



Sunnyvale

City of Sunnyvale

DRAFT

**2021 Code of Ethics and Conduct for
Elected and Appointed Officials**

"Conduct is three-fourths of our life and its largest concern."

-- Matthew Arnold

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Commented [DC1]: Staff suggestion.

For ease of reference in the Code of Ethics and Conduct, the term “Member” refers to any member of the Sunnyvale City Council or the City’s boards and commissions established by the City Charter, City Ordinance or Council policy.

Ethics

Policy Purpose

The Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

A. ETHICS

The citizens and businesses of Sunnyvale are entitled to ~~have~~ fair, ethical and accountable local government, which will instill public confidence in the fair operation and integrity of Sunnyvale's City government which has earned the public's full confidence for integrity. In keeping with the City of Sunnyvale's Commitment to Excellence and the City Council's commitment to the ethical values while representing its residents and community, the effective functioning of democratic government ~~therefore~~ requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- public 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 permitted to be conducted in a closed session under the Ralph M. Brown Act ~~confidential~~, in an atmosphere of respect and civility.
- Public officials, both elected and appointed, act in a transparent manner to enable the public to obtain information about public official activities and the decision-making process.

To this end, the Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. The Ethics section of the City's Code of Ethics and Conduct provides guidance on ethical issues and questions of right and wrong.

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of all the people of Sunnyvale and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Sunnyvale City Council, boards and commissions.
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 Sunnyvale in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Sunnyvale City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and 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

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Ethics

conduct, personal charges, or verbal attacks upon the character or motives of other members of Council, boards and commissions, ~~the~~ staff or ~~the~~ public.

4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions ~~of the City Council by City staff.~~
5. **Conduct of 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. 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 shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
7. **Communication.** Members shall ~~verbally publicly~~ disclose any contact or receipt of substantive information they have received outside of the public decision-making process that is relevant to a matter under consideration by the Council or boards and commissions prior to considering that matter so that all parties have the opportunity to respond to that information, 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 the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
9. **Gifts and Favors.** Members shall not take any special advantage of their public office to access services or opportunities for personal gain, ~~by virtue of their public office,~~ that are not available to the ~~public in general~~ general public. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise or appear to compromise their independence of judgment or action ~~or give the appearance of being compromised.~~
10. **Confidential Information.** Members shall respect the confidentiality of information concerning ~~the certain negotiations (e.g., labor and real property), personnel matters, claims and litigation or affairs of the City in order to avoid prejudicing the legal or negotiating position of the City or compromise the private interest of employees.~~ They shall neither disclose confidential information without proper City Council legal authorization, nor use such information to advance their personal private, financial, or other ~~private~~ interests.
11. **Use of Public Resources.** Members shall not use public resources not available to the general public in general, such as City staff time, vehicles, equipment, supplies, land or facilities, for private gain or political or personal purposes.

Commented [DC9]: Staff suggestion.

Commented [DC10]: Staff suggestions.

Commented [DC11]: Staff suggestions.

Commented [DC12]: Staff suggestions.

Commented [DC13]: Staff suggestions.

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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, commission or 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 subject matter jurisdiction areas of service of their bodies.
13. **Advocacy.** Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates authorized to do so for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do. Councilmembers and board and commission members have the right to endorse candidates for City all-Council or Mayor-seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, board/commission meetings, or other official City meetings or other governmental meetings where the member is serving in their capacity as an elected or appointed official.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Sunnyvale City government as outlined by the Sunnyvale City Charter Section 500 (Form of Government). In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by the City Charter, members therefore 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 and commissions.** Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or actions/outcomes of board and commission proceedings.
16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place/workplace environment for City employees and for citizens-residents and businesses dealing with the City. Members shall recognize-direct their requests of staff pertaining to their elected or appointed special role to the appropriate staff liaison or in the case of Councilmembers, to the City Manager in dealings with City employees to in no way create the perception of inappropriate direction to staff.

Commented [DC14]: Staff suggestion.

Commented [RM15]: In recent years, commission members running for Council have made comments about their campaigns at City Council. This section should be updated to indicate that this is permissible.

Commented [DC16]: Staff suggestion.

Commented [DC17]: Staff suggestion.

Commented [DC18]: Staff suggests clarifying the intent of this language.

Commented [DC19]: Staff suggestion.

Commented [DC20]: Staff suggestions.

Commented [DC21]: Staff suggestions.

Commented [RM22]: awk

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Glossary of Terms / Implementation

B. CONDUCT

The ~~Conduct section of the City's Code of Ethics and Conduct is section~~ is designed to describe the manner in which ~~Councilmembers and board and commission m~~Members should treat one another, City staff, constituents, and others they come into contact with ~~in-when~~ representing the City of Sunnyvale. ~~It reflects the work of a Council Policy and Protocol Subcommittee that was charged with defining more clearly the behavior, manners, and courtesies that are suitable for various occasions. The Subcommittee also considered a wide variety of policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.~~

Commented [DC23]: Staff suggestion.
Commented [DC24]: Staff suggestion.

The constant and consistent theme through all of the conduct guidelines is "respect." ~~Councilm~~Members experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, ~~Memberselected and appointed officials~~ are called upon to exhibit ~~-~~appropriate ~~and respectful~~ behavior at all times. ~~Demonstrating respect for each individual through words and actions is the touchstone that can help guide Councilmembers and board and commission members to do the right thing in even the most difficult situations.~~

Commented [DC25]: Staff suggestion.
Commented [DC26]: Staff suggestion.
Commented [DC27]: Staff suggestion.

1. Elected and Appointed Officials' Conduct with One Another

*"In life, courtesy and self-possession, and in the arts, style, are the sensible impressions of the free mind, for both arise out of a deliberate shaping of all things and from never being swept away, whatever the emotion, into confusion or dullness."
— William Butler Yeats*

Elected and appointed officials ~~are composed of individuals with~~have 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~~serve/support the community. In all cases, this common goal should be acknowledged even though individuals may "agree to disagree" on contentious issues.

Commented [DC28]: Staff suggestion.

1(a). In Public Meetings

Use formal titles

Elected and appointed officials should refer to one another formally during public meetings, such as Mayor, Vice Mayor, ~~Councilmember~~, Chair, ~~Vice Chair~~, ~~Board Member~~ or ~~Commissioner~~ or ~~Councilmember~~ followed by the individual's last name.

Commented [DC29]: Staff suggestion.

Practice civility and decorum in discussions and debate

~~Free-c~~Criticism is an essential component ~~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 of democracy.~~ This does not ~~allow, however, however, allow,~~ 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.

Commented [DC30]: Staff suggestion.

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 discussions on current agenda items. If there is

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disagreement about the agenda or the chair’s actions, ~~those objections should be voiced politely and with reason, following~~members should follow procedures outlined in parliamentary procedure to voice their objections politely.

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~~note the actual words used and call for a "point of personal privilege" that challenges the other member to justify or ~~apologize retract for the language used~~their language. The chair will maintain control of this discussion.

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.

Representing the Body

Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or their board or commission to do so for a particular purpose. In private settings, board and commission members may communicate at any time and on any subject with individual members of the City Council, and may express to them individual viewpoints and opinions. In public, however, all members shall represent the official policies or positions of their board or commission, with the following exception:-

~~During a Council public hearing on any item addressed by the board or commission, any member may speak under standard time limits, but shall indicate whether their testimony represents an official position (majority opinion) or a minority opinion of the board/commission to which they belong. The chair shall represent the majority view of the board or commission, but may report on any minority views as well, including his or her own. When an official board or commission position differs from staff’s recommendation on a particular policy issue, then at the Mayor’s discretion additional time may be provided to the chair of the board or commission (or his/her designee) to explain the position of the board/commission or to rebut statements made by staff or the public.~~

~~If new information is brought to light during a public hearing which was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the board or commission for further study prior to taking other action itself.~~

~~Individual opinions and positions may be expressed by board and commission members regarding items that have not come before the particular board/commission to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do.~~

~~Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner contrary to the established policy adopted by the Council.~~**1(b). In Private Encounters**

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- Commented [D31]:** Remove per Council Subcommittee.
- Commented [RM32]:** all of this pertains to procedure, not ethics.
- Commented [DC33R32]:** Language is largely duplicated in Council Policy 7.2.19 (Boards and Commissions) – Remove
- Commented [D34]:** Remove per Council Subcommittee

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Continue respectful behavior in private

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

Be aware of the insecurity of written notes, voicemail messages, and E-mail

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note ~~faxed to others~~ posted to Twitter? How would you feel if this voicemail message were ~~played on a speaker phone in a full office~~ uploaded to YouTube? What would happen if this ~~E-mail message were gets~~ forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence

~~Elected and appointed~~ Public officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted. Cellular phones and other technologies allow for recording of these events with the potential for recorded conversations and actions being shared via social media.

Commented [DC35]: Staff suggestion.

In private, board and commission members may communicate at any time and on any subject with the City Council, and may express to Council individual viewpoints and opinions.

2. Elected and Appointed Officials' Conduct with City Staff

*"Never let a problem become an excuse."
—Robert Schuller*

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implements and administers 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.

Treat all staff as professionals

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

Member questions/inquiries to City staff

~~1. General. Council and board/commission communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.~~

~~2. Routine Requests for Information and Inquiries. Members may contact staff directly for information made readily available to the general public on a regular basis (e.g., "What are the library's hours of operation?" or "How does one reserve a tee time at the golf course?"). Under~~

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~~these circumstances staff shall treat the member no differently than they would the general public, and the member shall not use their elected or appointed status to secure preferential treatment. The city manager does not need to be advised of such contacts.~~

~~3. Non-Routine Requests for Readily Available Information. Members may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., "How many traffic lights are there in the City?" or "Under what circumstances does the City lower its flags to half mast?").~~

~~4. Non-Routine Requests Requiring Special Effort. Any member request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the eCity mManager, or to the eCity aAttorney, as appropriate (e.g., "How many Study Issues completed over the past five years have required 500 or more hours of staff time?", or "What is the logic behind the City's sign ordinances affecting businesses along El Camino Real?"). The eCity mManager (or eCity aAttorney as appropriate) shall be responsible for distributing such requests to his/her staff for follow up. Responses to such requests shall be copied to all Councilmembers (if originating from a Councilmember), relevant board or commission members (if originating from a board or commission member), the Ceity Mmanager, the eCity Aattorney as appropriate and affected department directors.~~

~~5. Meeting Requests. Any member request for a meeting with staff must be directed to the Ceity Mmanager or eCity aAttorney, as appropriate.~~

~~6. Public Safety Restrictions. Under certain circumstances, requests for information regarding operations or personnel of the Department of Public Safety may be legally restricted. Applicable statutes include: The Peace Officers' Procedural Bill of Rights (California Government Code Section 3300, et seq.), Confidentiality of Peace Officer Records (California Penal Code Section 832.5-7), and a number of exceptions to the California Public Records Act, defined in Government Code Section 6254. Providing information in response to such requests could violate the law, and might also violate due process rights that have been defined for peace officers in the State of California. Accordingly, it shall be the policy of the City of Sunnyvale to strictly comply with all applicable legal authorities governing the release of Department of Public Safety information and records.~~

Do not disrupt City staff from their jobs

~~Elected and appointed~~Public 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~~. Do not attend City staff meetings unless requested by staff – even if the ~~elected or appointed~~ official does not say anything, his or her presence ~~implies support, shows partiality, could~~ intimidates staff; and hampers ~~staff's~~ their ability to do their job objectively.

Never publicly criticize an individual employee

~~Elected and appointed~~Public officials 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 eCity mManager ~~through private correspondence or~~

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Commented [RM36]: This is purely procedural, and does not bear upon ethics at all. It should be split to a separate policy.

Commented [DC37R36]: Consider moving to Council Policy 7.2.19 (Boards and Commissions)

Commented [D38]: Remove per Council Subcommittee

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~~conversation~~privately. Comments about staff in the ~~office of the eCity a~~Attorney's ~~e~~Office should be made directly to the eCity ~~a~~Attorney. Appointed officials should make their comments regarding staff to the eCity ~~m~~Manager or the Mayor.

Do not get involved in administrative functions

~~Elected and appointed~~Public officials 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. [See Code of Ethics] The Sunnyvale City Charter, Section 807, also contains information about the prohibition of Council interference in administrative functions.

Check with City staff on correspondence before taking action

Before sending correspondence, Councilmembers should check with City staff to see if an official City response has already been sent or is in progress. Board and commission members shall not send correspondence except as authorized under the City's policies governing volunteers. (Council Policy 7.2.19, Boards and Commissions.)

Limit requests for staff support

~~Routine secretarial support will be provided to all Councilmembers. The Council Executive Assistant opens all mail for Councilmembers, unless a Councilmember requests other arrangements. Mail addressed to the Mayor is reviewed first by the eCity mManager who notes suggested action and/or follow up items.~~

~~Requests for additional staff support even in high priority or emergency situations should be made to the eCity Mmanager who is responsible for allocating City resources in order to maintain a professional, well run City government.~~

Do not solicit political support from staff

~~Elected and appointed~~Public officials should 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 must be done away from the workplace and outside of the employee's work hours.

3. Elected and Appointed Officials' Conduct with the Public

~~"If a man be gracious and courteous to strangers, it shows he is a citizen of the world, and that his heart is no island cut off from other lands, but a continent that joins to them."~~

~~—Francis Bacon~~

3(a). 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.

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Commented [RM39]: Again, this is not about ethics.

Commented [DC40R39]: Duplicates in Council Policy 7.4.1 (Provision of Staff/Administrative Support to Councilmembers) – Consider removal.

Commented [D41]: Remove per Council Subcommittee

Commented [DC42]: Staff suggestion.

Commented [DC43]: Staff suggestion.

Commented [DC44]: Staff suggestion.

Glossary of Terms / Implementation

*Be welcoming to speakers and treat them with ~~care and gentleness~~ **respect and professionalism**. While questions of clarification may be asked, the official's primary role during public testimony is to listen. ~~"I give many public presentations so standing up in front of a group and using a microphone is not new to me. But I found that speaking in front of Council was an entirely different experience. I was incredibly nervous and my voice was shaking. I think the reason was because the issue was so personal to me. The Council was going to take a vote that would affect my family's daily life and my home. I was feeling a lot of emotion. The way that Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity."~~*

Commented [DC45]: Staff suggestion.

Be fair and equitable in allocating public hearing time to individual speakers. ~~"The first thing the Mayor said to me was to be brief because the meeting was running late and the Council was eager to go home. That shouldn't be my problem. I'm sorry my item was at the end of the agenda and that there were a lot of speakers, but it is critically important to me and I should be allowed to say what I have to say and believe that the Council is listening to me."~~

The chair will determine and announce limits on speakers at the start of the public hearing process. Questions should *not* be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?"). Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed ~~ten additional time~~. If many speakers are anticipated, the chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

Commented [DC46]: Staff suggestion.

No speaker will be turned away unless he or she exhibits ~~inappropriate disruptive~~ behavior. Each speaker may only speak once during the public hearing unless the chair requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.

Commented [DC47]: Staff suggestion.

Give the appearance of 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. Be aware of~~ Avoid facial expressions, especially those that could be interpreted as "smirking," disbelief, anger, ~~disrespect~~, or boredom.

Maintain an open mind
Members of the public deserve an opportunity to influence the thinking of ~~public elected and appointed~~ officials. To express an opinion ~~or pass judgment~~ prior to the close of a public hearing casts doubt on ~~a member the body's ability to conduct a fair review of the issue~~ **fairness**. This is particularly important when officials are serving in a quasi-judicial capacity.

Commented [DC48]: Staff suggestion.

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.

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If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain ~~the order and decorum of the meeting~~. Questions by members to the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. ~~Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.~~

No personal attacks of any kind, under any circumstance

Members should also be aware ~~that of~~ their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings

The ~~e~~City ~~a~~Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The ~~Mayor or e~~Chair, subject to the appeal of the full ~~City~~ Council or board/commission makes final rulings on parliamentary procedure.

3(b). In Unofficial Settings

Make no promises on behalf of the Council, board/commission or City

Members will frequently be asked to explain a Council or board/commission action or to give their opinion about an issue as they ~~meet and~~ talk with ~~constituents in the community~~ members. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or board/commission action, or to promise that City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

Make no personal comments about other members

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other members, their opinions and actions.

Remember that despite its impressive population figures, Sunnyvale is a small town at heart

Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Sunnyvale. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by members, 24 hours a day, seven days a week. ~~#~~This is a serious and continuous responsibility.

4. Elected and Appointed Officials' Conduct Regarding Ex-parte Communications

Members have the responsibility to hear all viewpoints at a public hearing. Members must always keep an open mind, and not rush to pre-judge any matter, until all concerned parties (including but not limited to applicants, members of the public and staff) are heard during the public hearing. Members must not come to a conclusion on a matter until the public hearing is closed.

One key responsibility involves "ex parte" communications. Ex parte is a Latin phrase that literally means "from one party." Generally, it is defined as any oral or written communication with a decisionmaker about the subject matter of an upcoming quasi-

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Commented [DC49]: Staff suggests adding language pertaining to Ex-parte Communications to the Code of Conduct or in a separate document.

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judicial proceeding, which takes place outside of a noticed hearing that is open to all parties to the matter. An ex parte communication can include sensory information, such as things that are seen or heard during a site visit.

Hearings are “quasi-judicial” when they require the Members to apply general rules and standards to specific factual situations and to reach conclusions that affect the rights or interests of an individual person or entity. Common examples of quasi-judicial matters include decisions to approve or deny specific development projects, permit revocation proceedings, and employee disciplinary matters.

When participating in a public hearing on a quasi-judicial matter, Members will disclose any ex parte communications that have significantly influenced their preliminary views or opinions about the matter that is the subject of the hearing. The disclosure should state the nature of the communication (e.g., whether it was oral, written, or sensory), and should explain the substance of the communication so that other Members, interested parties, and the public will have an opportunity to become apprised of the factors influencing the Member and to attempt to controvert or rebut any such factor during the hearing. Disclosure alone will not be deemed a sufficient basis for a request to continue the hearing. An ex parte communication is not grounds to disqualify a Member from participation in a quasi-judicial hearing unless the Member feels that they cannot reach an impartial decision.

Commented [DC50]: Staff requests the Subcommittee consider this language and the Current and Alternative language proposed below.

Current language in Code of Conduct:

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

Alternative language for consideration:

When participating in a public hearing on a quasi-judicial matter, Members will disclose any ex parte communications that have significant information about the matter that is the subject of the hearing.

45. ~~Council Conduct with~~ When Serving on Intergovernmental Assignments ~~Other Public Agencies~~

Commented [DC51]: Consider updated heading language.

*"Always do right. This will gratify some people and astonish the rest."
—Mark Twain*

Be clear about representing the City or personal interests

When representing the City, the Councilmember must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official board or commission meetings, board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose.

Commented [RM52]: Hasn't this been covered??

~~When representing another organization whose position is different from the City, the Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.~~

Commented [RM53]: This has nothing to do with other agencies, and is important enough it should be called out in bold flashing letters

Commented [D54]: Remove per Council Subcommittee.

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Glossary of Terms / Implementation

Correspondence also should be equally clear about representation

City letterhead may be used when the Councilmember is representing the City and the City's official position. A copy of official correspondence ~~should~~ shall be given to the Council Executive Assistant to be filed in the Council Office as part of the permanent public record.

Commented [DC55]: Staff suggestion.

City letterhead ~~should~~ shall not be used for non-City business nor for correspondence representing a dissenting point of view from an official Council position.

Commented [DC56]: Staff suggestion.

65. Council Conduct with Boards and Commissions

*"We rarely find that people have good sense unless they agree with us."
—Francois, Duc de La Rochefoucauld*

The City has established several boards and commissions as a means of gathering more community input. ~~Citizens~~ Residents who serve on boards 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.

Commented [DC57]: Staff suggestion.

If attending a board or commission meeting, be careful to only express personal opinions

Councilmembers may attend any board or commission meeting, which are always open to any member of the public. Councilmembers are encouraged to attend board or commissions meetings in support of their role as council liaison to a board or commission. However, they should be sensitive to the way their participation ~~especially if it is on behalf of an individual, business or developer~~ especially if it is on behalf of an individual, business or developer. Any public comments by a Councilmember at a board or commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

Limit ~~contact with board and commission members~~ participation to questions of clarification

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

Remember that boards and commissions serve the community, not individual Councilmembers
The City Council appoints individuals to serve on boards and commissions, and it is the responsibility of boards and commissions to follow policy established by the Council. But board and commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten board and commission members with removal if they disagree about an issue. Appointment and re-appointment to a board 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 or commission appointment should not be used as a political "reward."

Commented [RM58]: Put this in flashing letters

Be respectful of diverse opinions

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Glossary of Terms / Implementation

A primary role of boards and commissions is to represent many points of view in the community and to provide the City 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 and commissions, but must be fair and respectful of all ~~citizens~~ individuals serving on boards and commissions.

Commented [DC59]: Staff suggestion.

Keep political support away from public forums

Board 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 and commission members who are running for elective office, but not in an official forum in their capacity as a Councilmember.

Commented [DC60]: Staff suggestion.

76. Elected and Appointed Officials' Conduct with the Media

Commented [DC61]: Staff suggestion.

*"Keep them well fed and never let them know that all you've got is a chair and a whip."
—Lion Tamer School*

Board and commission members are not authorized to represent the City outside of official board/commission meetings unless specifically authorized to do so.

Councilmembers are frequently contacted by the media for background and quotes.

The best advice for dealing with the media is to never go "off the record"

Most members of the media ~~represent the highest levels of~~ follow journalistic ~~integrity and~~ ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

The Mayor is the official spokesperson for the City on City positions.

The Mayor is the designated representative of the City Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should direct the requester to the Mayor. If the Councilmember chooses to engage with the requester, they should be clear about whether their comments represent the official City position or a personal viewpoint.

Commented [DC62]: Staff suggestion.

Choose words carefully and cautiously

Comments taken out of context can cause problems. Be especially cautious about humor, ~~sardonic asides~~, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

C. SANCTIONS

*"You cannot have a proud and chivalrous spirit if your conduct is mean and paltry; for whatever a man's actions are, such must be his spirit."
—Demosthenes*

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Glossary of Terms / Implementation

Model of Excellence

City Councilmembers, Board and Commission Members, and Council appointees who do not sign the Model of Excellence (Appendix A) shall be ineligible for intergovernmental assignments or Council subcommittees.

Ethics Training for Local Public Officials

City Councilmembers, Board and Commission Members, and Council appointees who are out of compliance with State- or City-mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council sub-committees, and may be subject to sanctions.

Commented [RM63]: Heading does not agree with Body

Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers/meeting room.

Commented [DC64]: Staff suggestion.

Inappropriate Staff Behavior

Councilmembers should refer to the eCity Manager for any City staff or to the eCity Attorney for any City Attorney Office's staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)

Commented [DC65]: Staff suggestion.

Councilmembers Behavior and Conduct

~~Compliance and Enforcement.~~ The Sunnyvale Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Sunnyvale City Council, boards and commissions. Members 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 ~~are responsible for adhering to these standards.~~ The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

Commented [DC66]: Staff suggestion.

City Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority and/or committee assignments (both within the City of Sunnyvale or with internal and inter-government agencies) and/or have official travel restricted. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

Councilmembers should point out to the offending Councilmember infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Vice Mayor.

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Glossary of Terms / Implementation

It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

Board and Commission Members Behavior and Conduct

~~Counseling, verbal reprimands and written warnings may be administered by the Mayor to board and commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective board or commission, the eCity eClerk, the eCity aAttorney, the eCity mManager, and the City Council. Written reprimands administered by the Mayor shall not be included in packets for public meetings and shall not be publicized except as required under the California Public Records Act.~~

~~The City Council may impose sanctions on board and commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation. The Report to Council shall be distributed in accordance with normal procedures, including hard copies to numerous public facilities and posting online. Any Report to Council addressing alleged misconduct by a board or commission member shall be routed through the Office of the eCity aAttorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the California Public Records Act.~~

~~When deemed warranted, the Mayor or majority of Council may call for an investigation of board or commission member conduct. Should the eCity mManager or eCity aAttorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the eCity mManager and/or the eCity aAttorney to investigate the allegation and report the findings.~~

~~The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as "Information Only." Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the California Public Records Act.~~

~~It shall be the Mayor and/or the Council's responsibility to determine the next appropriate action. Any such action taken by Council (with the exception of "take no further action") shall be conducted at a noticed public hearing. These actions include, but are not limited to: discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.~~

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Glossary of Terms / Implementation

~~Under the City Charter, the City Council also may remove members of boards and commissions from office. A violation of this Code of Ethics and Conduct shall not be considered a basis for challenging the validity of a Council, board or commission decision.~~

D. PRINCIPLES OF PROPER CONDUCT

Proper conduct IS ...

- ~~• Keeping promises~~
- ~~• Being dependable~~
- ~~• Building a solid reputation~~
- ~~• Participating and being available~~
- ~~• Demonstrating patience~~
- ~~• Showing empathy~~
- ~~• Holding onto ethical principles under stress~~
- ~~• Listening attentively~~
- ~~• Studying thoroughly~~
- ~~• Keeping integrity intact~~
- ~~• Overcoming discouragement~~
- ~~• Going above and beyond, time and time again~~
- ~~• Modeling a professional manner~~

Proper conduct IS NOT ...

- ~~• Showing antagonism or hostility~~
- ~~• Deliberately lying or misleading~~
- ~~• Speaking recklessly~~
- ~~• Spreading rumors~~
- ~~• Stirring up bad feelings, divisiveness~~
- ~~• Acting in a self-righteous manner~~

It all comes down to respect

~~Respect for one another as individuals ... respect for the validity of different opinions ... respect for the democratic process ... respect for the community that we serve.~~

E. CHECKLIST FOR MONITORING CONDUCT

- ~~○ Will my decision/statement/action violate the trust, rights or good will of others?~~
- ~~○ What are my interior motives and the spirit behind my actions?~~
- ~~○ If I have to justify my conduct in public tomorrow, will I do so with pride or shame?~~
- ~~○ How would my conduct be evaluated by people whose integrity and character I respect?~~
- ~~○ Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?~~
- ~~○ Is my conduct fair? Just? Morally right?~~
- ~~○ If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?~~

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Commented [RM67]: Again, this is procedural. It's enough to say that Board and Commission members may be reprimanded or sacked.

Commented [DC68R67]: Content duplicated in Council Policy 7.2.19 (Boards and Commissions) – Consider removal.

Commented [D69]: Remove per Council Subcommittee

Glossary of Terms / Implementation

- ~~○ Does my conduct give others reason to trust or distrust me?~~
- ~~○ Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?~~
- ~~○ Do I exhibit the same conduct in my private life as I do in my public life?~~
- ~~○ Can I take legitimate pride in the way I conduct myself and the example I set?~~
- ~~○ Do I listen and understand the views of others?~~
- ~~○ Do I question and confront different points of view in a constructive manner?~~
- ~~○ Do I work to resolve differences and come to mutual agreement?~~
- ~~○ Do I support others and show respect for their ideas?~~
- ~~○ Will my conduct cause public embarrassment to someone else?~~

Commented [D70]: Remove per Council Subcommittee

FD. GLOSSARY OF TERMS

attitude	The manner in which one shows one’s dispositions, opinions, and feelings
behavior	External appearance or action; manner of behaving; carriage of oneself
civility	Politeness, consideration, courtesy
conduct	The way one acts; personal behavior
courtesy	Politeness connected with kindness
decorum	Suitable; proper; good taste in behavior
manners	A way of acting; a style, method, or form; the way in which things are done
point of order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
point of personal privilege	A challenge to a speaker to defend or apologize for comments that a fellow member considers offensive
propriety	Conforming to acceptable standards of behavior
protocol	The courtesies that are established as proper and correct
respect	The act of noticing with attention; holding in esteem; courteous regard

GE. IMPLEMENTATION

As an expression of the standards of conduct for members expected by the City, the Sunnyvale Code of Ethics and Conduct is intended to be self-enforcing. 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, applicants to board and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Sunnyvale Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

(Adopted: RTC 08-113 (4/8/08), Update: RTC 09-036 (2/3/09); Updated: RTC 09-047 (2/24/09); Approved with no changes: RTC 10-078 (3/23/10); RTC 11-058 (3/29/11); RTC 12-067 (3/20/2012); Updated: RTC 13-060 (3/19/13); Approved with no changes: RTC 14-0211 (3/18/14); RTC 15-0050 (3/24/15); RTC 16-0360 (4/5/16); RTC 17-0161 (3/28/17); RTC 18-0036 (1/9/18); RTC 19-0185 (2/26/2019); RTC 20-0021 (3/17/20); RTC 21-0383 (3/16/21))

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Lead Department: Office of the City Manager

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[Glossary of Terms / Implementation](#)

APPENDIX A - Model of Excellence Member Statement

MODEL OF EXCELLENCE

Sunnyvale City Council, Boards and Commissions

MEMBER STATEMENT

As a member of the Sunnyvale City Council or of a Sunnyvale board or commission, I agree to uphold the Code of Ethics and Conduct for Elected and Appointed Officials adopted by the City and conduct myself by the following model of excellence. I will:

- Recognize the worth of individual members and appreciate their individual talents, perspectives and contributions;
- Help create an atmosphere of respect and civility where individual members, City staff and the public are free to express their ideas and work to their full potential;
- Conduct my personal and public affairs with honesty, integrity, fairness and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interests of Sunnyvale;
- Treat all people with whom I come in contact in the way I wish to be treated;

I affirm that I have read and understood the City of Sunnyvale Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

Name

Office/Meeting Body

Commented [DC71]: Staff suggestion.

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