

# **CITY OF OCEANSIDE**

## **CODE OF ETHICS AND CONDUCT**

**FOR**

**ELECTED AND APPOINTED OFFICIALS**

## **Policy Purpose**

The Oceanside City Council adopts this Code of Ethics and Conduct to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of Oceanside's City government. This policy shall apply to all elected positions, including the Mayor, Councilmembers, City Clerk and City Treasurer, whether elected or appointed to serve in that capacity, Council Aides and all persons appointed by the City Council to the City's Boards, Committees and Commissions.

## A. ETHICS

The citizens and businesses of Oceanside are entitled to have fair, ethical and accountable local government. To this end, the public shall have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, City Treasurer, City Clerk, Council Aides, and members of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest shall be their primary concern, members will work for the common good of the people of Oceanside and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of California and the City of Oceanside in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office shall be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City and the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.
7. **Communication.** For adjudicative matters pending before the body, written communication provided to the City Council shall be retained in accordance with the City's document retention schedule and shall be open to inspection and/or copying in accordance with the California Public Records Act.

8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest as set forth in the Political Reform Act and applicable regulations promulgated by the Fair Political Practices Commission, or (b) actual bias that would result in the denial of procedural due process.

In accordance with the City's Municipal Code Section 2.1.32., "if a council member has reason to believe he or she has a conflict of interest with respect to a governmental decision, he or she may give the full facts of the matter to the city attorney and request advice thereon. The request for advice should be submitted to the city attorney sufficiently in advance of the meeting to allow the city attorney a reasonable opportunity to analyze the facts stated and the applicable law and to seek appropriate assistance from the fair political practices commission. Any response by the city attorney shall be in writing, if time permits, and delivered to each council member before the meeting in question. Oral responses shall be stated on the public record. If a determination whether it is reasonably foreseeable that a financial interest would be affected by a governmental decision depends on the advice of an appraiser or similar professional, except an attorney, the city attorney may retain such professional at city expense. Nothing in this section shall be deemed to preclude the member or the city attorney from seeking assistance or advice on a conflict of interest matter from the fair political practices commission."

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have an impermissible conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised. Disqualification of a member from participating in a government decision based on the acceptance of a gift shall be determined in accordance with legal requirements of the Political Reform Act, applicable regulations and case law.
10. **Confidential Information.** Members shall maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.
12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the

Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Oceanside, nor will they allow the inference that they do. Councilmembers, Council Aides and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Oceanside City government as outlined in the City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Code and applicable council policies, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.
16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

## **B. CONDUCT GUIDELINES**

The Conduct Guidelines are designed to describe the manner in which elected and appointed officials shall treat one another, City staff, constituents, and others they come into contact with while representing the City of Oceanside.

### **1. Elected and Appointed Officials' Conduct with Each Other in Public Meetings**

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal shall be acknowledged even though individuals may not agree on every issue.

#### *(a) Honor the role of the chair in maintaining order*

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members shall honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections shall be voiced politely and with reason, following procedures outlined in parliamentary procedure.

#### *(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 debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.

#### *(c) Avoid personal comments that could offend other members*

If a member is personally offended by the remarks of another member, the offended member shall make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

#### *(d) Demonstrate effective problem-solving approaches*

Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

### **2. Elected and Appointed Officials' Conduct with the Public in Public Meetings**

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect shall be evident on the part of individual members toward an individual participating in a public forum. Every effort shall be made to be fair and impartial in listening to public testimony.

#### *(a) Be welcoming to speakers and treat them with care and gentleness.*

While questions of clarification may be asked, the official's primary role during public testimony is to listen.

*(b) Be fair and equitable in allocating public hearing time to individual speakers.*

The chair will determine limits on speakers at the start of the public hearing process, if different than standard time limits.

*(c) Practice active listening*

It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions, and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.

*(d) Maintain an open mind*

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.

*(e) Ask for clarification, but avoid debate and argument with the public*

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

*(f) Use of Electronic Devices during Public Hearing Time*

While the Council is in session, to satisfy due process requirements, Council Members shall give their sole attention to the proceedings and shall refrain from using electronic devices such as computers, cell phones, pagers, PDAs and other electronic devices for the purpose of sending or receiving external communication unless an emergency or extraordinary circumstance exists.

### **3. Elected and Appointed Officials' Conduct with City Staff**

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed members of Boards and Commissions who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort shall be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

*(a) Treat all staff as professionals*

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

*(b) Do not disrupt City staff from their jobs*

Elected and appointed officials shall not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Attendance by elected officials at any meeting attended by City staff shall be in accordance with City Council Policy 100-20.

*(c) Never publicly criticize an individual employee*

Elected and appointed officials shall never express concerns about the performance of a City employee under the supervision of the City Manager or City Attorney in public, to the employee directly, or to the

employee's manager. Comments about staff performance shall only be made to the City Manager or City Attorney, as applicable, through private correspondence or conversation. Appointed members of Boards and Commissions shall make their comments regarding staff to the City Manager or the Mayor.

*(d) Do not get involved in administrative functions*

Elected and appointed officials acting in their individual capacity shall not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

*(e) Do not solicit political support from staff*

Elected and appointed officials shall not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities shall be done away from the workplace.

*(f) No Attorney-Client Relationship*

The City Attorney represents the City and not elected or appointed officials acting in their individual capacity. Members shall not seek to establish an attorney-client relationship with the City Attorney, or members of the City Attorney's staff.

**4. Council Conduct with Boards, Committees and Commissions**

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and shall be treated with appreciation and respect.

*(a) If attending a Board, Committee or Commission meeting, be careful to only express personal opinions*

Subject to the limitations of the Brown Act, Councilmembers may attend any Board, Committee or Commission meeting, which are always open to any member of the public. However, they shall be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board, Committee or Commission meeting shall be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

*(b) Limit contact with Board, Committee and Commission members to questions of clarification*

It is inappropriate for a Councilmember to contact a Board, Committee or Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board, Committee or Commission members in order to clarify a position taken by the Board, Committee or Commission.

*(c) Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers*

The Mayor, subject to City Council confirmation, appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of members of Boards, Committees and Commissions to follow applicable bylaws as well as City law and policy established by the Council. Board, Committee and Commission members do not report to individual Councilmembers, nor shall Councilmembers threaten Board, Committee and Commission members with removal over political disputes. Appointment and re-appointment to a Board, Committee or Commission shall be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties.

*(d) Be respectful of diverse opinions*

A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but shall be fair and respectful of all citizens serving on Boards, Committees and Commissions.

*(e) Keep political support away from public forums*

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

## **5. Conduct with the Media**

Council Members are frequently contacted by the media for background and quotes. Advisory Body members are not authorized to represent the City outside of official Advisory Body meetings unless specifically authorized to do so by the City Council. Media inquiries should be responded to within reasonable timeframes. Official City responses will be given by the Mayor or Council designee (i.e. Deputy Mayor in Mayor's absence), the City Manager or his/her designee, or City Attorney, as applicable.

## **6. Social Media Use**

When using social media, City officials must clearly disclose that they are expressing their own personal opinion and not an official position of the City or, if applicable, the body on which they serve. Where appropriate, posting a disclaimer to this effect is advised. City officials must also use caution when communicating on social media in that it does not become a conduit to communicate with their fellow council/commission members in violation of the Brown Act.

## **7. Outside Employment**

No official shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of their official duties in violation of

Government Code section 1099 and applicable case law, or would tend to impair their independence of judgment or action in the performance of their official duties.

**8. Post-City Employment**

Former City Officials shall not engage in direct communication with the City for the purpose of lobbying the City if the former City Official served as a City Official within the previous 12 months, and the former City Official is receiving compensation from a private business to engage in the direct communication with the City.

## C. SANCTIONS

Upon a finding by a majority of the City Council that any public official violated any provision of the Prohibited Conduct section of this chapter, the City Council may impose any of the following sanctions:

**1. Elected Officials.**

- a) Public censure.

**2. Council Aides**

- a) Public censure.

**3. Appointed Officials of Boards, Commissions and Committees.**

- a) Referral to the Board, Commission or Committee of which the appointed official is a member for public censure;
- b) Public censure by the Mayor and City Council; or
- c) Removal from office by a majority of the Mayor and City Council

**4. Whistle Blower Protections**

To the extent not otherwise prohibited by State law, City officials and employees shall not use or threaten to use any official authority or influence to discourage, restrain or interfere with or to effect a reprisal against any person, including, but not limited to, a City official or employee, for the purpose or with the intent of preventing such person from acting in good faith to report or otherwise bring to the attention of the City or other appropriate agency, office or department, any information that, if true, would constitute a gross waste of City funds, a gross abuse of authority, a specified and substantial danger to public health or safety due to any act or omission of an City official or employee, or the use of a City office or position or of City resources for personal gain.

## D. IMPLEMENTATION

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, City Treasurer, City Clerk, Council Aides, members of Board, Committee and Commissions, and newly elected and appointed officials. **Members entering office shall sign a statement (below) acknowledging they have read and understand the Code of Ethics and Conduct.** In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council and updated as necessary.

**I affirm that I have read and understand the City of Oceanside Code of Ethics and Conduct for Elected and Appointed Officials.**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_