

CITY OF EMERYVILLE
City Council Policy

CODE OF ETHICS AND CONDUCT FOR ELECTED AND APPOINTED CITY OFFICIALS

A. Code of Ethics

The citizens and businesses of Emeryville are entitled to have a fair, ethical and accountable local government. To this end, the public should 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 and all Boards, Committees and Commissions (individually a "Member" and collectively "Members" for purposes of this Code except where specific officials are addressed) shall conduct themselves in accordance with the following ethical standards to assure public confidence in the integrity of local government and its effective and fair operation.

1. Acts in the Public Interest

Members will work for the common good of the people of Emeryville and not for any private or personal interest and will ensure fair and equal treatment of all persons, claims and transactions coming before the Emeryville City Council, Boards, Committees and Commissions.

2. Comply with the Law

Members shall comply with the laws of the nation, the State of California and the City of Emeryville in the performance of their public duties. These laws include but are not limited to: the United States and California constitutions, Fair Political Practices laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities and open processes of government and adopted City ordinances and policies.

3. Conduct of Members

The professional and personal conduct of Members must 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, the public, and staff. This requirement is applicable to Members at all times.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City Council and Boards, Committees and Commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by staff. The City Council has adopted Robert's Rules of Order to govern the conduct of all Emeryville City Council, Board, Committee, and Commission meetings.

Members shall respect the determinations of the City Council or Board, Committee or Commission majority, understanding that a tenet of parliamentary procedure is finality – after vigorous discussion, debate, and vote a matter is deemed closed, and Members shall refrain from requesting to revisit the matter, other than through a motion for reconsideration consistent with parliamentary procedure set forth in Robert's Rule of Order.

5. Conduct of Public Meetings

Members shall prepare themselves for the meeting by reading the agenda packet in advance of the meeting, listen courteously, and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members should base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or Board, Committee or Commission, which they may have received from sources outside of the public decision-making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, Members shall not use their official positions to influence government decisions in which they have a material financial interest or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

In accordance with and to the extent required by state law, Members shall disclose investments, interests in real property, sources of income, and gifts, and shall abstain from participating in

deliberations and decision-making where conflicts may exist. Members may seek advice on potential conflict of interest issues from the City Attorney and may also consult with the California Fair Political Practices Commission.

9. Gifts and Favors

Members shall refrain from accepting any gifts, favors or promises of future benefits from any applicants seeking any discretionary approvals or recommendations.

10. Confidential Information

Members shall respect the confidentiality of information concerning property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or private interests.

11. Use of Public Resources

Members shall not use public resources unavailable to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Public Interests

In keeping with their role as stewards of the public interest, Members shall not appear on behalf of private interests of third parties before the Council, any Board, Committee, Commission, or other proceeding of the City, nor shall members of boards 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. The official City position will be determined by a majority vote of the City Council. When presenting their individual opinions and positions, Members shall explicitly state they do not represent their body or the City of Emeryville, nor will they allow inference that they do.

14. Policy Role of Members

Members shall respect and adhere to the council-manager structure of the City of Emeryville government as set forth in the Emeryville Municipal Code. In this structure, the City Council determines the policy of the City, with the advice, information, and analysis provided by the public, Boards, Committees, or Commissions, and City staff.

Except as provided by the Emeryville Municipal Code, 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, Council Members shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.

16. Positive Workplace Environment

Members shall support the maintenance of a positive and constructive workplace for the City employees and for the citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees and in no way create a perception of inappropriate direction to staff.

B. Conduct

This section is designed to describe the manner in which Members should treat one another, City staff, constituents, and others they come into contact with in representing the City of Emeryville.

The constant and consistent theme through all of the conduct guidelines is “respect.” Council Members experience heavy workloads and stress in making decisions that could impact the lives of Emeryville citizens. Despite these pressures, Members are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Members to take appropriate action even in the most difficult situations.

1. Members’ Conduct with One Another in Public Meetings

Emeryville’s Members are composed of 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 should be acknowledged even though individuals may “agree to disagree” on contentious issues.

(a) Use Formal Titles

Members should endeavor to refer to one another formally during public meetings, such as Mayor, Vice Mayor, Chair, Commissioner, or Council Member followed by the individual’s last name.

(b) Practice civility and decorum in discussion and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

(c) 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 should 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 should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

(d) Avoid personal comments that could offend other Members.

If a Member is personally offended by the remarks of another Member, the offended Member should 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.

(e) Demonstrate effective problem-solving approaches.

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

(f) Ask for point of order but avoid debate and argument.

A Member can ask the Chair for a point of order if another Member is off topic or exhibiting behavior or language that the Member finds is disruptive to the meeting.

2. Members' 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 should be evident on the part of individual Members toward an individual participating in a public forum. Every effort should 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 and announce limits on speakers at the start of the public hearing process.

(c) Practice active listening

Active listening is being fully engaged while another person is speaking. It is listening with the intent to understand the other person fully, rather than listening to respond. Members should use nonverbal cues that show understanding such as nodding, eye contact, and leaning forward in addition to asking open-ended questions and specific questions to seek clarification.

(d) Maintain an open mind.

Members of the public deserve an opportunity to influence the thinking of Members. Members should not express a conclusion or opinion on a matter before the Council, Board, Committee, or Commission prior to public comment.

(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 topic or exhibiting behavior or language that the Member finds is disruptive to the meeting.

3. Members' Conduct with City Staff

Governance of a City relies on the cooperative efforts of Council Members, who set policy, Board, Committee or Commission members who advise the City Council, and City staff who implement and administer the City Council's policies. Every effort should 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.

Members should 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.

Do not attend City staff meetings unless requested by staff – even if the Member does not say anything, the Member’s presence implies support, shows partiality, may intimate staff, and hampers staff’s ability to do their job objectively.

(c) Never publicly criticize an individual employee

Members should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee’s manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Board, Committee or Commission members should make their comments regarding staff to the City Manager or the Mayor.

(d) Do not get involved in administrative functions.

Members acting in their individual capacity must 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. The City Manager has the sole authority to direct staff and is responsible for the appropriate allocation of staff resources. The City Manager may request input from Council Members who possess relevant professional experience, special knowledge or training which would be useful in the development of requests for proposals or the selection process.

(e) Do not solicit political support from staff.

Members should not solicit any type of political support, or support for non-profits or affiliated organizations (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 must be done away from the workplace.

(f) No individual Attorney-Client relationship

A Member shall not seek to establish an individual attorney-client relationship with the City Attorney, including City Attorney staff and attorneys who contract to work on behalf of the City. The City Attorney represents the City and not individual Members seeking advice on matters which are inconsistent with City policy. While the City Attorney may provide conflict of interest advice and other legal advice to Members regarding matters within their subject matter jurisdiction and consistent with City policy, Members who consult with the City Attorney in any other capacity cannot enjoy or establish an attorney-client relationship with the attorney to the exclusion of other Members.

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 should be treated with appreciation and respect.

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

Council Members may attend any Board, Committee or Commission meeting, which are always open to any member of the public. However, Council Members should 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 Council Member shall state that the comment is that individual's opinion and not representative of the entire City Council unless the Council Member has otherwise been directed by a majority of the City Council to speak on behalf of the City Council.

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

It is inappropriate for a Council Member 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 Council Members 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 Council Members.

The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the City Council. But Board, Committee and Commission members do not report to individual Council Members, nor should Council Members feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree with an issue.

Appointment and re-appointment to a Board, Committee or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

(d) Be respectful of diverse opinions.

A primary role of Boards, Committee 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. Council Members may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but they must 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 Council Member, but not in a public forum while conducting official duties. Conversely, Council Members may support Board, Committee and Commission members who are running for office, but not in an official forum when acting in their capacity as a Council Member.

SANCTIONS FOR VIOLATIONS OF CODE OF ETHICS AND CONDUCT
BY MEMBERS

A. Acknowledgement of Code of Ethics and Conduct

The Emeryville Code of Ethics and Conduct expresses standards of ethical conduct expected from Members. Members themselves have the primary responsibility to ensure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Commissions, and Committees and the Mayor have the additional responsibility to intervene when Members' actions appear to be in violation of the Code of Ethics and Conduct. The City Council may impose sanctions on Members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, and loss of seniority including the Offices of Mayor and Vice Mayor or committee assignment, including on City committees and intergovernmental committees. The City Council may act to remove members of Boards, Commissions, and Committees from office for violations of the Code of Ethics and Conduct or applicable state law requirements.

Members are to sign an acknowledgement that they have read and understand the Code of Ethics and Conduct and agree to comply fully with state and local requirements and conduct themselves in accordance with the Code of Ethics and Conduct. Members further acknowledge that confidential communications received from the City Attorney's office, including legal opinions and advice given by the City Attorney or outside counsel representing the City in closed session, are privileged and not subject to disclosure to third parties. No Member may disclose confidential information unless the City, acting through the City Council or City Manager, authorizes disclosure.

B. Ethics Training for Officials

Ethical standards shall be included in any regular orientations for candidates for City Council and applicants to Board, Committees, and Commissions, and for new Members. Upon assuming

office, Members shall agree to comply with all training requirements, including ethics training, mandated by the state or City.

C. Council Members

Council Members who intentionally and repeatedly do not follow the Code of Ethics and Conduct may be reprimanded or formally censured by the City Council, and/or lose seniority including the Offices of Mayor or Vice Mayor or committee assignments, including on City committees and intergovernmental committees.

Any Council Member who wishes to bring a formal complaint against another Council Member for violation of the Code of Ethics and Conduct may request a Future Agenda item at a noticed public City Council meeting, and upon receiving majority support of the City Council, an agenda item shall be placed on a future noticed public City Council meeting to discuss the complaint. A Council Member who submits a Future Agenda item, which has received majority support of the City Council, shall submit to the City Attorney the factual allegations and relief requested within ten days for the purpose of preparing the future Agenda Item. When the matter is placed on the agenda at a subsequent City Council meeting, the Council Member against whom the complaint was filed shall be afforded notice of any proposed action to be taken by the City Council and an opportunity to refute the allegations presented. Any discipline imposed by the City Council shall be determined by a majority vote of at least a quorum of Council Members at that meeting. Council Members, however, may only be removed from office by voter recall.

D. Board, Committee and Commission Members

The City Council may also impose sanctions on Board, Committee, and Commission members whose conduct does not comply with the Code of Ethics and Conduct, City's policies, and state law, up to and including removal from office.

Any Council Member who wishes to bring a formal complaint against a Board, Committee, or Commission member for violation of the Code of Ethics and Conduct, City's policies, or state law may request a Future Agenda item at a noticed public City Council meeting, and upon receiving majority support of the City Council, an agenda item shall be placed on a future noticed public City Council meeting to discuss the complaint. At that City Council meeting, the Board, Committee, or Commission member against whom the complaint was filed shall be afforded notice of any proposed action to be taken by the City Council and an opportunity to refute the allegations presented. Any discipline imposed by the City Council shall be determined by a majority vote of at least a quorum of Council Member at that meeting.

When deemed warranted, a majority of the City Council may also call for an investigation of Board, Committee or Commission member's conduct as a Future Agenda item at a noticed public City Council meeting. Further, if the City Manager or City Attorney believe that an investigation is warranted, they shall confer with the Mayor or City Council as warranted. The

Mayor or City Council may ask the City Manager to investigate the allegation(s) and report the findings at a future noticed public City Council meeting.

**I affirm that I have read and understand the City of Emeryville's
Code of Ethics and Conduct for Elected and Appointed Officials**

Signature

Date

Printed Name