

		COUNCIL POLICY MANUAL <i>Small Town Service Community Stewardship Future Focus</i>
Title: Town Council <u>Roles and Responsibilities, Including</u> Code of Conduct		Policy Number: 2-04
Effective Date: 5/3/2004		Pages: 8
Enabling Actions: 2004-059; 2006-111; 2021-047		Revised Date: 12/17/2012; 3/3/2015; 12/17/2019; 11/2/2021; 10/04/2022
Approved:		

I. Preamble

This Policy sets forth the roles, responsibilities, and Code of Conduct for Council Members. The legal responsibilities of the Los Gatos Town Council are set forth by applicable state and federal laws. In addition, the Town Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials. ~~These expectations of conduct also apply to all members of the Town's Boards, Committees, and Commissions.~~ The purpose of this Policy is not only to ensure legal compliance but also to promote the public's trust in Town government and foster a culture of respect and ethical behavior. The Council recognizes that effective governance depends on transparency, accountability, and mutual respect among Council Members, staff, and the public.

II. Council-Manager Form of Government

The Town of Los Gatos operates under a Council-Manager form of government as prescribed by Town Code, Section 2.30.305. Accordingly, members of the Council are elected at-large, provide legislative direction, set Town policy, and ultimately answer to the public. The Town Manager serves as the Town's chief administrative officer and is responsible for directing the day-to-day operations of the Town and implementing policy direction.

III. Town Council Roles and Responsibilities

The role of the Town Council is to act as a legislative and quasi-judicial body. Through its legislative and policy authority, the Council is responsible for assessing and achieving the community's desire for its present and future and for establishing policy direction to achieve its desired outcomes. All members of the Town Council, including those who serve as Mayor and Vice Mayor, have equal votes.

TITLE: Town Council Code of Conduct	Page: Page 2 of 17	Policy Number: 2-04
--	------------------------------	-------------------------------

Members of the Town Council fulfill their role and responsibilities through the relationships they have with each other and the public. Town Council Members should approach their work, each other, and the public in a manner that reflects ethical behavior, honesty and integrity. The commitment of Town Council Members to their work is characterized by open constructive communication, innovation, and creative problem solving.

IV. Mayoral and Vice Mayoral Selection Process

Per Town Municipal Code, Section 2.20.035, the selection of the Mayor and Vice Mayor occurs annually at a special meeting in December by majority vote of the Town Council. The Mayor and Vice Mayor serve at the pleasure of the Town Council and may be replaced by a majority vote of the Council.

V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships

The following outlines some of the key roles, responsibilities, and relationships as they relate to the positions of Mayor and Vice Mayor:

Mayor

- A. The Mayor is the presiding officer of the Town Council. In this capacity, the Mayor is responsible for developing Council agendas in cooperation with the Town Manager and leading Council meetings.
- B. The Mayor recommends various standing committee appointments to the Council for approval.¹ This will be done at a Council meeting in December of each year. When making committee recommendations, the Mayor should attempt to balance shared responsibilities and opportunities among Council Members. The Mayor may also appoint citizens to committees not established by Town ordinance or resolution as the Mayor deems appropriate.
- C. With regard to decisions made by a majority of the Town Council, the title of Mayor is responsible for carries with it the responsibility of communicating with the Town Council, the Town Manager, members of the public, and the media regarding decisions made by a majority of the Town Council. The Mayor also represents the Council at official and ceremonial occasions.
- D. The Mayor performs special duties consistent with the Mayoral office, including, but not limited to: signing of documents on behalf of the Town, issuing proclamations, serving as the official voting delegate for various municipal advocacy groups, and delivering the State of the Town Address at his or her discretion.² The Town Council will determine any additional authority or duties that the Mayor shall perform.
- E. Special duties consistent with the Mayoral office may be delegated to the Vice Mayor ~~or any other member of the Town Council~~ in the absence of the Mayor. If the Vice Mayor is unavailable, the duties of the Mayor will be delegated to another Council Member in

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation policy

TITLE: Town Council Code of Conduct	Page: Page 3 of 17	Policy Number: 2-04
-------------------------------------	-----------------------	------------------------

order of seniority. If those Council Members are of equal seniority, one of them will be selected by alphabetical order.

~~F. In the event that one or more members of a Town Board, Commission, or Committee acts in a manner contrary to approved Board/Commission policies and procedures, the Mayor may counsel those members about the rules set forth in the Town Commissioner Handbook.³~~

Vice Mayor

A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.⁴

~~B. If the Vice Mayor is unavailable, the duties of the Mayor will be delegated to another Council Member in order of seniority. If those Council Members are of equal seniority, one of them will be selected by alphabetical order. When the Vice Mayor performs the duties of the Mayor in his/her absence, the Vice Mayor also carries the responsibility of communicating with the Town Manager, Town Council, and members of the public.~~

VI. Council Conduct in Public Meetings

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

- A. *Use formal titles.* The Council should refer to one another formally during Council meetings, such as Mayor, Vice Mayor, or Council Member ~~or Mr., Mrs., or Ms.~~, followed by the individual's last name.
- B. *Practice civility and decorum in discussions and debates.* 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, Council Members 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 Mayor/Chair's efforts to focus discussion on current agenda items.
- D. *Council decisions should be reserved until all applicable information has been presented.*
- E. *Conduct during public hearings.* During public testimony, Council Members should refrain from engaging the speaker in dialogue. Speakers at public meetings will 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, Council Members may ask the speaker questions. Council comments and discussion should commence upon the conclusion of all public testimony.
- F. Communication during meetings. Council Members shall not use private electronic communication (including text messages, emails, or direct messages on social media) to discuss any item of Town business during public meetings. All such communications related to Town business are subject to public records laws.

³Resolution 1999-167

⁴ Council Agenda Format and Rules Policy

TITLE: Town Council Code of Conduct	Page: Page 4 of 17	Policy Number: 2-04
--	------------------------------	-------------------------------

~~VII. Maintaining Civility at Council Meetings~~

~~The public is welcome to participate at Town Council meetings and the Mayor should remind the public of the Town's expectations for civility in order for the business of the Town to be completed efficiently and effectively. These expectations include and are not limited to:~~

- ~~A. For the benefit of the entire community, the Town of Los Gatos asks that all speakers follow the Town's meeting guidelines by treating everyone with respect and dignity. This is done by following meeting guidelines set forth in State law, in the Town Code, and on the cover sheet of the Council agenda.~~
- ~~B. The Town embraces diversity and strongly condemns hate speech and offensive, hateful language or racial intolerance of any kind at Council Meetings.~~
- ~~C. Town Council and staff are well aware of the public's right to disagree with their professional opinion on various Town issues. However, anti-social behavior, slander, hatred, and bigotry statements are completely unacceptable and will not be tolerated in any way, shape or form at Town Council meetings.~~
- ~~D. All public comments at the Town Council meeting must pertain to items within the subject matter jurisdiction of the Town and shall not contain slanderous statements, hatred, and bigotry against non-public officials.~~
- ~~E. The Town will go through the following steps if a disturbance results from a member of the public not following these rules:~~
 - ~~1. If participating remotely, Town staff may mute the individual with an explanation for the record of why muting occurred consistent with this Policy.~~
 - ~~2. If participating in-person, the Mayor may call a recess for violation of this Policy, resulting in the immediate cessation of the audio and video recording and the Council exiting the Chamber. Staff will determine if the individual should be removed or if all members of the public should leave depending on the extent of the disturbance. In the event that all public members exit, only the press would be allowed back in the meeting. Once the individual(s) leave, the Council would return to the Chamber and the Mayor would resume the meeting.~~
 - ~~3. Persons disrupting a Council meeting may be cited for violation of the California Penal Code Section 403.~~

VIII. Legal Requirements

The Town Council operates 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 Council on these matters.

A. Training

Biannual training in the following areas shall be provided by staff to Council Members:

TITLE: Town Council Code of Conduct	Page: Page 5 of 17	Policy Number: 2-04
--	------------------------------	-------------------------------

1. The Ralph M. Brown Act
2. Town / CA State Law on Conflict of Interest (AB 1234)
3. Government Section 1090
4. Incompatible Offices
5. The Fair Political Practices Commission Forms
6. Bias
7. Town / CA State Law on Harassment (SB 1343)

B. Procurement

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

C. Special Considerations for Land Use Applications

1. Ex parte communications. The merits of an application shall only be evaluated on information included in the public record. Council Members shall disclose ex parte communication and any information obtained outside of the public record that may influence his/her decision on a matter pending before the Town Council. Council disclosure shall occur ~~after the Public Hearing section of the agenda, and~~ before Council deliberations.

~~1-2.~~ Quasi-Judicial Decisions. Council Members may not offer an opinion indicating that a preliminary decision has been reached prior to the public hearing or make any statements indicating bias. Quasi-judicial statements are those in which a decision-maker is required to render a decision by applying the law to particular facts presented at a hearing on the matter. Examples of quasi-judicial decisions are certain land use entitlements, permit appeals, and license revocations.

D. Code of Conduct Policy

Newly elected Council Members are ~~strongly encouraged~~required to sign a statement affirming they have read and understand the Town of Los Gatos Council Code of Conduct Policy.

~~**E. Non-Profit Organizations**~~

~~Council Members may not sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the Town, unless the role serves a legitimate Town purpose, such as the League of California Cities, and the participation is approved by the full Council.~~

IX. Council Participation in Boards, Commissions, and Committees, and Reporting Requirements

There are several committees that Town Council Members have been appointed to or have an interest in, including but not limited to: Town Council standing and ad hoc committees, Town

TITLE: Town Council Code of Conduct	Page: Page 6 of 17	Policy Number: 2-04
--	------------------------------	-------------------------------

boards and commissions, regional boards and commissions, and community-generated committees.

Primary Council representatives should update the Council about board, commission, and committee activities. When serving as the primary Council representative on any board, commission, or committee, Council Members should periodically provide updated reports to the Council during the “Council Matters” opportunity on the Council meeting agenda.

Recommended actions by Council Committees should be reported to the Council. When serving on a Council Committee, whether standing or ad hoc, all work undertaken by the Committee must be directed by the Council, and all recommended actions of a Council Committee shall be reported to the Council.

X. Council Relationship with Town Staff

The Town Council has adopted a Council-Manager form of government. The Town Manager’s powers and duties are outlined in the Town Code, Section 2.30.295.

Council Conduct and Communication with Town Staff

To enhance its working relationship with staff, Council should be mindful of the support and resources needed to accomplish Council goals. When communicating and working with staff, Council should follow these guidelines:

- A. *Council Members should treat staff as professionals.* Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with Council colleagues, practice civility and decorum in all interactions with Town staff.
- B. *Council Members should direct questions about policy, budget, or professional opinion to the Town Manager, Town Attorney, or Department Directors.* Council Members can direct questions and inquiries to any staff for information that is readily available to the general public or easily retrievable by staff.
- C. *The Town Manager and staff are responsible for implementing Town policy and/or Council action.* The processing of Council policy and decisions takes place with the Town Manager and staff. Council should not direct policy/program administrative functions and implementation; rather, it should provide policy guidance to the Town Manager.
- D. *Council Members should attempt to communicate questions, corrections, and/or clarifications about reports requiring official action to staff prior to Council meetings.* Early feedback will enable staff to address Council questions and incorporate minor corrections or changes to a Council report, resulting in a more efficient Council meeting discussion; however, this does not preclude Council Members from asking questions at Council Meetings.
- E. *Council Members should not direct the Town Manager to initiate any action, change a course of action, or prepare any report without the approval of Council.* The Town Manager’s responsibility is to advise on resources available and required for a particular course of action as it relates to the direction of the majority of the Council.

TITLE: Town Council Code of Conduct	Page: Page 7 of 17	Policy Number: 2-04
--	------------------------------	-------------------------------

- F. *Council Members should not attend department staff meetings unless requested by the Town Manager.*
- G. *All Council Members should have the same information with which to make decisions.* Information requested by one Council Member will be shared with all members of the Council.
- H. *Concerns related to the behavior or work of a Town employee should be directed to the Town Manager.* Council Members should not reprimand employees.
- I. *Per California Government Code, Sections 3201-3209, Council Members should not solicit financial contributions from Town staff or use promises or threats regarding future employment.* Although Town staff may, as private citizens with constitutional rights, support political candidates, such activities cannot take place during work hours, at the workplace, or in uniform.

XI. Council Communication with the Public and other Council Members

The public has a reasonable expectation of being able to engage Town Council Members on matters of community concern. To meet this expectation while maintaining the integrity of Council proceedings and the clarity of Town positions, the following guidelines shall apply:

A. Expressing Opinions:

Council Members may express preliminary opinions on general policy matters or issues that are still in development. However, Council Members shall not express opinions or make statements regarding quasi-judicial matters—such as land use entitlements, permit appeals, or license revocations—prior to the public hearing and Council deliberation.

B. Personal Views and Policy Disagreement:

Council Members may, from time to time, share opinions regarding broad policy matters, even if those opinions conflict with adopted Council policy, or explain the reasoning behind an individual vote. When doing so, Council Members must clearly distinguish their personal views from official Town positions.

C. Clarity of Representation:

Unless expressly authorized by the Town Council, Council Members must not represent their personal opinions or those of others as official Town policy or as the position of the full Council or staff. In all communications, whether in writing, at community events, or in the media, Council Members should use clear language such as: “Speaking for myself and not on behalf of the Town Council...”

Community Events:

~~Council Members may speak at community events or public forums, provided it is made clear that they are not representing the official position of the Town Council as a whole unless specifically authorized to do so.~~

D. General Conduct:

Council Members are expected to communicate honestly, respectfully, and transparently, and to avoid statements or implications that could mislead the public,

other agencies, or Town staff regarding the official position of the Town or Town Council.

These requirements are intended to ensure open communication with the public while safeguarding the integrity of Council proceedings and the clarity of official Town positions.

XII. Enforcement

A. Purpose

The Council Code of Conduct Policy establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Councilmembers. This section describes a process to facilitate the reporting of Code of Conduct policy violations or other misconduct and provides guidelines on responding to such reports.

B. Procedures

1. Reporting of Complaints – Complaints related to a Council 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 to the Town Council.
 - a. The submission of a complaint is to allow the Town Council to receive and potentially consider further action related to such complaint.
 - b. The validity of any allegations provided through complaint can only be determined by the entire Town Council.
 - c. Complaint submission alone or a lack of Town Council action on the complaint is not a determination of validity ~~to~~on the basis of the complaint.

—Submission of Complaint -

2. To ensure completeness in the submission, the complaint should include the following information:
 - a. The identity of the complainant (unless protected by law);
 - b. Written narrative describing specifically the nature of the violation or misconduct and the individuals involved in such activity;
 - c. Citing the specific policy, code, regulation, or other authoritative guidance which is alleged to have been violated; and
 - d. Providing additional materials and evidence in support of the allegations
 - e. If contact information is provided, the Town Clerk will acknowledge receipt of the submission.
3. Routing, Notification, and Retention
 - a. The Town Clerk will create a log of each complaint, maintain an updated status as to open/closed cases, and will retain any complaint and submitted material in accordance with the Town’s document retention schedule.

- b. Upon receipt, the Town Clerk will forward the complaint submission to the Town Attorney, and Town Manager.
- c. Unless restricted by law, within five (5) business days of receipt, the Town Council shall receive notice of the complaint from the Town Clerk, including:
 - i. A copy of the complaint and any supporting documentation; and
 - ii. The identity of the complainant (unless protected by law).

2. Consideration of Complaint- The authority to review, consider, and act on a complaint is the responsibility of the Town Council. The process includes two steps – Informal and Formal.
- a. Informal Review – The purpose of this first step is to allow Councilmember(s) to address any perceived concerns related to a complaint in a non-threatening and collaborative manner.
 - i. Any Councilmember can meet with the member, subject to the complaint, to engage in informal resolution of the complaint.
 - b. Formal Review – This second step is intended when two Councilmembers believe that the complaint is significant and Informal Resolution is not sufficient or was inadequate for the matter alleged.
 - i. During Council Matters, a Councilmember can request the agendizing of a submitted Code of Conduct complaint, and such will be agendized if there is one additional Councilmember concurring with the request.
 - ii. Upon this action, Town staff will coordinate with the Mayor on the date of such agenda item, with the item to be heard no later than 60 days after the date of the request, or sooner as otherwise specified by the Town Council.
- Nothing in this policy will restrict the referring of any complaint to another appropriate reviewing body when required by law or the nature of the complaint (i.e., criminal conduct, FPPC violation, etc.).
- d. Unless otherwise provided by law, any complaint filed that within 60 days of the original Council notification date and has not been requested for Formal Review, shall be deemed expired and closed. No further proceedings will be available.
 - e. After expiration or consideration by the Town Council, the complaint cannot be resubmitted for the same policy violation or misconduct previously alleged.

—Formal Review Process

- 1. Agenda Preparation – The Town Attorney will prepare an agenda item providing the complaint and supporting material.
 - a. The agenda item will be listed under Council Matters and described as “Discussion and Consideration of Action Related to a Code of Conduct ~~Violation~~Complaint Against Councilmember _____.”

TITLE: Town Council Code of Conduct	Page: Page 10 of 17	Policy Number: 2-04
--	----------------------------------	-------------------------------

- b. The agenda staff report will include a brief introduction to the Code of Conduct policy and complaint process, and will provide the possible actions the Council may consider.
- c. Redaction of personally identifiable information will be at the discretion of the Town Attorney.

2. Council Discussion and Possible Action

- a. The agenda staff report will introduce the item citing, the nature of the complaint and the specific policy, code, regulation, or other authoritative guidance which that is alleged to have been violated.
- b. The Councilmember(s) subject to the complaint shall have the opportunity to speak to the item.
- c. Public comment will be opened on the matter.
- d. The Councilmember(s) subject to the complaint shall have the opportunity for a rebuttal.
- e. The Council will deliberate on the item. If three Councilmembers believe that the violation or misconduct occurred, the Council will need to make a motion and second the motion sustaining the specific allegation and making a recommendation for disciplinary action.

b. Sanctions – One or more of the following sanctions may be imposed on a Council member at the Council's discretion:

- a. No Action
- b. Public Admonishment – A warning directed publicly at a Council Member regarding specific behavior.
- c. Revocation of Special Privileges – Temporary or permanent removal of committee assignments, board or commission appointments, official travel privileges, conference attendance, or ceremonial titles such as Mayor or Vice Mayor.
- d. Censure – A formal statement or resolution by the Council officially reprimanding a Council Member.
- e. Suspension from Mayoral and Vice Mayoral Selection Process – Per Town Municipal Code, Section 2.20.035, the selection of the Mayor and Vice Mayor occurs annually at a special meeting in December by majority vote of the Town Council. The Council can act to deem a Councilmember ineligible to serve for a specified period.

XII. Enforcement

A. Purpose

~~The Council Code of Conduct Policy establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Council Members. The purpose~~

of the policy language is to establish a process and procedure that: This section describes a process to:

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

~~B. Procedures~~

~~1. Reporting of Complaints~~

~~— Complaints by the Public~~

- ~~— Complaints regarding a Council Member must be submitted in writing to the Mayor.~~
- ~~— If the complaint concerns the Mayor, it must be submitted in writing to the Vice Mayor.~~
- ~~— The complaint shall also be copied and forwarded to the Mayor.~~

~~— Complaints by Council Members~~

- ~~— A Council Member who wishes to file a complaint about another Council Member must submit it in writing to the Mayor.~~
- ~~— If the complaint is about the Mayor, it must be submitted to the Vice Mayor.~~
- ~~— The complaint should also be copied and forwarded to the Town Manager and Town Attorney.~~

~~— Complaints by Town Employees~~

- ~~— Town employees must submit complaints in writing to the Mayor.~~
- ~~— If the complaint is about the Mayor, it must be submitted to the Vice Mayor.~~
- ~~— If the Town Manager or Town Attorney receives a complaint, they shall forward it directly to the Mayor (or Vice Mayor if the complaint is against the Mayor). Neither the Town Manager nor the Town Attorney should make any substantive determination regarding the complaint.~~
- ~~— The complaint should also be copied and forwarded to the Town Manager and Town Attorney.~~

~~— Notification to the Subject Council Member~~

- ~~— Within three (3) business days of receipt, the subject Council Member shall receive notice of the complaint from the Mayor, including:~~
 - ~~— A copy of the complaint and any supporting documentation;~~
 - ~~— The identity of the complainant (unless protected by law); and~~
 - ~~— The nature of the alleged violation.~~

- ~~— Preliminary Evaluation~~
 - ~~— Establishment of Ad Hoc Committee~~
 - ~~— The Mayor shall promptly form an ad hoc committee to evaluate complaints about Council Members.~~
 - ~~— The ad hoc committee will consist of the Mayor and one rotating Council Member to be selected in alphabetical order.~~
 - ~~— If the Mayor is the subject of the complaint, the Vice Mayor shall form an ad hoc committee to evaluate the complaint.~~
 - ~~— At this stage, an ad hoc committee of no more than two Council Members will review the complaint. The Town Manager and Town Attorney will be included in any committee meetings in an administrative capacity only to facilitate the committee's needs and at no times will be required to make decisions regarding the complaints.~~
 - ~~— Initial Determination~~
 - ~~— After reviewing the written complaint, the ad hoc committee shall determine whether the complaint:~~
 - ~~— Lacks substance (unsubstantiated)~~
 - ~~— Involves a minor violation~~
 - ~~— Potentially involves a major violation~~
- ~~— Determining Severity~~
 - ~~— Unsubstantiated or Minor Violations~~
 - ~~— A **minor violation** is a breach of the Code of Conduct that does not significantly impair the functioning, reputation, or integrity of the Town or its governance processes. These violations typically involve isolated incidents that are unintentional or stem from a misunderstanding of procedures, policies, or expectations. Examples of minor violations include, but are not limited to:~~
 - ~~— Unprofessional or discourteous communication in a non-public setting.~~
 - ~~— Failure to comply with procedural requirements in meetings or decision-making.~~
 - ~~— Negligent, but not malicious, failure to disclose conflicts of interest when no substantial harm occurs.~~
 - ~~— Minor breaches of decorum during public meetings that do not disrupt proceedings.~~
 - ~~— If the ad hoc committee finds the complaint unsubstantiated, no further action is taken.~~
 - ~~— If the ad hoc committee determines that the complaint involves a minor violation, the Mayor (or Vice Mayor) may privately admonish or counsel the subject Council Member to address and correct the behavior.~~

~~— Admonishment is a warning to a Council Member about behavior that violates Town policy.~~

~~— Potential Major Violations~~

~~— A major violation is a significant breach of the Code of Conduct that compromises public trust, damages the Town's reputation, disrupts governance, or results in legal, financial, or operational risks to the Town. These violations typically involve intentional, repeated, or grossly negligent actions. Examples of major violations include, but are not limited to:~~

~~— Persistent or egregious unprofessional behavior toward staff, colleagues, or the public.~~

~~— Engaging in actions that create substantial conflicts of interest or violate state or federal laws, including ethics laws.~~

~~— Deliberately making false or misleading statements that undermine public trust or decision-making processes.~~

~~— Conduct that disrupts public meetings in a manner that prevents the effective functioning of Town governance.~~

~~— Misuse of Town resources, authority, or influence for personal gain or to harm others.~~

~~— Criminal conduct.~~

~~— If the Ad Hoc Committee believes the complaint may involve a major violation, they shall direct the Town Attorney to engage outside legal counsel to conduct an investigation.~~

~~— The Town Attorney's role is limited to administratively securing the contract with outside counsel; the Town Attorney does not participate in determining the outcome or findings.~~

~~— The outside legal counsel shall conduct interviews, collect evidence, and prepare a written report with findings and recommendations.~~

~~— Upon completion, the final report is delivered to the Mayor (or Vice Mayor if the Mayor is the subject of the complaint) with a copy to the Town Manager and Town Attorney. The Town Attorney will also serve as the record keeper of all relevant records involving any complaint and/or investigation involving Council members and commissioners.~~

~~— Final Action on Investigations~~

~~— Receipt of the Investigation Report~~

~~— The Mayor (or Vice Mayor) shall promptly review the final written report from the outside legal counsel.~~

~~— Decision on Next Steps~~

~~— If the report does not substantiate a major violation, the Mayor (or Vice Mayor) may close the matter without further action.~~

- ~~— If the report substantiates a major violation or otherwise recommends further proceedings, the Mayor (or Vice Mayor) shall:~~
 - ~~— Notify the subject Council Member in writing. If there will be disciplinary proceedings, the report would be disclosed.~~
 - ~~— Determine whether to present the matter to the Council for potential disciplinary proceedings.~~
- ~~— When appropriate, the complainant will receive notification of the disposition of their complaint when the process is complete. A minor violation notification will state the matter has been resolved and major violation notification will include the next steps.~~

~~— Annual Summary~~

- ~~— Town Attorney or Town Manager to provide an annual summary of all open and closed complaints.~~

~~— Disciplinary Action~~

~~1. Considerations for Disciplinary Action~~

~~The Council may impose disciplinary action when a major violation of the Council Code of Conduct Policy has occurred. In determining the appropriate sanction, the Council may consider:~~

- ~~— Nature of the violation;~~
- ~~— Any prior violations by the same Council Member; or~~
- ~~— Other relevant factors that bear on the seriousness of the misconduct.~~

~~2. Types of Sanctions~~

~~One or more of the following sanctions may be imposed on a Council member at the Council's discretion:~~

~~— Public Admonishment~~

~~A warning directed publicly at a Council Member regarding specific behavior.~~

~~b. Revocation of Special Privileges~~

~~Temporary or permanent removal of committee assignments, board or commission appointments, official travel privileges, conference attendance, or ceremonial titles such as Mayor or Vice Mayor.~~

~~c. Censure~~

~~A formal statement or resolution by the Council officially reprimanding a Council Member.~~

~~d. Mayoral and Vice Mayoral Selection Process~~

TITLE: Town Council Code of Conduct	Page: Page 15 of 17	Policy Number: 2-04
-------------------------------------	---------------------------	------------------------

Per Town Municipal Code, Section 2.20.035, the selection of the Mayor and Vice Mayor occurs annually at a special meeting in December by majority vote of the Town Council.

D. Town Council Consideration of Discipline

- If the matter is serious enough for discipline, the Council shall consider the investigative findings.
- Any public hearing regarding that discipline shall not be adversarial and would be discussed at a public hearing related to the Council Member.
- As allowed under section 2.20.035 of the Town Code, the Mayor and Vice Mayor selection occurs on an annual basis, and any substantiated violation may have a bearing on the Council's decision at that time.

E. Conflicts

- If the complaint is against the Mayor, all responsibilities assigned to the Mayor in this section are carried out by the Vice Mayor.
- If both the Mayor and Vice Mayor have conflicts (e.g., both involved in the complaint), then the longest-serving uninvolved Council Member shall step in to fulfill these duties.

F. Complaints Related to Matters Under Jurisdiction of Other Bodies

Nothing in this policy will take the place of investigation of matters subject to the laws and regulations of other bodies. In the case that another body is conducting an investigation, the Town may use the findings of the other body's investigation in place of the Town's investigation for the purposes of this policy.

The following section outlines the process for reporting Council Member Code of Conduct Policy violations or other misconduct:

1. Complaints made by members of the public, the Town Manager, and Town Attorney should be reported to the Mayor. If a complaint involves the Mayor, it should be reported to the Vice Mayor.
2. Complaints made by Council Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.
3. Complaints made by Town employees should be reported to the Town Manager, who will direct them to the Mayor or Vice Mayor.

2. Unsubstantiated or Minor Violations

If the majority of the Committee agrees that the reported violation is without substance, no further action will be taken. If the reported violation is deemed valid but minor in nature, the Mayor or Vice Mayor shall counsel and, if appropriate,

TITLE: Town Council Code of Conduct	Page: Page 16 of 17	Policy Number: 2-04
-------------------------------------	---------------------------	------------------------

~~admonish the Council Member privately to resolve the matter. Admonishment is considered to be a reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.~~

~~3. Allegations of Major Violations~~

~~If the reported violation is considered to be serious in nature, the matter shall be referred to outside legal counsel selected by the Committee for the purpose of conducting an initial interview with the subject Council Member. The outside counsel shall report his/her initial findings back to the Committee.~~

~~If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel to conduct an investigation. The investigation process would include, but is not limited to, the ascertainment of facts relevant to the complaint through interviews and the examination of any documented materials.~~

~~4. Report of Findings~~

~~At the conclusion of the investigation, outside legal counsel shall report back to the Committee in writing. The report shall either (1) recommend that the Council Member be exonerated based on a finding that the investigation did not reveal evidence of a serious violation of the Code of Conduct, or (2) recommend disciplinary proceedings based on findings that one or more provisions of the Code of Conduct or other Town policies have been violated. In the latter event, the report shall specify the provisions violated along with the facts and evidence supporting each finding.~~

~~The Committee shall review the report and its recommendations. If the consensus of the Committee is to accept the report and recommendations, the Committee shall implement the recommendations. Where the recommendation is exoneration, no further action shall be taken. Where the recommendation is to initiate disciplinary proceedings, the matter shall be referred to the Council. Where there is no consensus of the Committee regarding the recommendations, the matter shall be referred to the Council.~~

~~The subject Council Member shall be notified in writing of the Committee's decision within 72 hours. Where the decision is to refer the matter to the Council, a copy of the full report, including documents relied on by the investigator shall be provided with the notification, and a copy of both shall be provided to the whole Council.~~

~~5. Proceedings~~

~~Investigative findings and recommended proceedings and disciplinary action that are brought forward to Council as a result of a significant policy violation shall be~~

TITLE: Town Council Code of Conduct	Page: Page 17 of 17	Policy Number: 2-04
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~~considered at a public hearing. The public hearing should be set far enough in advance to allow the Council Member in question reasonably sufficient time to prepare a response.~~

~~Investigative findings shall be presented to the Town Council at a public hearing. The rules of evidence do not apply to the public hearing. It shall not be conducted as an adversarial proceeding.~~

~~6. Disciplinary Action~~

~~1. Considerations in Determining Disciplinary Action~~

~~Disciplinary action may be imposed by Council upon Council Members who have violated the Council Code of Conduct Policy. Disciplinary action or sanctions are considered when a serious violation of Town policy has occurred by a Council Member. 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. *Public Admonishment* — A reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.~~
- ~~b. *Revocation of Special Privileges* — A revocation of a Council Member's Council Committee assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.~~
- ~~c. *Censure* — A formal statement or resolution by the Council officially reprimanding a Council Member.~~

APPROVED AS TO FORM:

Gabrielle Whelan, Town Attorney