationary period, the employee shall be compensated for annual leave hours accrued.

#### **11.5 SICK LEAVE WITH PAY.**

Employees with PTO (Paid Time Off) may be granted for absences from work because of personal or immediate family illness, injuries and scheduled doctor's appointments for treatment, examinations and evaluations, providing the employee have sufficient PTO hours accumulated.

**11.6 BEREAVEMENT LEAVE.** In the event of the death of an employee's immediate family member as defined in Section 2.17, the employee shall be entitled to bereavement leave with pay not to exceed three days. Bereavement leave for part-time personnel will be prorated.

**11.7 ADMINISTRATIVE LEAVE WITH PAY.** Leave with pay and travel pay may be authorized by the City Manager to allow employees to attend meetings when the employee's attendance is on the behalf of the City and in the best interest of the City. If the employee receives payment by an outside entity for his attendance, the City shall pay the employee his regular salary less the amount received by the employee from the outside entity. Administrative leave with pay may also be granted by the City Manager pending disciplinary action.

#### **11.8 OCCUPATIONAL INJURY TIME/WORKERS COMPENSATION**

- A. Worker's Compensation.** Employees injured on the job or suffering from occupational diseases, as defined in the New Mexico Worker's Compensation Statute, shall receive Worker's Compensation benefits as prescribed by law.
- B. Pre-existing Injury.** All newly hired employees shall be required to complete a certificate of pre-existing condition form for submittal to the State of New Mexico Superintendent of Insurance.
- C. Injury Leave Pay.** An employee injured on the job may use accrued annual or sick leave for each regularly scheduled work day after the injury occurs for all such days not paid by workers compensation. If the employee is on worker's compensation time for more than four weeks and is entitled to compensation for the first seven days and has used accrued annual or sick leave for the first seven days of injury, the worker's compensation payments received for all such days shall be paid directly to the City by the worker's compensation carrier. In that event, annual or sick leave used by the employee, in lieu of worker's compensation, shall be re-credited to the employee upon the City's receipt of the reimbursement by worker's compensation after the expiration of the statutory waiting period.

**11.9 CIVIC DUTY LEAVE.** An employee shall be given necessary time off with pay for the following:

- A. Jury Duty.** Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a working day, the employee shall return to duty if at least four (4) hours of City duty can be served in that work day. If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay. The fee the employee receives for serving as a juror shall be turned in to the City.
- B. Court Appearance Time.** When required by City duties or subpoenaed to appear before a court, public body or City Council for the purpose of testifying in regard to City matters.
- C. Voting.** For purposes of a national, state, or local election, an employee who is registered to vote will be granted up to two (2) hours paid leave for voting, between the time of opening and the time of closing polls. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

**11.10 MILITARY LEAVE FOR RESERVE OR NATIONAL GUARD DUTIES**

- A. Paid Military Leave for Reserve or National Guard Activities.** Paid military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days during a one year period. Military leave must be requested twenty (20) days in advance. The employee must furnish proof of duty orders or other documentation prior to leave being granted unless the leave is for emergency purposes.
- B. Unpaid Military Leave.** Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking military leave **will not** first be required to exhaust annual and sick leave.
- C. Employees Returning from Unpaid Military Leave.** Any employee who leaves a position he has held with the City, other than a temporary position, to enter the armed forces of the United States, national guard or organized reserve. and who serves on active duty and is honorably discharged or released from active duty to complete his remaining service in a reserve component, and who is still qualified to perform the duties of the City position previously held, shall be re-employed in such position or to a position of like seniority, status, and pay. To be re-employed in such position, the employee must make application for reemployment within ninety (90) days after he is

D. **Benefits at Employee's Expense.** An employee on leave without pay does not accrue leave, nor does the employee receive City benefits.

2. The originating personnel action showing occupation, date of beginning employment and salary.
3. Records or certificates of educational training or orientation achievement completion
4. Application for retirement program.
5. Other related actions/forms concerning payroll deductions, insurance payment records, etc.

**B. Evaluation File.** The evaluation file shall contain the following records:

1. Medical examination form.
2. Copies of personnel action forms.
3. Copies of all performance evaluations.
4. Copies of all favorable or unfavorable letters or memorandums such as letters or certificates of appreciation or records of other outstanding achievements regardless of origination.
5. Records of disciplinary actions such as reprimand, suspension, demotion, or termination.

**12.9 MAINTENANCE OF EMPLOYEE FILES.** Such records shall be considered confidential and not available for public inspection. Physical access to an employee's records shall be in the control of the City Manager. An employee's records may be reviewed by the employee, the employee's department head, the department head of the department to which an employee may be transferred, and the Mayor/Council. If an employee wishes someone other than those authorized to have access to the employee's file, he must request so in writing.

**12.10 ADDITIONAL RULES.** Employees shall obey all additional rules, directives and requests stated verbally or in writing by their supervisors. Employees are generally required to follow all standards, rules, procedures and policies that are similar or normally expected in the work place.

**12.11 ALLOWANCE EXPENDITURES & TRAVEL EXPENSE** Staff is never permitted to manage or spend City funds without the specific authorization of City Manager, Treasurer. (Overnight or in excess of \$100 requires Governing body) Employees who, in the course of their duties are required to travel, will receive reimbursement for necessary expenses as follows:

- A. Use of personal automobile at a rate established by the City.
- B. Meal allowance provided at the current State approved rate where duties require an employee to be away overnight.
- C. Actual cost of commercial air or rail travel.
- D. Actual cost of required incidentals including room, if employee is required to be away overnight.



**7-11 Years' Service**

Part-time                      0.066 Hours                      60 Hours                      72.5 Hours

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**11+ Years' Service**

Part-time                      0.079 Hours                      72 Hours                      80 Hours

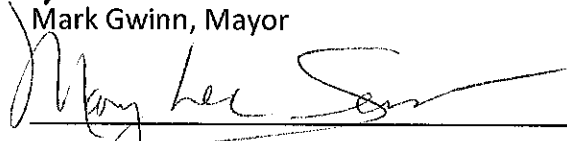
- J. Remove Section 11.5 (A)(B)(C)(D)(E)(F)(G) add paragraph to read as follows
- K. Employees with PTO (Paid Time Off) may be granted for absences from work because of personal or immediate family illness, injuries and scheduled doctor's appointments for treatment, examinations and evaluations, providing the employee have sufficient PTO hours accumulated.
- L. Remove strike throughs: an employee on leave without pay does not accrue leave, nor does the employee receive City benefits. ~~An employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the City's share of the premium to the City Manager on the regular pay day.~~

PASSED, ADOPTED AND APPROVED this 9<sup>th</sup> day of February, 2016 by the Governing Body of the City of Rio Communities.

**City of Rio Communities Governing Body**



Mark Gwinn, Mayor



Mary Lee Serna, Councilor Mayor Pro-temp



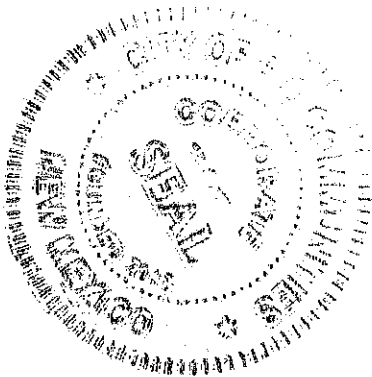
Robert Chavez, Councilor



Margaret (Peggy) Gutjahr, Councilor

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Frank Stasi, Councilor



ATTEST:



Elizabeth (Lisa) Adair, Municipal Clerk