



CITY OF COSTA MESA

CODE OF CONDUCT FOR
ELECTED AND APPOINTED
OFFICIALS

Adopted _____

Table of Contents

| | |
|---|----|
| Table of Contents..... | 2 |
| Introduction | 3 |
| A. ETHICS | 5 |
| B. CONDUCT..... | 8 |
| 1. Elected and Appointed Officials' Conduct with Each Other..... | 8 |
| 2. Elected and Appointed Officials' Conduct with City Staff..... | 9 |
| 3. Elected and Appointed Officials' Conduct with the Public | 10 |
| 4. Council Conduct with Commission, Committee, or Board Members | 11 |
| C. IMPLEMENTATION..... | 11 |
| D. COMPLIANCE AND ENFORCEMENT | 12 |

Introduction

The City of Costa Mesa is a general law city governed by the council/manager form of government. The City Council, with the assistance of its advisory commissions, committees, and boards, makes policies and fundamental governmental decisions; the City Manager is charged with implementing those policies and decisions and administering the day-to-day affairs of the City with the assistance of his/her staff. The City Council has direct authority over the City Manager and the City Attorney; all other employees of the City are under the direct authority of the City Manager.

These standards are adopted to ensure that the Mayor and members of the City Council, as elected representatives, City employees, and appointed Commissioners, are engaged in public service not for private, personal gain, but to advance the interests of Costa Mesa residents and the entire Costa Mesa community. These standards govern the following Public Officials and City employees: the Mayor; the Mayor Pro Tem; members of the City Council; City Council Executive Assistants; the City Manager; Assistant and Deputy City Managers; the City Clerk; Department Directors; Deputy Department Directors; the Police Chief; the Deputy Police Chief; the Fire Chief and Assistant Fire Chiefs; the City Attorney; the Zoning Administrator; the City Engineer; and members of the Planning Commission, the Arts Commission, the Parks and Community Services Commission; and any other commission that is advisory in nature. These positions shall be referred to herein collectively as "the Covered Positions."

The citizens of Costa Mesa are entitled to responsible, transparent, fair, and honest city government that operates in an atmosphere of respect and civility. Accordingly, the Costa Mesa City Council has adopted this code to:

1. Describe the standards of behavior to which its Elected (hereinafter the term "Elected" refers to the Mayor and City Council) and Appointed (hereinafter the term "Appointed" refers to members of City of Costa Mesa's Commissions, Committees, and Boards, the City Manager and the City Attorney) Officials and high-ranking employees aspire;
2. Provide an ongoing source of guidance to Elected and Appointed Officials and employees in their day-to-day service to the city; and
3. Promote and maintain high ethical standards.

The citizens of Costa Mesa are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. In keeping with the City of Costa Mesa's commitment to excellence, the effective functioning of democratic government therefore requires that:

- Elected and Appointed officials comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Elected and Appointed officials be independent, impartial and fair in their judgment and actions;
- Public office be used for the public good, not for personal gain; and
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

This Code addresses selective aspects of the governance of the City and supplements but does not supplant other laws and rules that prescribe the legal responsibilities of the Covered Positions. Those include, among others, the California Constitution, various provisions of the California Government Code

(including the Brown Act and the Political Reform Act) and the California Labor Code, federal laws prohibiting discrimination and harassment, and the provisions of the City's own Municipal Code. Elected and Appointed officials and employees should be familiar with these laws to ensure that they exercise their responsibilities properly.

It is not possible for a code of this kind to anticipate and provide a rule of conduct for all situations. At bottom, it is expected that Elected and Appointed officials and employees in the Covered Positions will manage their behavior in a manner consistent with the rules that follow, respect the chain of command and behave within the bounds of their authority. It is also expected that Elected and Appointed officials will treat each other, City employees, residents and business people with courtesy and respect in a manner that reflects well on the City.

To this end, the Costa Mesa City Council adopts this Code of Conduct for Elected and Appointed Officials and designated employees to assure public confidence in the integrity of local government and its effective and fair operation.

A. ETHICS

The Ethics section of the City's Code of Conduct offers guidance on matters pertaining to ethical considerations, addressing questions of right and wrong.

1. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, Elected and Appointed officials should work for the common good of the people of Costa Mesa and not for any private or personal interest, and provide for the fair and equal treatment of all persons, claims and transactions coming before them. Elected and Appointed officials will serve the community as servant leaders, putting aside self-interest and consider the needs of all residents. Elected and Appointed officials should seek to implement transparency and ethical practices, so as to ensure the public's trust and avoid any perception of wrongdoing.
2. Comply with both the spirit and the letter of the Law and City Policy. Elected and Appointed officials shall comply with the laws of the nation, the State of California and the City of Costa Mesa in the performance of their public duties.
3. Conduct of Elected and Appointed officials. The professional and personal conduct of Elected and Appointed officials while exercising their office should be above reproach and seek to avoid even the appearance of impropriety. Elected and Appointed officials should refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Elected and Appointed officials of the City Council, of other commissions, committees, or boards of the City, of staff or the public.
4. Conduct at Public Meetings. Elected and Appointed officials should prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand.
5. Decisions Based on Merit. Elected and Appointed officials should base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
6. Conflicts of Interest.
 - a. Elected and Appointed officials should seek to ensure their independence and impartiality on behalf of the common good, and their compliance with conflict-of-interest laws. Unless specifically authorized by law, Elected and Appointed officials should not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) a contractual interest, or (c) an impermissible personal bias (a completely closed mind).
 - b. Elected and Appointed officials who have a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or other appropriate state agency, an Elected or Appointed official should not participate in a decision unless and until he or she has requested and receives advice allowing the Elected or Appointed official to participate. An Elected or Appointed official shall diligently pursue obtaining such advice. The Elected or Appointed official shall provide the Mayor and the City Attorney a copy of any of any written request or advice and conform his or her participation to the advice given. In providing assistance to Elected and Appointed officials, the City Attorney represents the city and not individual Elected or Appointed officials.

- c. Each year Elected and Appointed officials shall file a Form 700, which requires the disclosure of designated investments, interests in real property, sources of income and gifts in accordance with the City's conflict of interest code. Where a conflict is determined to exist, the Elected or Appointed official should disclose the conflict, leave the dais during the consideration of the item, and not otherwise seek to influence the decision in any way.
- d. Except as provided in California Government Code Section 1090, et seq., no Elected or Appointed official shall have a financial interest in any contract made by the City.

7. City Allegiance and Proper Conduct.

- a. Incompatible Employment or Service. Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local public agency (county, city or special district) located in the County of Orange or the County of Los Angeles.
 - 1. Paragraph 7a shall not be applicable to lobbying as an in-house employee on behalf of his or her employer (as opposed to a client of the employer).
 - 2. For purposes of paragraph 7a, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.
- b. Interest in City contracts. Individuals in Covered Positions shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.
- c. Knowledge of and agreement to abide by provisions. Individuals in Covered Positions shall at the time of their election or appointment or upon the effective date of this section, whichever occurs later, sign an appropriate form prepared by the City Clerk reciting their knowledge of the provisions of this code of conduct and their agreement to abide by such provisions.

8. Gifts and Favors. Individuals in Covered Positions shall fully comply with the regulations, prohibitions and disclosure requirements set forth under law concerning the receipt of gifts, honorariums, and any other special favors. Individuals in Covered Positions should refrain from accepting any gifts, favors or promises of future benefits where it might compromise their ability to act in the public's interest.

9. Confidential Information. Elected and Appointed officials must maintain the confidentiality of all closed session information and materials, and any other materials or verbal information which has been identified as being confidential

or privileged. Elected and Appointed officials shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

10. **Use of Public Resources.** Elected and Appointed officials shall not use public resources for any personal purpose (e.g., City staff time, equipment, vehicles, supplies or facilities), whether political or otherwise. The use of public resources must always be tied to a valid public purpose.

11. **Representation of Private Interests.**

- a. In keeping with their role as stewards of the public interest, while in office, members of the City Council shall not appear on behalf of the private interests of third parties before the City Council or any other subservient body of the City.
- b. For a period of one year after leaving office, members of the City Council are prohibited from making any formal or informal appearances before the City, on behalf of third parties, in exchange for compensation, when it is for the purpose of trying to influence a legislative or administrative action involving a permit, license, grant, contract, or the purchase or sale of goods or property, except in their official role on behalf of another public agency. California Government Code section 87406.3.

12. **Advocacy.** Elected and Appointed officials should seek to represent the official policies or positions of the City Council, or of their respective commission, committee, or board, to the best of their ability when designated as delegates for that purpose. Whenever an Elected or Appointed official chooses to express their individual opinions on a matter, they should make it clear when those comments do not represent the position of the body of which they are a member or the City of Costa Mesa. Elected and Appointed officials 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 commission, committee, or board meetings, or other official City meetings.

13. **Policy Role of Elected and Appointed officials.** Elected and Appointed officials shall respect and adhere to the Council-Manager structure of the City of Costa Mesa government as outlined in the Costa Mesa Municipal Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, commissions, committees, and boards and the public. Except as provided by the City Code, Elected and Appointed officials shall not interfere with the administrative functions of the City or the professional duties of staff; nor shall they impair the ability to implement Council policy decisions.

14. **Positive Workplace Environment.** Elected and Appointed officials shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Elected and Appointed officials shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

15. **Ethics Training:** Elected and Appointed officials must comply with the ethics training requirement outlined under Assembly Bill 1234 (California Government Code section 53235).

B. CONDUCT

The conduct section of the City's Code of Conduct aims to articulate the expected treatment of Elected and Appointed officials towards one another, City staff, constituents, and other individuals encountered while representing the City of Costa Mesa. "Respect" serves as a pervasive and unwavering theme throughout all the conduct guidelines. Elected and Appointed officials are tasked with upholding exemplary behavior consistently. The key principle underlying these guidelines is the demonstration of respect for each individual, employing both words and actions. This emphasis on respect serves as a guiding principle, assisting Elected and Appointed officials in making the right choices, even in the most challenging situations.

1. Elected and Appointed Officials' Conduct with Each Other

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 community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

a. Honor the role of the Mayor or Chairperson in maintaining order

It is the responsibility of the Mayor or Chairperson to keep the comments of Elected and Appointed officials on track during public meetings. Elected and Appointed officials should honor efforts by the Mayor or Chairperson to focus discussion on current agenda items. If there is disagreement concerning any matter, those objections should be voiced politely and with reason, following the adopted parliamentary guidelines.

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. However, free debate does not require nor justify the making of belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. Elected and Appointed officials should endeavor to keep each other accountable for professional decorum. Do not interrupt or speak over others, striving to understand various perspectives and opinions while encouraging cooperation and collaboration.

c. Demonstrate effective problem-solving approaches

Elected and Appointed officials 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 City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected officials, and City staff who implement and administer the Council's policies. Therefore, 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. Govern, do not direct

The Mayor and Council Members' role is to set policy and not to provide day to day direction to City employees. Questions of City staff and/or requests for additional information shall be directed to the City Manager, unless the City Manager indicates otherwise.

c. Do not disrupt City staff from their jobs

Elected and Appointed officials 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. Elected and Appointed officials should not attend City staff meetings, unless requested by staff.

d. Personnel Matters

Personnel matters must be handled by the City Manager and Human Resources division, working together with the employee and department at issue. Elected and Appointed officials should not get involved in personnel matters, whether to encourage or discourage a particular outcome, or to help investigate a concern. Elected and Appointed officials involvement tends to increase litigation against the City, so it should be avoided. All concerns should be directed to the City Manager, who has the responsibility to investigate and make final decisions in accordance with California law and the City's rules.

e. Never publicly criticize an individual employee

Elected and Appointed officials should never express concerns about the performance of a city employee in public, to the employee directly, or to the employee's manager. Concerns about staff performance should only be made to the City Manager through private correspondence or conversation. Such concerns can then be addressed in accordance with the City's personnel rules.

f. Do not retaliate or threaten to retaliate against employees as a result of disagreements over policy recommendations

It is critical to the success of the City that its employees enjoy a workplace free of the fear of retaliation. The City takes great pride in its creativity and its receptivity to new and different ideas; creativity is fostered by an open and nonjudgmental atmosphere where candor is not penalized. City employees are hired to offer their professional judgments and opinions. Elected and Appointed officials are certainly free to disagree with those judgments; indeed, those officials ultimately may have the final word. But those disagreements must not extend to threats or generate fear of reprisal. Elected and Appointed officials enjoy substantial authority within City Hall; this authority must not be exercised in a manner that intimidates staff and degrades morale with resulting damage to the fabric of the organization.

g. Do not get involved in administrative functions

Elected and Appointed officials acting in their individual capacity should 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.

h. Do not solicit political support from staff

Elected and Appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, other campaign-related assistance, etc.) from City staff while they are working. City staff have the constitutional right to support political candidates of their own choosing, but all such activities must be done on the employee's own time, away from the workplace, and not in uniform.

i. No Attorney-Client Relationship

The City Attorney represents the city and not any individual Elected or Appointed official.

3. Elected and Appointed Officials' Conduct with the Public

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 individuals in Covered Positions 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 respect

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 Mayor or Chairperson will follow the pre-established time allocation for each speaker and seek to apply them equally to every speaker in a fair and impartial manner. If there is a need to shorten the allotted time for speakers, the chair should announce those limits prior to the start of the agenda item whenever possible. Each speaker may only speak once during any particular agenda item unless the Mayor or Chairperson requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the Mayor or Chairperson reopens the public hearing for a limited and specific purpose.

c. Practice active listening

Elected and Appointed officials should seek to demonstrate active listening and interest in each speaker's presentation, and to avoid any pessimistic body language.

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

Elected and Appointed officials should not interrupt a speaker during a presentation. However, an Elected or Appointed officials can respectfully ask the Mayor or Chairperson for a point of order if a speaker is off the topic.

4. Council Conduct with Other Commission, Committee, or Board Members

The City Council has established certain commissions, committees, and boards as a means to assist the Council in making decisions, and in gathering more community input. Citizens who serve as members of the City's various commissions, committees, and boards, 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 Commission, Committee, or Board meeting, be careful to only express personal opinions
Council Members may attend any commission, committee, or board meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation could be viewed as unfairly affecting the process.
- b. Limit contact with Commission, Committee, and Board members to questions of clarification
It is acceptable for Council Members to contact commission, committee, or board members. However, it would be inappropriate to lobby one of these members on behalf of an individual, business, or developer, and vice versa.
- c. Be respectful of diverse opinions
A primary role of commission, committee, and board members is to represent the 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 individual members, but they should be fair and respectful of every citizen who chooses to serve as a member of one of the City's commissions, committees, or boards.
- d. Keep political support away from public fora
Commission, committee, and board members have the right to offer their political support to a Council Member in their private capacity, but not while conducting official City duties. Likewise, Council Members may support any commission, committee, or board member who may be running for office, but such support should not be expressed during the course of any City funded meeting.

C. IMPLEMENTATION

1. The Costa Mesa Code of Conduct expresses standards of ethical conduct expected for the Mayor, Costa Mesa City Council, members of commissions, committees, boards, and all Covered Positions. In addition, all Elected and Appointed officials and designated employees shall be required to take all training mandated by law, including AB 1234 training and AB 1661 training.
2. The provisions of this Code of Conduct express standards of ethical conduct expected for City officials and employees. As an expression of such standards, the provisions of this Code are intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.

3. Following its adoption, the City Clerk shall provide all current Elected and Appointed Officials with a copy of the newly adopted Code of Conduct and all current Elected and Appointed Officials will be asked to sign a statement acknowledging they have read and understand the Code of Conduct. The City Clerk shall provide a copy of the Code of Conduct to candidates for Mayor, City Council, and applicants to Commissions, Committee, and Boards. The City Clerk shall provide a copy of the Code of Conduct to all Elected and Appointed Officials upon entering office and all individuals in Covered Positions will be asked to sign a statement (example below) acknowledging they have read and understand the Code of Conduct.

Example:

I affirm that I have read and understand the City of Costa Mesa Code of Conduct for Elected and Appointed Officials, and covered City Employees.

Name: _____ Position: _____

Signature: _____ Date: _____

D. COMPLIANCE AND ENFORCEMENT

Elected and Appointed officials 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 commissions, committees and boards and the Mayor have the additional responsibility to intervene when Elected and Appointed officials' actions appear to be in violation of the Code of Conduct or when these actions are brought to their attention.

1. A violation of the provisions of this Code of Conduct shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.
2. All suspected violations of this Code that also pertain to provisions of the Political Reform Act (California Government Code section 81000, et seq.) should be reported to the Fair Political Practices Commission of the State of California.
3. All suspected violations of this Code that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the Office of the Orange County District Attorney.
4. Except as otherwise expressly provided by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of this Code:
 - a. Alleged violations committed by the Mayor, a member of the City Council or a member of a City commission should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation and endeavoring to avoid future violations in the event one has occurred.

- b. Alleged violations committed by someone in a Covered Position should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, or his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.
- c. In the event that the City Attorney or City Manager (or his or her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

5. The City Council may impose sanctions on members of commissions, committees, and boards whose conduct does not comply with the City's Code of Conduct such as reprimand or formal censure. In addition, the City Council may also act to remove members of commissions, committees and boards from office or position who violate the provisions of this Code.

6. The City Council may impose sanctions on Elected officials whose conduct does not comply with the City's Code of Conduct such as reprimand or formal censure. Serious violations could lead to additional sanctions as deemed appropriate by the City Council. The definition of a "serious violation" is not set forth by law, but in determining the type of sanction to be considered or imposed, the following factors may be considered:

- a. Nature of the violation (*conflict of interest, financial disclosures, actions of harassment, abusive conduct, open process of Government, Brown Act, City ordinances and policies, failure to disclose campaign contributions when voting on an item to award an agreement/contract, etc.*)
- b. Prior violations by the same individual
- c. Other factors which bear upon the seriousness of the violation (*failure to comply with the laws of the United States of America, State of California, and the City of Costa Mesa in the performance of their public duties, etc.*)