

Capitola City Council

Agenda Report



Meeting: June 12, 2025

From: City Manager Department

Subject: Administrative Policy I-42: Code of Conduct

Recommended Action: Review Administrative Policy I-42: Council and Board Code of Conduct; and provide direction to staff for desired changes.

Background: In September 2019, the City Council requested that staff develop a code of conduct for City Council Members and appointed members of City advisory bodies. Council adopted Administrative Policy I-42: Council and Board Code of Conduct in September 2020.

The Code of Conduct was developed by a subcommittee of two City Councilmembers, who worked with staff and the City Attorney's office. The Code of Conduct developed core values for City Councilmembers and appointed officials, transparency and decision-making standards, standards for how City Council and appointed officials are expected to interact with City staff, standards for interactions with other Councilmember and decorum at public meetings, standards for communications with the public, boards and commissions, other governmental agencies, staff, and media, and procedures to investigate and penalties for alleged violations.

The Code of Conduct does not supersede any legal requirements for Councilmembers and appointed officials; it is intended to work in conjunction with other requirements and provide a framework to guide how elected and appointed officials should conduct themselves, and a structure in which to consider violations of the Code of Conduct.

In Spring 2025, Council identified the review and update of the Code of Conduct as a FY 2025-26 goal. Since the Code of Conduct was adopted, staff has identified a section of the Code that may benefit from clarification. In addition, Council has asked questions about residency requirements for General Law cities and the complaint process.

Discussion: The City has multiple documents governing Councilmembers and appointed officials, summarized below.

- Administrative Policy I-42: Code of Conduct: As described above, staff and the Council developed the Code of Conduct in 2019 and 2020.
- Administrative Policy I-8: Public Records Act Request Policy: Requests for records through the Public Records Act are an important aspect of transparency in our open government process. These requests should be viewed in a positive manner, and it is the goal of the City to respond to them accordingly. City Council Members' electronic communications related to City business can be found responsive to the Public Records Act (Administrative Policy V-5).
- Administrative Policy I-13: Civic Recognition Program: The City's Civic Recognition Award Committee is comprised of the mayor, one staff member from the city manager's office, and the police chief. The Committee shall review all nominations for the City's Civic Recognition Award, the winner of which must be one who provides a significant benefit to the Capitola community of its residents through acts of exceptional effort, not in the recipient's self-interest.
- Administrative Policy I-18: Elected/Appointed Officials & Social Media: This policy provides guidance and best practices for the appropriate use of social media by elected and appointed officials and outlines proper responses if social media is used inconsistently with this policy.

- Administrative Policy I-28: Distribution of Tickets & Passes: This policy pertains to the distribution of tickets and passes for a facility, event, show, or other performance for entertainment, amusement, recreational or similar purposes received by the City and is established in accordance with Section 18944.1 of the FPPC's regulations.
- Administrative Policy I-31: Abstentions: Council Members are prohibited from participating in governmental decisions that may have a material financial effect on their economic interests, including his or her personal finances. Council Members should not abstain from voting to avoid casting a controversial vote.
- Administrative Policy I-35: Proclamation Policy: The City Council may request that a proclamation is prepared. Only proclamations dealing with local, county, state issues, or those that positively impact the community and convey an affirmative message to residents will be considered. Requests should be directed to the city clerk.
- Administrative Policy I-44: Additional Materials: This policy outlines which correspondences to the Council qualify as Additional Materials, as defined in the policy, and the process for distributing Additional Materials.
- Administrative Policy III-2: Employee and Public Official Travel Expense Reimbursement and Travel Regulations: City Council Members will be required to provide a brief report on meetings attended at the expense of the City.
- Administrative Policy V-10: Digital Reading Hardware/Software Reimbursement: Council Members who elect to go paperless may receive an annual reimbursement for the purchase or licensing of hardware or software to facilitate the use and viewing of the agenda packets.
- Administrative Policy V-11: Electronic Communications During Open Public Meetings Subject to the Brown Act: During City Council meetings noticed and open to the public pursuant to the Brown Act, the use of electronic communications (text message, email, private messages or communications through Twitter, Facebook, etc.) is not permitted. This prohibition does not apply to communications from the City Clerk, family members or care givers, or other personal matters that do not address City business.

Residency

As a general law city, Capitola follows the requirements for elected office outlined in California Government Code Sections 36502 and 34882.

Once elected, Council Members are required to file personnel forms and paperwork that includes their residential address. A Councilmember or Appointed Official is not required to notify City staff if they purchase a home or other property outside the City limits. Council Members are required to disclose property purchased within the jurisdiction (as defined by the Fair Political Practices Commission) due to FPPC requirements.

Elections Code section 200, subdivision (a), defines the term "residence" as meaning a person's "domicile" for voting purposes. It defines the domicile of a person as that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At any given time, a person may only have one domicile. (See Elec. Code, § 200(b).) Elections Code Section 200(c) provides, however, that the residence of a person is that place in which the person's habitation is fixed for some period of time, but wherein he or she does not have the intention of remaining. It further provides that at any given time, a person may have more than one residence but may not have more than one domicile.

The test for determining a person's domicile is physical presence plus an intention to make that place his permanent home. Courts consider a person's acts and declarations, mailing address, voter registration, tax returns, driver's license, and homeowners' exemption.

During the regular elections cycle, staff verifies candidates residency in the following ways:

1. Candidates provide their address to staff, staff verifies that the address is within Capitola.
2. Staff verifies their voter registration address through the Santa Cruz County Elections Department. The voter registration address must be within Capitola.
3. Candidates complete an affidavit with the City Clerk/Elections Official to affirm that they meet the requirements of elected office.

This process is utilized by nearly all General Law cities and is supported by existing case law.

Complaint Process

The complaint process currently indicates any City Council review of a Code of Conduct complaint must happen in open session; the City Council may wish to establish a process in the Code of Conduct to trigger such a hearing.

Use of City Stationery

In addition, the current language regarding City stationery indicates that City letterhead, stationery, or other City resources may not be used by Members to promote personal interests. As the use of City letterhead usually indicates a message is an official communication from the City, staff suggests a revision to read:

6.2.3 City Stationery.

City ~~letterhead~~ or stationery or other City resources may not be used by Members to promote personal interests. City letterhead may only be used by Members for official City business.

Fiscal Impact: There is no fiscal impact associated with the recommended action.

Attachments:

1. Administrative Policy I-42

Report Prepared By: Samantha Zutler, City Attorney

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager