



TITLE: ~~Town Council~~ Code of Conduct for Town Council and Board, Commission, and Committee Members

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APPROVED:

I. Preamble

The legal responsibilities of the Los Gatos Town Council, -as well as Town Board, Commission, and Committee members, 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 ~~m~~Members and Board, Commission, and Committee members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council ~~m~~Members, through training, are aware of their legal and ethical responsibilities as elected officials. This Code of cese expectations of conduct also appliesy to all members of the Town’s Boards, ~~Comissionttees~~, and ~~Committteesssions~~.

II. 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. **The Town’s Boards, Commissions, and Committees are advisory to the Town Council with additional responsibilities given to the Planning Commission in the Town Code.**

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.

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. [FOR CONSIDERATION: Would this section fit better in a separate operational policy?]

V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships [FOR CONSIDERATION: Would this section fit better in a separate operational policy?]

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 s/he deems appropriate.
- C. The title of Mayor carries with it the responsibility of communicating with the Town Council, Town Manager, and members of the public. In this capacity, the Mayor serves as the Town “spokesperson” representing the Council in official and ceremonial occasions.
- D. As the official Town spokesperson, 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.

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation Policy

- 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/Committee 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. 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 and Board, Commission, and Committee members should:

- A. *Use formal titles.* ~~Members~~The Council should refer to one another formally during public Council meetings such as Mayor, Vice Mayor or Council Member, Chairperson, 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, ~~members~~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. ~~D~~Council decisions should be reserved until all applicable information has been presented.
- E. *Conduct during public hearings.* During public testimony, ~~m~~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, ~~m~~Council Members may ask the speaker questions. Member Council comment and discussion should commence upon the conclusion of all public testimony

VII. Maintaining Civility at Public Council Meetings [FOR CONSIDERATION: This language appears in the Council's "Agenda Format and Rules Policy" – should it remain in this Policy?-]

³ Resolution 1999-167

⁴ Council Agenda Format and Rules Policy

The public is welcome to participate at public-Town Council meetings and the Mayor/Chairperson 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/**Commission members** 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~~ **public** meetings.
- D. All public comments at the Town Council/**Commission** 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/**Commission** 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/**Commission** 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 and Boards, Commissions, and Committees operates under a series of laws that regulate ~~its-their~~ operations as well as the conduct of ~~their~~ members. Councilmembers and Board, Commission, and Committee members shall adhere to these regulations. The Town Attorney serves as the Town's legal officer and is available to advise the Council, Boards, Commissions, and Committees on these matters.

- A. Training [this seems like it belongs in a different policy]
Biannual training in the following areas shall be provided ~~by staff~~ to Council and Board, Commission, and Committee Members:

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 and Board, Commission, and Committee members 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. Council Members and Board, Commission, and Committee members shall disclose ex parte communication and any information obtained outside of the public record that may influence their decision on a matter pending before the Town Council or Board, Commission, or Committee. Council disclosure shall occur prior to consideration of the agenda item. ~~after the Public Hearing section of the agenda, and before Council deliberations.~~

D. Code of Conduct Policy

Newly elected Council members and Board, Commission, and Committee members ~~shall be strongly encouraged 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 and Board, Commission, and Committee 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 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, Councilmembers 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 and Board, Commission, and Committee Relationships 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, Councilmembers and Board, Commission, and Committee members should be mindful of the support and resources needed to accomplish Town Council goals. When communicating and working with staff, membersCouncil should follow these guidelines:

- A. TCouncil 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. DCouncil 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 mCouncil Members from asking questions at public mCouncil Meetings.
- E. Councilm 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.
- F. Councilm Members should not attend department staff meetings unless requested by the Town Manager.

- G. *All Council~~m~~Members should have the same information with which to make decisions. Information requested by one Council~~m~~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~~m~~Members should not reprimand employees.*
- I. *Per California Government Code, Sections 3201-3209, Council~~m~~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, Board, Commission, or Committee Members

The ~~p~~Public has a reasonable expectation that it may engage ~~its~~ Council~~m~~Members and Board, Commission, and Committee members on matters of community concern. In response, ~~m~~Council Members may express a preliminary opinion on issues or projects raised. Any such preliminary statement shall not constitute a prejudgment or create a presumption of bias on any issue or a project. In addition, ~~m~~Council Members may from time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies. Such statements are permissible if clearly characterized as personal opinion or policy change objectives.

XII. Enforcement

A. Purpose

This ~~e~~ ~~Council~~ Code of Conduct Policy establishes ~~guiding principles~~ **expectations for** appropriate conduct and behavior and sets forth the expectations of Council~~m~~members and Committee, Commission, and Board members. The purpose of this ~~Section~~ **policy language** is to establish a process and procedure that:

- 1. Allows the public, Town Council, **Town Committee/Commission/Board members**, and Town employees to report Code of Conduct policy violations or other misconduct.
- 2. Set standards for the evaluation of ~~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

The following section outlines the process for reporting Councilm-Member or Committee, Commission and Board member Code of Conduct Policy violations or other misconduct:

- a. 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.
- b. Complaints made by Councilm-Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.
- c. Complaints made by Town employees should be reported to the Town Manager, who will direct them to the Mayor or Vice Mayor.

2. Evaluation of Complaints Alleging Violations

Upon the Town's receipt report of a written complaint, the Town Manager and Town Attorney will join the Mayor and/or Vice Mayor as an evaluation committee ~~to~~ ("Committee") [OPTION: The Committee could consist of Mayor, Vice Mayor, and Town Manager with technical support from the Town Attorney – or another variation] to determine the validity of the complaint and, if appropriate, an initial course of action as discussed below. If the Town Manager or Town Attorney is the complainant, the longest serving uninvolved Councilm-Member will replace the Town Manager or Town Attorney on the Cevaluation committee [FOR CONSIDERATION: This would be revised if the recommendation is to change the composition of the Evaluation Committee]. If the Mayor or Vice Mayor is the complainant, the longest serving uninvolved Councilmember will replace the Mayor or Vice Mayor on the Committee.

Within ~~seventy two (72) hours~~ five days of receipt of the complaint by the Mayor or Vice Mayor, the Councilm-Member or Board, Committee, or Commission member in question shall be notified of the reported complaint by the Mayor or theirhis/her designee. The notification shall include a copy of the written complaint and supporting documentation, if any, the identity of the complainant and nature of the complaint.

3. Allegations of Major Violations

If the reported violation is major, the matter shall be referred to outside legal counsel [this could also be an investigator] selected by the Committee for the purpose of conducting an initial interview with the subject member. The outside counsel shall report their initial findings back to the Committee. Examples of major violations are:

- a. Breach of attorney-client privilege confidentiality;
- b. Violation of Council policies, including but not limited to, instances of harassment;
- c. Use of Town resources for other than Town business;
- d. Violation of local, state, or federal laws, including conflict of interest laws;
- e. Abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the Town Council, Boards, Commissions, Committees, staff, or the public.

f. Repeated minor violations.

If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel [FOR CONSIDERATION: This could be a non-lawyer investigator] 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.

3.4. Unsubstantiated or Minor Violations

If the majority of the Committee agrees that the reported violation is without substance, no further action will be taken and the complainant will be informed. If the reported violation is deemed valid but minor ~~in nature~~, the Mayor or Vice Mayor shall counsel and, if appropriate, either verbally admonish the Council ~~Member~~ or Board, Commission, or Committee member privately or send a written reprimand to resolve the matter. Admonishment is ~~considered to be~~ a reproof or warning directed to a ~~m~~Council Member about a particular type of behavior that violates Town policy. Minor violations are any violations other than major violations as described above.

4. 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.~~

5. Report of Findings Regarding Major Violation

At the conclusion of the investigation, outside legal counsel [FOR CONSIDERATION: This could be an investigator who is not an attorney] shall report back to the Committee in writing. The report shall either (1) recommend that the ~~m~~Council Member be exonerated based on a finding that the investigation did not reveal evidence of a major serious violation of the Code of Conduct, or (2) recommend disciplinary proceedings based on findings that there has been a major violation as described above in Section B.3 ~~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 ~~for discipline 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.

6. Proceedings

Investigative findings and recommended proceedings and disciplinary action that are brought forward to Council as a result of a major significant policy violation shall be considered at a public hearing **either at a regular or special meeting**. The public hearing should be set far enough in advance to allow the subject Council Member in question reasonable 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. However, at the subject's option, the subject can present an introductory statement of up to ten minutes and an additional statement of up to five minutes at the end of the public hearing.

C. **Disciplinary Action**

1. Considerations in Determining Disciplinary Action

Disciplinary action may be imposed by Council for major violations upon Council Members who have violated the Council Code of Conduct Policy **as described in Section B.3. above.**

Disciplinary action ~~is or sanctions are~~ considered when a major serious violation of Town policy has occurred ~~by a Council Member~~. In determining the type of discipline to be 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 DisciplineSanctions

At the discretion of the Council, disciplinesanctions may be imposed for violating the Code of Conduct, **other Town policies**, or engaging in other misconduct **as described in Section B. 3 above**. These actions may be applied individually or in combination. They include, but are not limited to:

- a. *Public Admonishment* – A verbal reproof or warning directed to a ~~m~~Council Member about a particular ~~violation type of behavior that violates Town policy.~~
- b. *Revocation of Special Privileges* – A revocation of a member's 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 written formal statement ~~or in a~~ resolution by the Council officially reprimanding a Council Member.
- d. *Removal* – A Commission, Board, or Committee member could be removed by a majority of the Town Council.

APPROVED AS TO FORM:

Gabrielle Whelan, Town Attorney