



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE MEETING AGENDA
FEBRUARY 25, 2025
110 EAST MAIN STREET
TOWN COUNCIL CHAMBERS
5:00 PM**

Matthew Hudes, Mayor
Mary Badame, Council Member

HOW TO PARTICIPATE

The Town of Los Gatos strongly encourages your active participation in the public process. If you are interested in providing oral comments during the meeting, you must attend in-person, complete a speaker's card, and return it to the staff. If you wish to speak to an item on the agenda, please list the item number on the speaker card. The time allocated to speakers may change to better facilitate the meeting. If you are unable to attend the meeting in-person, you are welcome to submit written comments via email to clerk@losgatosca.gov.

Public Comment During the Meeting:

When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Town meeting.

Speakers at public meetings may be asked to provide their name and to state whether they are a resident of the Town of Los Gatos. Providing this information is not required.

Deadlines to Submit Written Comments:

If you are unable to participate in person, you may email clerk@losgatosca.gov with the subject line "Public Comment Item #_" (insert the item number relevant to your comment). Persons wishing to submit written comments to be included in the materials provided to the Commission must provide the comments as follows:

- For inclusion in the agenda packet supplemental materials: by 11:00 a.m. the day before the Committee meeting.
- For inclusion in a desk item: by 11:00 a.m. the day of the Committee meeting.

Persons wishing to make a visual presentation on any agenda item must submit the presentation electronically, either in person or via email to clerk@losgatosca.gov by 3:00 p.m. the day of the meeting.

CALL MEETING TO ORDER

ROLL CALL

CONSENT ITEMS *(Items appearing on the Consent are considered routine Town business and may be approved by one motion. Members of the public may provide input on any Consent Item(s) when the Chair asks for public comment on the Consent Items.)*

1. Approve the Minutes of the January 29, 2025, Policy Committee Special Meeting.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Committee on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Chair, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

- [2.](#) Confirm 2025 Work Plan Items for the Council Policy Committee
- [3.](#) Discuss and Consider Revisions to the Code of Conduct Policy 2-04

ADJOURNMENT

ADA NOTICE In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk's Office at (408) 354- 6834. Notification at least two (2) business days prior to the meeting date will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR §35.102-35.104]



**TOWN OF LOS GATOS
TOWN COUNCIL POLICY COMMITTEE**

MEETING DATE: 2/25/2025

ITEM NO. 1.

ITEM NO: 1

**DRAFT
Minutes of the Town Council Policy Committee Special Meeting
January 29, 2024
5:00 P.M.**

The Town Council Policy Committee conducted a special meeting in person.

MEETING CALLED TO ORDER AT 5:00 P.M.

ROLL CALL

Members Present: Mayor Matthew Hudes, Council Member Badame.

Staff Present: Chris Constantin, Town Manager; Gabrielle Whelan, Town Attorney; and Wendy Wood, Town Clerk.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approve Minutes of the November 26, 2024, Council Policy Committee Meeting.

There was no public comment.

MOTION: Motion by Council Member Badame to approve the consent item. **Seconded** by Mayor Hudes.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

There were no verbal communications.

OTHER BUSINESS

Mayor Hudes stated they would be taking the items in the order of item two, item three, item six, item five, and item four.

2. Appoint Chair and Vice Chair

There was no public comment.

SUBJECT: Draft Minutes of the Council Policy Committee Meeting of January 29, 2025

MOTION: Motion by Council Member Badame to appoint Mayor Hudes as Chair. Seconded by Mayor Hudes.

VOTE: Motion passed unanimously.

MOTION: Motion by Mayor Hudes to appoint Council Member Badame as Vice Chair. Seconded by Council Member Badame.

VOTE: Motion passed unanimously.

3. Discuss and Confirm the Council Policy Committee Meeting Dates and Time for 2025

MOTION: Motion by Council Member Badame to approve the calendar (Attachment 2). Seconded by Mayor Hudes.

VOTE: Motion passed by a unanimous vote.

6. Identify Future Work Plan Items for the Council Policy Committee

Chris Constantin, Town Manager, commented on the potential work plan items.

The Committee discussed the proposed work plan items and requested the following items be removed and added:

- Remove the review of the GASB 54 Fund Balance Policy
- Remove the review of the General Fund Reserve Policy 4-03
- Remove the review of the Investment Policy 4-0
- Add a review of the enabling resolution for the DEI Commission
- Add a review of the Council Member reports during Council Matters
- Add a review of an Indemnification Policy for Council Members and Commissioners
- Add a review of Council Communications and the use of Town Email
- Add a review of the current practices for minutes and records of meetings
- Cellphone use during Council meetings (Town Attorney Memo)

MOTION: Motion by Council Member Badame to approve the staff recommendation as amended. Seconded by Mayor Hudes.

5. Discuss and Consider Revisions to the Code of Conduct Policy 2-04

Chris Constantin, Town Manager, presented the staff report.

The Committee discussed the item and made the following recommended changes:

SUBJECT: Draft Minutes of the Council Policy Committee Meeting of January 29, 2025

Section V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships

- Change Subsection G under the heading “Mayor” to include the following language “...if the Vice Mayor is unavailable, the duties of the Mayor will be performed by Council Members in order of seniority. If those Council Members are of equal seniority, another Councilmember will be selected at random.”

Preamble

- Add the stricken language back into the with the exception of the last sentence.

Section VII. Maintaining Civility at Council Meetings

- Remove this section from the policy and incorporate it into the Agenda Rules and Format policy.

Section VIII. Legal Requirements

- Change language in subsection D to remove “are strongly encouraged” to “required.”

Section XI. Council Communication with the Public and Other Council Members

- Change the language “personal opinion” to language that clearly indicates individuals are not speaking on behalf of the Town Council.

Section XII. Enforcement

- In subsection B(1)(a), add language to state that the complaint should also be copied and forwarded to the Town Manager and Town Attorney.
- In subsection B(2)(a), change the third bullet to add language to create an ad hoc subcommittee to review the complaint with the Town Manager and Town Attorney, who are only involved in an administrative capacity.
- Include a process to notify the complainant of the disposition.
- Include types of sanctions for disciplinary actions for Commissioners.

The Committee also discussed the enforcement process for Commissions, possible disciplinary actions, and creating an ad hoc subcommittee of the Council to review Commission complaints.

Staff stated they would revise the policy with the changes and bring it back for review.

4. Discuss and Consider Revisions to the Town Agenda Format and Rules Policy 2-01

The Committee briefly discussed this item and wanted additional information from other jurisdictions on the roles and responsibilities of the mayor in the agenda-setting process and the opportunity for the minority of the Council to have an item discussed by the Council.

ADJOURNMENT

The meeting adjourned at 7:03 p.m.

SUBJECT: Draft Minutes of the Council Policy Committee Meeting of January 29, 2025

This is to certify that the foregoing is a true
and correct copy of the minutes of the
January 29, 2025, meeting as approved by the
Town Council Policy Committee.

Wendy Wood, Town Clerk



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 02/25/2024

ITEM NO: 2

ITEM NO. 2.

DATE: February 20, 2025
TO: Council Policy Committee
FROM: Chris Constantin, Town Manager
SUBJECT: Confirm 2025 Work Plan Items for the Council Policy Committee

RECOMMENDATION:

Confirm work plan items for the Council Policy Committee.

DISCUSSION:

On January 29, 2025, the Council Policy Committee discussed the proposed 2025 Work Plan. The Committee provided input on the proposed Work Plan and requested various items be added and deleted. The Work Plan was revised based on the discussion and is available for review as Attachment 1. The revised Work Plan is organized loosely in order of priority. However, the Committee reserves the right to suggest modifications as needed.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office and the Town Attorney.

FISCAL IMPACT:

There is no associated fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Revised 2025 Work Plan

PREPARED BY: Wendy Wood
Town Clerk

Reviewed by: Town Manager and Town Attorney

2025 Town Council Policy Committee Work Plan Items (Revised)

- Review Code of Conduct Policy 2-04 **(In progress)**
- Review Public Use of Town Equipment and Signs at Town and Planning Commission Meetings
- Review Agenda Format and Rules Policy 2-01 and Council Matters section related to Council Member reports
- Review of an Indemnification Policy for Council Members and Commissioners
- Review of the enabling resolution for the DEI Commission
- Review of Council Communications and the use of Town email
- Review of the current practices for minutes and records of meetings



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 02/25/2025

ITEM NO. 3.

ITEM NO: 3

DATE: February 25, 2024
TO: Mayor and Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: Discuss and Consider Revisions to the Code of Conduct Policy 2-04

RECOMMENDATION:

Discuss and consider revisions to the Code of Conduct Policy with revisions recommended by the Council Policy Commission in January 2025.

BACKGROUND:

The Town Council's Code of Conduct was adopted in 2004 and has been revised several times since then. On April 2, 2024, the Town Council discussed the Code of Conduct. During the discussion, the Council directed several actions.

- The Council acted to clarify that the Mayor's communication with the Town Council will conform with the Brown Act, and change the wording under Vice Mayor, Subsection A to "In the Mayor's absence, the Vice Mayor shall perform the duties of the Mayor," striking the word "formal." This passed unanimously
- The Council acted to add 'where not prohibited by the Brown Act' to the sentence referencing the Mayor's communication with Town Councilmembers and directed the Town Attorney to work on the following:
 - Explain the difference between a policy matter pending before the Town Council and a future quasi-adjudicatory project;
 - Separate out discussion of quasi-adjudicatory decisions and address participation in community meetings;
 - Change references to "full" Town Council to a "majority" of the Town Council;
 - Add "No Councilmember shall communicate in a manner that appears to come from the Town or Town staff or the Town Council;"
 - Provide examples of how to indicate to the press that a Councilmember is speaking on his or her own behalf and not on behalf of the Council; and

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

SUBJECT: Code of Conduct

DATE: February 25, 2025

- Change the last sentence of Section XI to “such statements are permissible if clearly characterized as personal opinion or policy change objectives including those made on behalf of another elected official, or on behalf of a public or state agency or political subdivision, rather than the opinion of the majority of the Town Council.”

These changes were approved and made, but the revised Code of Conduct has not yet returned to the Town Council for final approval. The agenda report recommends changes based on the Council’s April 2024 actions.

Changes to Address Conflict of Interest

On November 26, 2024, the Council Policy Committee heard a presentation by the Town Manager regarding the Code of Conduct. The primary concern centered around placing the Town Attorney and Town Manager in a conflict position by participating in the classification and response to complaints against Council Members. As elected officials, the responsibility to determine what manner to address complaints falls to the Council themselves. Thus, this agenda report recommends changes to address this conflict of interest concern.

On January 29, 2025, the Council Policy Committee met to discuss changes to the Code of Conduct. During the meeting, a number of changes were proposed for inclusion into the Code of Conduct.

DISCUSSION:

Attachment 1 provides a redline version of the Code of Conduct policy. The policy integrates changes discussed and approved by the Town Council in April of 2024. Additionally, the proposed policy revisions include a change to the entire enforcement section to remove the Town Attorney and Town Manager from a material role in determining discipline.

Section XII. Enforcement has some significant changes to reflect making the process a Mayor and Council focused process, while also providing more explicit definitions of minor and major violations. This removes the conflict of interest for the two Council appointees.

In addition, the proposed policy includes explicit definitions to be used in determining the severity of the violation. The proposed addition of definitions includes:

- 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.

SUBJECT: Code of Conduct

DATE: February 25, 2025

- 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.
- 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 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.

While the definition cannot fully address all potential situations, the definitions do provide more clarity than currently offered. The proposed revisions also allow for complaints to be referred and adjudicated by other means when such complaints relate to the jurisdiction of another entity. For example, a complaint involving a gift exceeding legal gift limits should be referred to the Fair Political Practices Commission.

Changes proposed by the Council Policy Committee in January 2025 as well as some other cleanup language are included in Attachment 1 for the Council Policy Committee's consideration. The changes include, but are not limited to:

The Committee discussed the item and made the following recommended changes:

Section V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships

- Change Subsection G under the heading "Mayor" to include the following language "If the Vice Mayor is unavailable, the duties of the Mayor will be performed by Council Members in order of seniority. If those Council Members are of equal seniority, another Councilmember will be selected at random."

Preamble

- Add the stricken language back into the with the exception of the last sentence.

PAGE 4 OF 4

SUBJECT: Code of Conduct

DATE: February 25, 2025

Section VII. Maintaining Civility at Council Meetings

- Remove this section from the policy and incorporate it into the Agenda Rules and Format policy.

Section VIII. Legal Requirements

- Change language in subsection D to remove “are strongly encouraged” to “required.”

Section XI. Council Communication with the Public and Other Council Members

- Change the language “personal opinion” to language that clearly indicates individuals are not speaking on behalf of the Town Council.

Section XII. Enforcement

- In subsection B(1)(a), add language to state that the complaint should also be copied and forwarded to the Town Manager and Town Attorney.
- In subsection B(2)(a), change the third bullet to add language to create an ad hoc subcommittee to review the complaint with the Town Manager and Town Attorney, who are only involved in an administrative capacity.
- Include a process to notify the complainant of the disposition.
- Include types of sanctions for disciplinary actions for Commissioners.

The current policy is included as Attachment 2 for your reference.

COORDINATION:

This report was coordinated with the Town Manager.

FISCAL IMPACT:



The impact depends on the number of investigations requiring review by an outside firm.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. January 29, 2025 Redline version of the Code of Conduct Policy
2. Current Code of Conduct Policy

		COUNCIL POLICY MANUAL <i>Small Town Service Community Stewardship Future Focus</i>	
Title: Town Council, <u>Board, Commission, and Committee 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 and responsibilities of, as well as a Code of Conduct for, Council Members and Board, Commission, and Committee 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 term "Council" includes Board, Commission, and Committee Members, and the term "Council Member" includes Board, Commission, and Committee Members.

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 15	Policy Number: 2-04	ITEM NO. 3.
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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 s/he 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 (in conformance with the Brown Act), Town Manager, members of the public, and the media regarding decisions made by a majority of the Town Council.
- ~~C.D.~~ The Mayor also represents the Council at official and ceremonial occasions.
- ~~E.~~ 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.
- ~~D.F.~~ In the event that one or more members of a Town Board, Commission, or Committee act in a manner contrary to approved Town policies, the Mayor may counsel those members.

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation policy

TITLE: Town Council Code of Conduct	Page: Page 3 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	-----------------------	------------------------	-------------

~~E-G. _____ Special duties consistent with the Mayoral office may be delegated to the Vice Mayor in the absence of the Mayor. If the Vice Mayor is unavailable, the duties of the Mayor will be performed by Council Members in order of seniority. If those Council Members are of equal seniority, one of them will be selected at random. 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 performed by Council Members in order of seniority. If those Council Members are of equal seniority, another Councilmember will be selected at random. 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 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, 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 comment and discussion should commence upon the conclusion of all public testimony.

~~VII. Maintaining Civility at Council Meetings~~

³ Resolution 1999-167

⁴ Council Agenda Format and Rules Policy

TITLE: Town Council Code of Conduct	Page: Page 4 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	-----------------------	------------------------	-------------

~~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:
 - 1. The Ralph M. Brown Act

TITLE: Town Council Code of Conduct	Page: Page 5 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	-----------------------	------------------------	-------------

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. 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.

4-2. Quasi-Adjudicatory 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-adjudicatory 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-adjudicatory 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~~majority 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,

TITLE: Town Council Code of Conduct	Page: Page 6 of 15	Policy Number: 2-04	ITEM NO. 3.
--	------------------------------	-------------------------------	-------------

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.
- 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.

TITLE: Town Council Code of Conduct	Page: Page 7 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	-----------------------	------------------------	-------------

- 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 that it may engage its Council Members on matters of community concern. In response, Council Members may express a preliminary opinion on general issues or policies that are in the development phase, but not quasi-adjudicatory decisions prior to the public hearing. ~~Any such preliminary statement shall not indicate that a decision has been reached before the public hearing or create a presumption of bias on any quasi-adjudicatory decision such as a land use approval.~~ In addition, Council Members may from time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies or explain an individual vote. Such statements, including those made on behalf of another elected official, public agency, state agency, or political subdivision, are permissible if clearly characterized as personal opinion or policy change objectives rather than the opinion of the ~~full~~ Town Council. A Council Member 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 Town Council, or Town staff. Town Council Members may speak at community events so long as they make it clear that they do not represent the Town Council as a whole. This can be accomplished by using language such as: "Speaking for myself and not on behalf of the Town Council, . . ." or "It is my personal opinion that. . ."

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. This section describes a process to:

1. Allow the public, Town Council, and Town employees to report Code of Conduct policy violations or other misconduct.
2. Provide guidelines to evaluate potential violations and implement appropriate disciplinary action when necessary.

B. Procedures

1. Reporting of Complaints

a. Complaints by the Public

- o 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 should also be copied and forwarded to the Town Manager and Town Attorney.

b. 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.

c. 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.

d. 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:
 - 1. A copy of the complaint and any supporting documentation
 - 2. The identity of the complainant (unless protected by law)
 - 3. The nature of the alleged violation

2. Preliminary Evaluation

a. Establishment of Ad Hoc Committee

- The Mayor shall promptly form an ad hoc committee to evaluate complaints about Council Members.
- If the Mayor is the subject of the complaint, the Vice Mayor shall form an ad hoc committee to evaluate it.
- 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.

b. 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

3. Determining Severity

a. 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.

b. 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 ~~ethics~~ 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 an 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.

4. Final Action on Investigations

a. Receipt of the Investigation Report

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

b. 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:
 1. Notify the subject Council Member in writing and provide a copy of the report (including supporting documents).
 2. 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.

C. 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:

- a. Nature of the violation
- b. Any prior violations by the same Council Member
- c. Other relevant factors that bear on the seriousness of the misconduct

2. Types of Sanctions

TITLE: Town Council Code of Conduct	Page: Page 11 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	---------------------------	------------------------	-------------

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

- a. Public Admonishment
 - o A warning directed publicly at a Council Member regarding specific behavior.
- b. Revocation of Special Privileges
 - o Temporary or permanent removal of committee assignments, board or commission appointments, official travel privileges, conference attendance, or ceremonial titles.
- c. Censure
 - o A formal statement or resolution by the Council officially reprimanding a Council Member.

In the case of commissioners, the following sanctions may be imposed to the extent consistent with applicable law

1. 1. Public Admonishment~~{OK if not a speech issue}~~
 - o A warning directed publicly at a Commissioner regarding specific behavior.
2. Censure
 - o A formal statement or resolution by the Council officially reprimanding a Commissioner.
3. Removal
 - o For repeated behavior where the commissioner was advised of the expected behavior, the Mayor, or other non-conflicted Councilmember coordinating the ad hoc committee can remove the commissioner from the position.
 - o For other sustained complaints, the Mayor will present a recommendation of Public Admonishment, Censure, or Removal for Town Council consideration.

(Alternative:

1. Warning Letter
 - o Written warning from the Mayor regarding the specific behavior.
2. Removal
 - o Removal by the Town Council.)

D. Town Council Consideration of Discipline

1. If the matter is serious enough for discipline, the Council shall consider the investigative findings.
2. Any public hearing regarding the imposition of discipline shall not be adversarial in nature, and the standard rules of evidence shall not apply. However, the Council Member in question must be given reasonable time to prepare a response, and that response shall be made part of the record.

E. Conflicts

TITLE: Town Council Code of Conduct	Page: Page 12 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	---------------------------	------------------------	-------------

1. If the complaint is against the Mayor, all responsibilities assigned to the Mayor in this section are carried out by the Vice Mayor.
2. 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.

~~IX. 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:~~

- ~~1. Allows the public, Town Council, 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~~

~~The following section outlines the process for reporting Council 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 Council Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.~~
~~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 report of a written complaint, the Town Manager and Town Attorney will join the Mayor or Vice Mayor as an evaluation committee 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 Council Member will replace the Town Manager or Town Attorney on the evaluation committee.~~

~~Within seventy-two (72) hours of receipt of the complaint by the Mayor or Vice Mayor, the Council Member in question shall be notified of the reported complaint by the Mayor or his/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.~~

TITLE: Town Council Code of Conduct	Page: Page 13 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	---------------------------	------------------------	-------------

~~3. 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, 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.~~

~~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 Council? 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~~

~~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~~

TITLE: Town Council Code of Conduct	Page: Page 14 of 15	Policy Number: 2-04	ITEM NO. 3.
-------------------------------------	---------------------------	------------------------	-------------

~~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 significant policy violation shall be 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.~~

~~C. 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.~~



E. Complaints Related to Matters Under Jurisdiction of Other Bodies

TITLE: Town Council Code of Conduct	Page: Page 15 of 15	Policy Number: 2-04	ITEM NO. 3.
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Nothing in this policy will take the place of investigations of matters subject to the laws and regulations of other bodies, such as the Fair Political Practices Commission. Complaints related to other bodies will be forwarded to such other bodies for their review without further investigation per this policy or as otherwise required by law.

APPROVED AS TO FORM:

Gabrielle Whelan, Town Attorney

		TOWN OF LOS GATOS CALIFORNIA		COUNCIL POLICY MANUAL <i>Small Town Service Community Stewardship Future Focus</i>	
TITLE: Town Council Code of Conduct				POLICY NUMBER: 2-04	
EFFECTIVE DATE: 5/3/2004				PAGES: 8	
ENABLING ACTIONS: 2004-059; 2006-111; 2021-047			REVISED DATES: 12/17/2012; 3/3/2015; 12/17/2019; 11/2/2021; 10/4/2022		
APPROVED: 					

I. Preamble

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.

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.

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.

TITLE: Town Council Code of Conduct	PAGE: 2 of 9	POLICY NUMBER: 2-04
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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 s/he deems appropriate.
- C. The title of Mayor carries with it the responsibility of communicating with the Town Council, 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.
- 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

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation Policy

³ Resolution 1999-167

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 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 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, 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 comment and discussion should commence upon the conclusion of all public testimony

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.

⁴ Council Agenda Format and Rules Policy

TITLE: Town Council Code of Conduct	PAGE: 4 of 9	POLICY NUMBER: 2-04
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- 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:

- 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. Land Use Applications

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.

D. Code of Conduct Policy

Newly elected Council Members are 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 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, 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:

TITLE: Town Council Code of Conduct	PAGE: 6 of 9	POLICY NUMBER: 2-04
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- 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.
- 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 that it may engage its Council Members on matters of community concern. In response, Council Members may express a preliminary opinion on general issues or policies that are in the development phase. Any such preliminary statement shall not indicate that a decision has been reached before the public hearing or create a presumption of bias on any quasi-adjudicatory decision such as a land use approval. In addition, Council Members may from time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies or explain an individual vote. Such

statements are permissible if clearly characterized as personal opinion or policy change objectives rather than the opinion of the full Town Council.

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:

1. Allows the public, Town Council, 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

The following section outlines the process for reporting Council 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 Council 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 report of a written complaint, the Town Manager and Town Attorney will join the Mayor or Vice Mayor as an evaluation committee 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 Council Member will replace the Town Manager or Town Attorney on the evaluation committee.

Within seventy-two (72) hours of receipt of the complaint by the Mayor or Vice Mayor, the Council Member in question shall be notified of the reported complaint by the Mayor or his/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.

TITLE: Town Council Code of Conduct

PAGE:
8 of 9POLICY NUMBER:
2-043. 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, 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.

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

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.

6. 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 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.

C. 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