

				<b>COUNCIL POLICY MANUAL</b> <i>Small Town Service    Community Stewardship    Future Focus</i>	
<b>Title:</b> Board, Committee, and Commission Roles and Responsibilities, Including Code of Conduct				<b>Policy Number:</b>	
<b>Effective Date:</b>				<b>Pages:</b>	
<b>Enabling Actions:</b>			<b>Revised Date:</b>		
<b>Approved:</b>					

### I. Preamble

This Policy sets forth the roles, responsibilities, and Code of Conduct for the Town's Boards, Committees, and Commissions (hereinafter referred to as "Commissions"). The legal responsibilities of the Los Gatos Town Commissioners are set forth by applicable state and federal laws. In addition, the Town Council has adopted regulations, including this Code of Conduct Policy, that holds Commissioners to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Commissioners, through training, are aware of their legal and ethical responsibilities as appointed officials. Commissioners are not allowed to engage in any activity which would constitute a minor or major violation as specified in this Policy.

#### **Alternative Language 1:**

Commissioners are not allowed to engage in activity which would constitute a violation of this Policy, nor does anything in this Policy transfer authorities vested in the Town Council or Town Manager to a Commission or individual commissioners. Nothing in this policy shall infringe on the constitutional rights of Commissioners, including the right to free expression.

### II. Town Board, Committees, and Commissions Roles and Responsibilities

The role of the Commissions is to act as a bridge between the community and the Town Council. Commissioners are volunteers, that contribute their time and expertise to help identify, analyze, and evaluate community issues within the scope of their respective Commission. Through public meetings and other engagement efforts, Commissioners gather community input during recognized commission meetings, ad hoc commission meetings, and established taskforces and use this information to make thoughtful, informed recommendations to the Town Council, which is the final policy-making authority. The Commission's work should align with the Town Council's Strategic Priorities and supports the Town's mission to enhance the quality of life through effective leadership and responsive services. Commissioners serve at the will of the Council.

<b>TITLE:</b> Board, Committee, and Commission Code of Conduct	<b>Page:</b> Page 2 of 8	<b>Policy Number:</b>
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Individual Commissioners are expected to attend all meetings and come prepared by reviewing agenda materials in advance. They are to conduct themselves with respect, fairness, and courtesy toward fellow members, Town staff, and the public, while recognizing and supporting the authority of the Chair to lead meetings effectively. Commissioners should stay focused on meeting topics, use time efficiently, and contribute constructively to discussions. They are expected to act with honesty and integrity, serve as role models of civic leadership, and maintain public trust in Town government. Commissioners must also be aware of and avoid potential conflicts of interest, understand their obligations under the Brown Act, and seek guidance from commission staff person when questions arise regarding their duties or ethical requirements. If needed, the commission staff person will coordinate with other Town staff as necessary.

### **III. Commissioner Conduct in Public Meetings**

To ensure the highest standards of respect and integrity during public meetings, Commissioners should:

- A. *Use formal titles.* The Commission should refer to one another formally during Council meetings such as Chair, Vice Chair or Commissioner ~~or Mr., Mrs., or Ms.~~, followed by the individual's last name.
- B. *Practice civility and decorum in discussions and debate.* Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. During public discussions, Commissioners should be respectful of others and diverse opinions and allow for the debate of issues.
- C. *Honor the role of the presiding officer in maintaining order and equity.* Respect the Chair's efforts to focus discussion on current agenda items.
- D. *Commission decisions should be reserved until all applicable information has been presented.*
- E. *Conduct during public hearings.* During public testimony, Commissioners should refrain from engaging the speaker in dialogue. Speakers at public meetings ~~will~~may be asked to provide their full name and to state whether they are a resident of the Town of Los Gatos. This information is optional but not required. For purposes of clarification, Commissioners may ask the speaker questions. Commission comment and discussion should commence upon the conclusion of all public testimony.

### **IV. Compliance and Operational Requirements**

The Town Commissions operate under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Commissioners on relevant legal matters; however, any such advise will be coordinated through the commission staff liaison.

#### **A. Training**

Commissioners shall participate in training in the following areas:

<b>TITLE:</b> Board, Committee, and Commission Code of Conduct	<b>Page:</b> Page 3 of 8	<b>Policy Number:</b>
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1. The Ralph M. Brown Act
2. AB 1234 Conflict of Interest (Planning Commission Only)
3. Town / CA State Law on Harassment (SB 1343)

B. Procurement

Unless authorized by the Town Council, Commissioners shall not become involved in administrative processes for acquiring goods and services.

C. Land Use Applications

The merits of an application shall only be evaluated on information included in the public record. Commissioners shall not participate in any ex parte communications and must place any information obtained outside of the public hearing that may influence his/her decision on a matter pending before the Commission into the record at the public hearing.

D. Code of Conduct Policy

Newly appointed Commissioners shall sign a statement affirming they have read and understand the Town of Los Gatos Council Code of Conduct Policy.

E. Non-Profit Organizations

Commissioners that participate in the Community Grant Program selection process may not sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the Town.

**Alternative Language 2:**

Commissioners that sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the Town may not participate in the Community Grant Program selection process.

F. Applicable Laws and Town Policies

Commissions shall abide by all applicable municipal, state, and federal laws and Town policies.

G. Workplan

Matters to be done outside of the Commission meeting will require Town Council approval through the workplan before any such activity may be performed on behalf of the Town or Commission. Items listed on the workplan as discussion-only, or those with no staff time allocated, are not considered action items and do not provide the necessary Town Council approval to conduct any activities in an official Commissioner capacity. They are intended solely to facilitate discussion during agendaized commission meetings on topics within the commission's scope.

<b>TITLE:</b> Board, Committee, and Commission Code of Conduct	<b>Page:</b> Page 4 of 8	<b>Policy Number:</b>
--	-----------------------------	-----------------------

## **V. Commission Relationship with the Town Council**

The primary responsibility of Commissions is to advise and make recommendations to the Town Council. Recommendations are forwarded through the Town Manager's Office to the Town Council for consideration. While the Council values and relies on the Commission's input, the Council's role is to consider recommendations from multiple sources and make final decisions based on strategic priorities and the broader interests of the community. Because of this broader perspective, the Council may not always implement the recommendations of a particular Commission.

It is important to maintain a clear distinction between the advisory role of Commissions and the decision-making authority of the Town Council. While Commissioners may at times disagree with Council decisions, once the Council has taken a position or chosen not to implement a recommendation, it is expected that the Commission and its individual members will respect that decision.

## **VI. Commission Communication**

### **A. Town Council**

1. When a member of an advisory body addresses the Council at a public meeting, it should be made clear whether the member is speaking on behalf of the advisory body or as an individual citizen.

### **B. Public**

1. Commissioners shall communicate in a manner that clearly and explicitly conveys that such communication is provided as an individual and does not in any way represent communication on behalf of the Town or represent the position of the Commission, or Town staff. This can be accomplished by using language such as: "Speaking for myself and not on behalf of the Commission or the Town . . ."
2. Letters or other forms of communication from Commissions addressed to the public or other agencies and concerning official positions being taken must first be forwarded to the Council for approval before being mailed or submitted. Letters and other forms of communication from individual Commission members to the public regarding issues that are within the jurisdiction of that Commission should be distributed to the other members, commission staff liaison, and the Council as a matter of courtesy.

### **Alternative Language 3:**

Copies of letters and other forms of communication from individual Commission members to the public regarding issues that are within the jurisdiction of that Commission should be distributed to the commission staff liaison to share with to the other members, the Town Council, and Town Manager, and the Council as a matter of information and courtesy. In order to prevent any Brown Act violations, if the topic is within the purview of the Board, Commission, or Council, a majority of the Board, Commission, or Council will not discuss the communication, but it can be

<b>TITLE:</b> Board, Committee, and Commission Code of Conduct	<b>Page:</b> Page 5 of 8	<b>Policy Number:</b>
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requested to be added to a future meeting agenda for discussion in a meeting that is open to the public.

3. Commissioners shall refer all media inquiries to Town staff for an official response to ensure that consistent and accurate information is provided. Unless specifically authorized by the Mayor or Town Manager, no commissioner shall communicate in any way or provide official responses of or from the Town or commission. In any communication, each commissioner can only speak as an individual and must relate such when communicating in any medium, media, or other response unless specifically authorized by the Mayor or Town Manager.

**Alternative Language 4 (also replaces Alternative Language 3):**

Replace A and B with the following:

All communications and interactions between Commissioners must comply with the Brown Act, and nothing in this Policy shall be interpreted as limiting the rights or obligations established by that law.

**A. Public Meeting**

1. When a member of an advisory body addresses the Council or other commission at a public meeting, it should be made clear whether the member is speaking on behalf of the advisory body or as an individual.

**B. External Representation**

1. Commissioners are not authorized to represent the Town outside of official commission meetings unless specifically authorized to do so by the Town Council.
2. When Commissioners communicate outside of official commission meetings, or in a manner that is not authorized by Town Council, they shall clearly and explicitly convey that such communication is provided as an individual and does not in any way represent the Commission, Town, or Town staff. This can be accomplished by using language such as: "Speaking for myself and not on behalf of the Commission or the Town . . ."

## **VII. Enforcement**

### **A. Purpose**

The Boards, Committee, and Commission Code of Conduct Policy establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Commissioner. The purpose of the policy language is to establish a process and procedure that:

1. Allows the public, Commissioners, and Town employees to report Code of Conduct policy violations or other misconduct.
2. Provides guidelines to evaluate Code of Conduct policy violations or other misconduct and implement appropriate disciplinary action when necessary.

**B. Procedures****1. Reporting of Complaints**

Complaints made by members of the public, Commissioners, Council Members, Town employees, the Town Manager, or the Town Attorney should be reported to the Town Council.

**2. Evaluation of Complaints Alleging Violations**

The Mayor shall promptly consult the Town Manager and evaluate the complaint. After reviewing the written complaint, the Mayor shall determine whether the complaint:

- a. Lacks substance (unsubstantiated)
- b. Involves a minor violation, includes but is not limited to
  - i. Unprofessional or discourteous communication.
  - ii. Failure to comply with procedural requirements in meetings or decision-making.
  - iii. Negligent, but not malicious, failure to disclose conflicts of interest when no substantial harm occurs.
  - iv. Minor breaches of decorum during public meetings that do not disrupt proceedings.
- c. Potentially involves a major violation, includes but is not limited to
  - i. Persistent or egregious unprofessional behavior toward staff, colleagues, or the public.
  - ii. Engaging in actions that create substantial conflicts of interest or violate any municipal, state or federal laws or Town policies, including ethics laws.
  - iii. Deliberately making false or misleading statements that undermine public trust or decision-making processes.
  - iv. Conduct that disrupts public meetings in a manner that prevents the effective functioning of Town governance.
  - v. Misuse of Town resources, authority, or influence for personal gain or to harm others.
  - vi. Repeated minor violations.
  - vii. Criminal conduct.

**3. Unsubstantiated or Minor Violations**

If the complaint is without substance, no further action will be taken.

If the reported violation is deemed valid but minor in nature, the Mayor shall, in consultation with Town staff, issue a written communication to the Commissioner regarding the specific behavior that violates Town policy.

**4. Allegations of Major Violations**

If the reported violation is considered to be major, disciplinary action will be taken.

<b>TITLE:</b> Board, Committee, and Commission Code of Conduct	<b>Page:</b> Page 7 of 8	<b>Policy Number:</b>
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C. Disciplinary Action

1. Considerations in Determining Disciplinary Action

Disciplinary action may be imposed by the Council upon Commissioners who have violated the Council Code of Conduct Policy or any applicable laws. Disciplinary actions or sanctions are considered when a serious violation of Town policy has occurred by a Commissioner. In determining the type of sanction imposed, the following factors may be considered:

- a. Nature of the violation
- b. Prior violations by the same individual
- c. Other factors which bear upon the seriousness of the violation

2. Types of Sanctions

At the discretion of the Council, sanctions may be imposed for violating the Code of Conduct or engaging in other misconduct. These actions may be applied individually or in combination. They include, but are not limited to:

- a. *Written Communication* – In consultation with Town staff, the Mayor or his/her designee may provide a written communication to the Commissioner regarding the specific behavior that violates this policy.
- b. *Removal* – By a 3/5 vote the Town Council may remove the Commissioner for a violation of this policy.

**Alternative Language 5:**

B. Procedures

1. Complaints related to a Code of Conduct policy violation or other misconduct shall be submitted through the Town Clerk in writing or in any other such form that can be reviewed, documented, retained, and transmitted.
2. Upon receipt, the Town Clerk will forward the complaint submission to the appropriate staff member for review and consultation.
3. Following this, a memorandum shall be prepared by staff and distributed to the Town Council through the Town Manager, notifying them of the complaint. In accordance with Council Policy 2-01, Section I, any Council Member may request that a discussion of the complaint be scheduled on a future agenda.

C. Disciplinary Action

Disciplinary action may be imposed by the Council upon Commissioners who have violated the Code of Conduct Policy or other misconduct. In determining the type of sanction imposed, the following factors may be considered including but not limited to:

- Nature of the violation,
- Prior violations by the same individual, and

<b>TITLE:</b> Board, Committee, and Commission Code of Conduct	<b>Page:</b> Page 8 of 8	<b>Policy Number:</b>
--	-----------------------------	-----------------------

- Other factors which bear upon the seriousness of the violation.

Commissioners who have been notified by the Town Clerk that they are out of compliance with State or Town mandated requirements for Ethics Training or Fair Political Practices Commission Form 700 filings shall not be permitted to attend commission meetings until they are compliant. Any resulting absences will be counted as unexcused and may result in automatic forfeiture of the position if the total exceeds the allowable absences outlined in the Attendance Requirements section of Council Policy 2-11.

#### 1. Types of Sanctions

At the discretion of the Town Council, sanctions may be imposed for violating the Code of Conduct or engaging in other misconduct. The Commissioner will be given notice and an opportunity to provide a written or verbal response prior to any sanctions. These actions may be applied individually or in combination. They include, but are not limited to:

- Public Admonishment – A warning directed publicly at a Commissioner regarding specific behavior.
- Removal – A Commissioner may be removed by a 3/5 vote of the Town Council at any time, with or without cause, in accordance with the Town's policies. While removal may be used as a response to a violation of this policy, it is not limited to disciplinary situations and may occur at any time at the Council's discretion.

APPROVED AS TO FORM:

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Gabrielle Whelan, Town Attorney