



**TOWN OF LOS GATOS  
COUNCIL POLICY COMMITTEE SPECIAL MEETING AGENDA  
APRIL 29, 2024  
110 EAST MAIN STREET  
TOWN COUNCIL CHAMBERS  
3:00 PM**

*Maria Ristow, Chair  
Matthew Hudes, Vice Chair*

**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](mailto: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](mailto: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 Commission meeting.
- For inclusion in a desk item: by 11:00 a.m. the day of the Commission meeting.

Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email to [clerk@losgatosca.gov](mailto:clerk@losgatosca.gov) by 12:00 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 March 26, 2024, Town Council Policy Committee Regular Meeting

**VERBAL COMMUNICATIONS** *(Members of the public are welcome to address the Committee on the item listed on the agenda. Each speaker is limited to no more than three (3) minutes, or such time as authorized by the Chair.)*

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

2. Discuss Code of Conduct Policy, Including Enforcement for Councilmembers and Commission Members, and Provide Direction to Staff

## **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]



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**DRAFT**  
**Minutes of the Town Council Policy Committee Meeting**  
**March 26, 2024**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, March 26, 2024, at 5:00 p.m.

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

**ROLL CALL**

Members Present: Chair/Council Member Maria Ristow and Vice Chair/Vice Mayor Matthew Hudes.

Staff Present: Laurel Prevetti, Town Manager; Katy Nomura, Assistant 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 February 27, 2024, Council Policy Committee Meeting.**
- 2. Confirm 2024 Work Plan Items for the Council Policy Committee.**

There was no public comment.

Vice Chair Hudes made a clarification to the minutes, stating that the intention for the Code of Conduct Enforcement work plan item was to also look at the Committees and Commissions to understand what applies to the Council versus what applies to the Committees and Commissions.

**MOTION:** Motion by Vice Chair Hudes to approve the consent items. **Seconded by Chair Ristow.**

**VOTE:** Motion passed by a unanimous vote.

**VERBAL COMMUNICATIONS**

No one spoke.

**OTHER BUSINESS**

SUBJECT: Draft Minutes of the Council Policy Committee Meeting of March 26, 2024

DATE: April 22, 2024

**3. Discuss the Code of Conduct Policy Sections V. and XI. Pertaining to Councilmember Communications with the Media and Public**

Gabrielle Whelan, Town Attorney, presented the staff report.

The Committee discussed the Code of Conduct Policy Section V “Mayoral and Vice Mayoral Roles, Responsibilities, Relationships,” related to the delegation of the Mayor’s authority for communications in their absence and suggested clarifying language related to the Mayor’s responsibilities and conformance with the Brown Act. The Committee also discussed the Code of Conduct Policy Section XI “Council Communication with the Public and Other Council Members” related to discussions of a quasi-adjudicatory decisions versus policy issues, requested changing the word “full” to “majority,” and provided recommended language regarding communications from individual Councilmembers.

**ADJOURNMENT**

The meeting adjourned at 5:56 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the March 26, 2024, meeting as approved by the Town Council Policy Committee.

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Wendy Wood, Town Clerk



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

MEETING DATE: 04/29/2024

ITEM NO: 2

ITEM NO. 2.

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DATE: April 25, 2024  
TO: Council Policy Committee  
FROM: Gabrielle Whelan, Town Attorney  
SUBJECT: Discuss Code of Conduct Policy, Including Enforcement for Councilmembers and Commission Members, and Provide Direction to Staff

**RECOMMENDATION:**

Discuss Code of Conduct Policy, including enforcement for Councilmembers and Commission members, and provide direction to staff.

**BACKGROUND:**

The Town Council currently has an adopted Code of Conduct Policy, a copy of which is attached as Attachment 1. To date, the Policy Committee has recommended the following changes:

- 1) State that the Code of Conduct applies to Board and Commission members.
- 2) Provide specific examples of what will constitute a major vs. a minor violation;
- 3) Memorialize a process for the subject of a complaint to present facts to the deciding body;
- 4) Clarify how Board and Commission members should explain that their views do not represent the Board or Commission as a whole;
- 5) Address the use of third-party investigators for major violations of Board or Commission members;
- 6) Conform other affected Town policies with the updated Code of Conduct;
- 7) State that Councilmember communications will conform with the Brown Act;
- 8) Revise Section XI regarding communications to separate the discussion of perceived bias from the discussion of expressions of personal opinion.<sup>1</sup>

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<sup>1</sup> Attachment 2 is a redlined Code of Conduct Policy, reflecting recommendations #1 and 2 above.

**PREPARED BY:** Gabrielle Whelan  
Town Attorney

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Town Clerk

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SUBJECT: Discuss Portions of the Code of Conduct Policy Addressing Enforcement for Councilmembers and Commission Members, and Provide Direction to Staff

DATE: April 25, 2024

BACKGROUND (continued):

The Policy provides that its “expectations of conduct also apply to all members of the Town’s Boards, Committees, and Commissions” (hereafter “Commissions”). However, it does not address enforcement.

Section XII of the Policy addresses enforcement in the event of a violation of the Code of Conduct. In the event of a complaint alleging a violation, the Policy does not provide whether review and enforcement procedures apply to Board, Committee, and Commission members (“Commissioners”) in addition to Town Councilmembers. Section XII(B)(1) outlines to whom complaints are to be made. Section XII(B)(2) addresses evaluation of complaints and provides:

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. . . .

Section XII(B)(2) provides for notification to the subject of the complaint within seventy-two hours of receipt.

The remaining subsections of XII(B) describe classifications of violations and action to be taken, which are as follows:

- 1) Unsubstantiated: No action.
- 2) Valid but minor in nature: Private counseling and admonishment.
- 3) Major violation: Referred to outside legal counsel for initial interview and investigation if warranted.

DISCUSSION:

With regard to complaints and enforcement, staff seeks feedback from the Policy Committee on the following questions:

- 1) In the event of a potential Code of Conduct violation, should there be separate procedures and enforcement mechanisms for Commissioners as opposed to Town Councilmembers?
- 2) With regard to complaints received regarding Councilmember conduct, who should provide the initial review of those complaints? Commissioner conduct?
- 3) If the initial review of a complaint indicates that an investigation is warranted, is it necessary that the investigator be an attorney?

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SUBJECT: Discuss Portions of the Code of Conduct Policy Addressing Enforcement for Councilmembers and Commission Members, and Provide Direction to Staff

DATE: April 25, 2024

DISCUSSION (continued):

These questions are addressed separately below.

- 1) In the event of a potential Code of Conduct violation, should there be separate procedures and enforcement mechanisms for Commissioners as opposed to Town Councilmembers?

The Town Clerk contacted all other Santa Clara County jurisdictions to ask 1) whether those jurisdictions have just one Code of Conduct that covers all elected and appointed officials or if there are separate Codes of Conduct for Commissioners and 2) whether the discipline and enforcement provisions differ for Councilmembers and Commissioners. Of the jurisdictions that responded, most do not have separate complaint procedures for Commissioners. Their Codes of Conduct simply provide that Commissioners can be removed by the Town Council – with about half requiring a majority vote and half requiring a super-majority vote.<sup>2</sup> Here is a summary of other practices within the County:

- a) Campbell: There is a separate Code of Conduct for Commissioners. It primarily addresses communications and conflicts of interest. Commissioners may be removed by a majority vote of the City Council.
- b) Cupertino: One section of the City Council Procedures Manual addresses discipline of Commissioners. Commissioners may be disciplined, including removal, by the City Council.
- c) Gilroy: There is a “Council Norms” document but no document addressing Commissioners. The policy provided does not include discipline or enforcement for Commissioners.
- d) Los Altos: There is an Accountability Policy, which applies to the City Council only. There is a Council Norms document, which includes a section addressing discipline or removal of Commissioners. Commissioners can be disciplined or removed by a 3/5 vote of the City Council.
- e) Mountain View: There is a Code of Conduct for the Town Council. One section of the Code of Conduct addresses removal (but not discipline) Commissioners. Commissioners may be removed by a 4/5 vote of the City Council.

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<sup>2</sup> With regard to Commissioner removal, Town Code Section 2.40.030 currently provides that Commissioners can be removed by a three-fifths vote of the Town Council. If the Policy Committee recommends including in a policy (separately from the Town Code) that Commissioners can be removed by a vote of the Town Council, it will be helpful to know whether the Policy Committee recommends retaining the three-fifths vote requirement.

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SUBJECT: Discuss Portions of the Code of Conduct Policy Addressing Enforcement for Councilmembers and Commission Members, and Provide Direction to Staff

DATE: April 25, 2024

DISCUSSION (continued):

- f) San Jose: There is a Council and Commission Code of Conduct. There is a separate Council Conduct Policy that applies only to Councilmembers and addresses discipline. There is a Council Code of Conduct Policy that applies only to Councilmembers and provides that admonition, sanction, and censure are the available forms of discipline.
  - g) Saratoga: There is a Code of Conduct for Councilmembers, but it does not reference Commissioners.
  - h) Sunnyvale: Within the Council Policy manual, there is a separate section specific to Commissioners. The Mayor can impose counseling, verbal reprimands, or written warnings on Commissioners. A Commissioner can be censured by a majority vote of the City Council. The Mayor or a City Council majority may call for an investigation when warranted. A Commissioner may be removed for violating the Code of Conduct by a 4/5 majority of the City Council.
- 2) With regard to complaints received regarding Councilmember conduct, who should provide the initial review of those complaints?

The Town's existing Code of Conduct provides that complaints are initially reviewed by the Mayor or Vice Mayor, Town Manager, and Town Attorney.

A question for the Policy Committee is whether the review committee should be expanded to two Councilmembers and, if so, whether it should be an ad hoc committee that is formed periodically.

Staff recommends that the Town Manager and Town Attorney provide support to the elected officials in review of the complaints, but not serve as members of the review committee.

- 3) If the initial review indicates that an investigation is warranted, who should conduct the investigation?

The Code of Conduct currently provides that investigations are to be conducted by an attorney. Attorney investigations can cost more per hour than investigations conducted by other professional investigators. In order to save costs, staff recommends that this language be revised to indicate that the investigation shall be conducted by a professional third party investigator.



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SUBJECT: Discuss Portions of the Code of Conduct Policy Addressing Enforcement for Councilmembers and Commission Members, and Provide Direction to Staff

DATE: April 25, 2024

DISCUSSION (continued):

In addition to the complaint and enforcement questions, staff also seeks input from the Policy Committee on the following:

- 1) The Code of Conduct currently contains sections addressing Mayor and Vice Mayor selection as well as Mayoral and Vice Mayoral Roles, Responsibilities, and Relationships. Staff recommends that these sections be moved to a separate Policy and seeks direction from the Policy Committee.
- 2) The Code of Conduct currently contains a section regarding maintaining civility at Town Council meetings. Staff recommends that this section be moved to a separate Policy (potentially the Town Agenda Format and Rules policy) and seeks direction from the Policy Committee.

CONCLUSION:

Staff looks forward to the Policy Committee's discussion and direction to staff. Based on the direction, staff will return with appropriate draft language for further discussion and when the Policy Committee is ready, it may make a recommendation to the Town Council to make modifications to the Code of Conduct Policy and/or create a new Policy for Commissions. For reference, the redline Code of Conduct provided at the March 28, 2023, Policy Committee meeting and included in the November 21, 2023, Town Council meeting materials is attached.

COORDINATION:

This report was coordinated with the Town Manager and the Town Clerk.

FISCAL IMPACT:

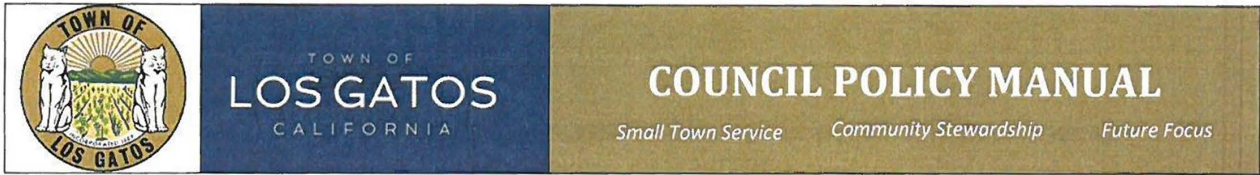
A recommendation that the investigation procedures in the Code of Conduct not be applied to Commission members would mean that no outside investigator would be retained.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Current Code of Conduct Policy
2. Redlined Code of Conduct Policy Provided in the Meeting Materials at the November 21, 2023, Town Council Meeting



<b>TITLE:</b> Town Council Code of Conduct		<b>POLICY NUMBER:</b> 2-04
<b>EFFECTIVE DATE:</b> 5/3/2004		<b>PAGES:</b> 8
<b>ENABLING ACTIONS:</b> 2004-059; 2006-111; 2021-047	<b>REVISED DATES:</b> 12/17/2012; 3/3/2015; 12/17/2019; 11/2/2021; 10/4/2022	
<b>APPROVED:</b> <i>[Signature]</i>		

**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.

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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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

<sup>1</sup> Council Agenda Format and Rules Policy

<sup>2</sup> Council Commendation and Proclamation Policy

<sup>3</sup> Resolution 1999-167

Vice Mayor

- A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.<sup>4</sup>
- 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.

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<sup>4</sup> Council Agenda Format and Rules Policy

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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:

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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.



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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 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 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.

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



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

**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, [2023]

**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,

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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.<sup>1</sup> 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.<sup>2</sup> 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.

<sup>1</sup> Council Agenda Format and Rules Policy

<sup>2</sup> 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.~~<sup>3</sup>

Vice Mayor

- A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.<sup>4</sup>  
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?]**

<sup>3</sup> Resolution 1999-167

<sup>4</sup> Council Agenda Format and Rules Policy

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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~~ his/her 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 ~~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 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,

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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

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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.

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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