

CITY OF RIO COMMUNITIES, NEW MEXICO

FRAUD POLICY RESOLUTION 2016-61

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

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

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

WHEREAS, the City of Rio Communities Governing Body has determined that the adoption of a Fraud Policy for its members and the members of all boards, employees, committees and commissions will assist in achieving these ends.

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

Resolved: In the Regular Board Session this 12th day of April 2016.

City of Rio Communities Governing Body

Mark Gwinn,
Mayor

Margaret (Peggy) Gutjahr,
Councilor Mayor Pro-tem

William (Bill) Brown,
Councilor

ATTEST:

Arturo R. Sais,
Councilor

Elizabeth (Lisa) Adair, Municipal Clerk

FRAUD POLICY

Background

The Municipal fraud policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against the City of Rio Communities. It is the intent of the City of Rio Communities to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and the conduct of investigations.

Scope of Policy

This policy applies to any irregularity, or suspected irregularity, involving employees or governing body, as well as shareholders, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the City of Rio Communities (also called the City).

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the City.

Policy

Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Fraud is defined as the intentional false representation or concealment of a material fact for the purpose of inducing another to act upon it to his injury. Each member of the management team will be familiar with the types of improprieties that might occur within his area of responsibility, and be alert for any indication of irregularity.

Any irregularity that is detected or suspected must be reported immediately to the City Manager, who coordinates all investigations with the Legal Department and other affected areas, both internal and external.

Actions Constituting Fraud

The terms *defalcation*, *misappropriation*, and *other fiscal irregularities* refer to, but are not limited to:

1. Any dishonest or fraudulent act
2. Misappropriation of funds, securities, supplies, or other assets
3. Impropriety in the handling or reporting of money or financial transactions
4. Profiteering as a result of insider knowledge of company activities
5. Disclosing confidential and proprietary information to outside parties
6. Disclosing to other persons securities activities engaged in or contemplated by the company

7. Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the City; Exception: Gifts less than \$50 in value
8. Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment
9. Any similar or related irregularity

Other Irregularities

Irregularities concerning an employee and governing body's moral, ethical, or behavioral conduct should be resolved by departmental management and the City Manager.

If there is any question as to whether an action constitutes fraud, contact the City Manager for guidance.

Investigation Responsibilities

The City Manager has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. With the exception of cases where the City Manager is suspected of wrong doing. In such cases the Mayor will assume the duties assigned to the Manager. If the investigation substantiates that fraudulent activities have occurred, the City Manager will issue reports to appropriate designated personnel and, if appropriate, to the Governing Body.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

Confidentiality

The City Manager treats all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the City Manager immediately, and *should not attempt to personally conduct investigations or interviews/interrogations* related to any suspected fraudulent act (see Reporting Procedures section below).

Investigation results *will not be disclosed or discussed* with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the City from potential civil liability.

Authorization for Investigating Suspected Fraud

Members of the Investigation Unit will have:

1. Free and unrestricted access to all City records and premises, whether owned or rented
2. The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation

Reporting Procedures

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

An employee who discovers or suspects fraudulent activity will *contact the City Manager immediately*. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his attorney or representative, or any other inquirer should be directed to the Investigations Unit or the Legal Department. No information concerning the status of an investigation will be given out. The proper response to any inquiries is: "I am not at liberty to discuss this matter." *Under no circumstances* should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

The reporting individual should be informed of the following:

1. Do not contact the suspected individual in an effort to determine facts or demand restitution.
2. Do not discuss the case, facts, suspicions, or allegations with *anyone* unless specifically asked to do so by the Legal Department or City Manager.

Acting in Good Faith

Anyone reporting any irregularity that is detected or suspected must be acting in good faith and have reasonable grounds for believing the information provided. Allegations made maliciously or with knowledge of their falsity will not be tolerated. People making such allegations may be subject to institutional disciplinary action and/or legal actions by the individuals accused of fraudulent conduct.

Whistleblower Protection

Employees of the City of Rio Communities may not retaliate against a whistleblower for reporting an activity which that person believes to be fraudulent or dishonest with the intent or effect of adversely affecting the terms or conditions of employment (including, but not limited to, threats of physical harm, dismissal, transfer to an undesirable job assignment, demotion, suspension, or impact on salary or wages). A whistleblower is defined as an employee who informs a manager, supervisor, or City Manager about an activity which that person believes to be fraudulent or dishonest.

Whistleblowers who believe that they have been retaliated against may file a written complaint with the City Manager. Any complaint of retaliation will be promptly investigated by the City Manager and appropriate remedial measures will be taken if allegations of retaliation are proven. This protection against retaliation is not intended to prohibit managers from taking action, including disciplinary action, in the usual scope of their duties and on the basis of valid performance-related factors.

Termination

If an investigation results in a recommendation to terminate an individual or take action against municipal officer, the recommendation will be reviewed for approval by the designated representatives from Human Resources and the Legal Department and, if necessary, by outside counsel, before any such action is taken. Legal Counsel does not have the authority to terminate an employee. The decision to terminate an employee is made by the employee's management. Should the Legal Counsel believe the management decision inappropriate for the facts presented, the facts will be presented to executive level management for a decision.

Administration

The City Manager is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed annually and revised as needed.



CITY OF RIO COMMUNITIES

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



FRAUD POLICY ACKNOWLEDGEMENT SIGNATURE FORM

I acknowledge that I have received a copy of the City of Rio Communities Fraud Policy that provides guidelines on the conduct, ethics and confidentiality affecting my position 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.

Furthermore, 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 Fraud Policy.

I have read and fully understand the Fraud Policy. By signing this acknowledgement I agree to abide by the City of Rio Communities Fraud policy.

Name: _____
(Please Print)

Signed: _____

Date: _____