

CITY OF WEST HOLLYWOOD

CODE OF CONDUCT FOR ELECTED AND APPOINTED OFFICIALS (Revised June 2022)

I. Introduction

The purpose of this Code of Conduct (“Code”) is to define the role of elected and appointed officials (members of the City Council and its subsidiary Commissions and Boards, collectively “City officials” or “officials”) in the governance of the City. This Code consists of policies and implementing rules intended to advance the City’s goals of providing efficient and high-quality services to its residents and providing a safe and productive work environment for its employees.

II. Background

West Hollywood is a general law city governed by the council/manager form of government. The City Council, with the assistance of its advisory commissions 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/their 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. This Code establishes rules that contribute to the success of this basic structure and to maintaining positive and effective working relationships between officials and employees.

III. Limitations

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 City officials. Those include, among others, the California Constitution, various provisions of the California Government Code (including the Brown Act and the Political Reform Act) and Labor Code, federal laws prohibiting discrimination and harassment, and the provisions of the City’s own Municipal Code. Elected and appointed officials should be familiar with these laws to assure that they exercise their responsibilities properly; to that end, the City provides periodic training and education programs which should be attended by all City officials. In addition, the City Attorney is available to respond to questions about these matters.

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 officials 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 officials will treat each other, City employees, residents and business people with courtesy and respect in a manner that reflects well on the City.

IV. Policies and Rules

What follows are general policies governing the conduct of City officials. Following each policy is a set of rules that give specific application to the policy. In *italics* following each rule, is an explanation of the rule and guidance for interpreting and applying the rule.

Policy 1. City officials shall deal with the administrative service solely through the City Manager or his/her/their delegee.

Rules:

1.1 Officials shall not direct, order or make demands on any City employee, other than inquiries that can be answered routinely and without research and support requested in accordance with a protocol established by the City Manager.

City staff is organized in a hierarchical structure, and City employees work under the direction and control of several layers of management culminating with the City Manager. Individual officials are not part of that management structure and have no authority to direct employees. When an official attempts to give an employee direction, the employee is put in an awkward position and the management structure is undermined. In some cases such actions have the potential for liability. Officials are not authorized directly to give work assignments to Employees, except that City Councilmembers may seek the assistance of employees designated by the City Manager in accordance with a support protocol promulgated by the City Manager. Employees are instructed not to take directions or work assignments from officials and to report any such attempts to their Department Director. An official may ask a routine question of staff; beyond that, concerns about work assignment should be addressed to the City Manager or to the appropriate Department Director.

1.2 Officials shall not attempt to reorganize an employee's priorities or influence the manner by which City staff perform their assigned functions or duties.

City employees are directed in their everyday tasks by their immediate supervisor in accordance with approved work plans. Interference with an employee's work routine, priorities or decision-making processes by an official creates confusion and stress and places the employee in the difficult position of either disregarding his/her/their assigned work or appearing to disrespect the official's wishes. All requests for work or research should be directed to the appropriate Department Director. From time to time an official may believe that a problem must be looked into immediately and is tempted to direct an employee to drop everything and focus on that problem. Officials must, however, communicate their concern to the appropriate Department Director or the City Manager.

1.3 Officials shall 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. 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. 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.

1.4 Officials shall not threaten a City employee with disciplinary action.

If an official is concerned about the performance of a City employee, that concern should be expressed privately to the City Manager or to the employee's Department Director. Such criticisms can then be addressed in accordance with the City's personnel rules, in a manner that protects the employee's rights and protects the City's authority properly to discipline its employees. It is never acceptable for an official directly to threaten disciplinary action of any kind. And, rarely, if ever, is it appropriate to criticize publicly a non-managerial employee. Officials should certainly have high expectations of employees' work performance; but, there is no room in the City organization for public humiliation of any person.

1.5. City Officials shall abide by the City of West Hollywood Abusive Conduct Policy, attached to this Code of Conduct and incorporated herein by reference, in interactions with other City Officials, as well as all individuals covered by the administrative Abusive Conduct Policy.

The City expects all employees and City Officials to behave professionally and treat all other officials, employees, interns, contractors, vendors, visitors, and/or members of the public with courtesy, dignity, and respect. Leadership and modeling good behavior comes from the top down in an organization, and expressly applying the employee's policy to all appointed and elected officials illustrates the City's commitment to maintaining a healthy, supportive and productive work environment within City Hall.

1.6. All requests for use of city funds from a Board or Commission shall be presented in advance to the staff liaison for approval through appropriate channels.

Policy 2. City officials shall act collectively in a properly noticed and constituted meeting; officials have no authority to make decisions or take actions on behalf of the body unless expressly authorized to do so.

Rules:

2.1 Officials shall not make representations or promises to any third party regarding the future actions of the City or of the body of which they are a member, unless such representation or promise has been duly authorized by the appropriate body.

When officials engage in conversations with residents, applicants, developers, lobbyists and officials of other governmental agencies, they should be cautious not to make representations or promises that they cannot legally make or keep. Future actions of a legislative body cannot be promised or predicted with certainty. Individual officials do not have authority to make commitments on behalf of the City unless expressly authorized to do so by the body of which they are a member.

2.2 When making public utterances, officials shall make it clear whether they are authorized to speak on behalf of the body of which they are a member, or whether they are presenting their own views.

Officials occasionally speak before other public bodies, neighborhood groups or to the press. When doing so, they should always make it clear whether they are presenting their own point of view or whether they have been authorized by the body of which they are a member to present a particular view. They should be clear in all oral and written utterances whether they are using their title for identification purposes or because they are speaking in an official capacity. Use of City letterhead shall comply with Rule

4.1 herein. The actions and recommendations of subsidiary bodies are presented to the City Council as part of the staff report, and often memorialized in a resolution. If a subsidiary body feels it necessary to supplement these written transmittals, it should expressly authorize one of its members to speak on its behalf. Seldom should an individual member of a commission or board feel it necessary to explain his/her/their votes at a City Council meeting.

2.3 Officials shall not interfere with the manner by which the City Manager performs his/her/their duties.

The City Manager takes direction from the Council acting as a body, not from individual members. And, while the Council as a body may offer its views on matters within the City Manager's area of authority (such as hiring subordinates), it is the City Manager, as chief executive officer of the organization, that makes the final decisions on such matters. The City Manager cannot function effectively if he/she/they receives inconsistent direction from individual Councilmembers or is not given the support and independence necessary to administer the City.

2.4 City officials shall not interfere with the implementation by City staff of approved projects and programs.

The City Manager is charged with the implementation of approved projects or programs. City Councilmembers must avoid interfering with or directing the City Manager's method of carrying out the City Council's decisions, even if the project or program was conceived and initiated by an individual Councilmember. Once a project or program receives Council approval, it is an official activity of the City, not of any individual Councilmember. City officials do not have authority and should refrain from giving directions or instructions to City contractors or consultants working on City projects or programs.

2.5 Officials representing the City on regional bodies shall vote in a manner that is consistent with Council direction and/or policy.

City officials, primarily Councilmembers, represent the City on various regional and multi-agency bodies. When serving in that capacity, officials shall vote in a manner that is consistent with direction provided by the City Council or with articulated City policy; if no direction exists, officials should endeavor to place the matter on a City Council agenda early enough to obtain direction. Officials should routinely report their activities on regional bodies under the Council Comments agenda item.

Policy 3. Appointed bodies shall limit their activities to matters within their subject matter jurisdiction.

Rules:

3.1 Commissions and Boards shall address only those matters determined by the Municipal Code or by the Council to be within their subject matter jurisdiction; staff need not place on an agenda, provide resources for or implement requests, directions or actions outside that jurisdiction. Unless directed otherwise by the City Council, Commissions and Boards shall refrain from consideration of policy issues that are under active consideration by the Council.

The Municipal Code sets forth the subject area jurisdiction of the City's Commissions. The City Council establishes the duties of its advisory boards. These subsidiary bodies are limited to acting and/or making recommendations within the area of their jurisdiction, and in accordance with by-laws approved by the City Council.

3.2 The City Council as a whole shall provide direction and guidance to its subsidiary bodies.

There may be times when the Council perceives that an advisory body is straying from its mission or making decisions or recommendations inconsistent with the Council's vision for the City. It is preferable for the Council to communicate its concerns to such bodies in a joint study session.

Policy 4. City resources shall be used solely for proper governmental purposes, and only with proper authorization.

Rules:

4.1 City letterhead may be used by City Councilmembers for official City business.

City letterhead must be used with care to avoid misunderstandings. Letterhead may be used to communicate official City policy or actions. It is also routinely used by Councilmembers to respond to inquiries or communicate their individual opinions, in which event the author should be clear about whose view is being presented. Letterhead shall only be used for communications that relate directly to City business; if a Councilmember has any doubt about whether the communication is appropriate for use of City letterhead and an appropriate use of City resources (for example, where the same communication on letterhead is being mailed to multiple recipients in accordance with FPPC regulations governing mass mailings), inquiry should be made to the City Manager or the City Attorney. Appointed City officials are not authorized to use City letterhead.

4.2 City employees shall not be asked or directed to spend time on non-City business.

It is improper to ask or require a City employee to engage in non-City related activities. Non-City activities include, among other things, election campaign-related activities and personal errands. Further, City employees should not be solicited to engage in political activity on behalf of a City official; they may, of course, choose to do so when off-duty and away from City Hall.

4.3 When traveling on City business, officials shall adhere to the City's AB 1234 Policy.

The City Council has adopted an AB 1234 Policy governing reimbursements for city-related business expenses. It is expected that all officials will adhere strictly to this policy.

4.4 Officials shall not use or disclose information obtained through City service for improper purposes.

Officials often acquire information in performing their duties that is not generally available to the public, including information received in closed sessions. Sometimes this information is confidential or highly sensitive. Information that is not generally available to the public must remain confidential and be

used only for the purposes for which it was divulged. In particular, this information can never be used for personal gain.

Policy 5. When representing the City, officials shall conduct themselves in a dignified manner and in accordance with all legal requirements.

Rules:

5.1 When representing the City on official business, officials shall behave responsibly and in a manner as to project a positive image for the City.

Whenever an official is representing the City, in or out-of-town, the official is “on-duty” and should behave in a manner that will reflect well on the City. When out-of-town or at social events there is a temptation to behave more informally than one might in City Hall, which can lead to awkward or embarrassing situations, and in extreme cases to improper or illegal behavior. When at official functions, officials should avoid drinking alcohol to excess.

5.2. Officials shall exercise best efforts to avoid the appearance of impropriety in the performance of their official duties.

The public’s confidence in the integrity and fairness of City government often hinges on the behavior of City officials. Real or perceived ethical lapses by City officials undermine the effectiveness of the City and cast a shadow on the decisions of its legislative bodies. Often, ethical considerations extend beyond the legal requirements of conflict of interest law.

5.3. Officials shall identify themselves by their titles only in those circumstances when it is directly relevant.

Officials must avoid creating the perception that they are abusing their authority or attempting to obtain special consideration or favors by identifying themselves by their title (i.e. “Mayor,” “Mayor Pro Tem,” “Councilmember,” or “Commissioner”) in circumstances where their City position has no relevance. When representing themselves as City officials in appropriate situations, officials should do so accurately and not misrepresent their authority.

5.4. Officials shall recuse themselves from voting on City-funded grants to non-profit organizations for which the Official serves on the organization’s Board of Directors.

Officials must not use their official position to help secure city funding for non-profit organizations for which the official serves on the Board of Directors. Officials must avoid creating the perception that they are using their official position to help secure city funding for these non-profit organizations.

5.5. Officials shall use social media platforms in a manner that complies with the Brown Act and shall not engage in serial meetings.

Officials may engage in separate conversations or communicate on social media platforms to answer questions, provide information to the public, or solicit information from the public regarding City business. However, Officials shall not do the following on a social media platform:

A. Discussion by a majority: Discuss City business with a majority of members of the same legislative body. That includes communicating, posting, sharing, commenting, or using digital icons (i.e., a thumbs up or an emoji); and

B. Direct Responses: Respond directly to another member's communication, comment or post if the two are on the same legislative body of the City and the topic concerns City business.

C. Telegraph how they intend to vote on a specific item of business before the city meeting where the matter will be heard. Special care should be taken to avoid releasing statements, videos and in media interviews about topics within the subject matter jurisdiction of the Official's body and that relate to future agenda items before the body. Public statements should be general in nature and focused on the Official's higher-level policy views and personal opinions and not focused on specific agenda items or specific discussion topics before the Official's body.

5.6. Officials should avoid taking on paid work in their personal or professional capacity that will come before their own city legislative body for a decision. In the event that work is accepted that requires a decision with the Official's own legislative body, and in addition to applicable recusal requirements in the Political Reform Act, the following additional rule shall apply. For quasi-judicial matters, these additional conflict of interest rules run with the project or matter and remain applicable until the City has made a final decision on the matter.

Officials shall not attend any meeting of their body where their work is being discussed or considered. This means the Official shall take an absence for the entire meeting, not just the agenda item, when the work is being discussed.

The Political Reform Act (PRA) prohibits an Official in this situation with a financial conflict of interest from attempting to influence the City decision on their work by prohibiting the Official from engaging with city staff on the work matter. This rule covers city staff that are assigned to the Official's legislative body. This clear separation from engaging on the matter with assigned city staff under the PRA shall remain in effect until a final city decision is made on the matter.

5.7. An Official who has participated in the creation of a city policy, rule, ordinance or program shall not accept paid work in their personal or professional capacity for the implementation of that city policy, rule, ordinance or program before the city.

Officials should avoid creating the perception that an Official is being hired (and is receiving financial benefits) because of their work with the city and their familiarity with city policies, rules, ordinances or programs. This rule applies while the official serves on the legislative body and subject to the City's Revolving Door prohibition.

5.6 and 5.7 are intended to prospectively supplement and complement any governing law on conflicts of interest.

5.8. Teleconference, Remote and Hybrid city business meetings should be conducted with the same level of professionalism and formality as an in-person city business meeting.

Teleconference, remote and hybrid city business meetings must maintain the same level of professionalism and formality as an in-person city business meeting. City officials shall use their best efforts to comply with the following professional practices:

A. Officials should attend meetings from a fixed location and not while driving or travelling from one location to another.

B. Officials should dress in a professional manner.

C. Video cameras should remain on during the business meeting and should only be turned off to momentarily step away if needed to attend to personal business (e.g. restroom break or fixing a technology issue). Officials should notify their liaison in advance if they must attend the meeting from a location where they will not be able to use their video camera throughout the entire meeting, and that will be announced to the public at the beginning of the meeting.

D. The chat function should be turned off during the meeting since “chatting” could lead to a potential Brown Act violation.

E. Officials are encouraged to (1) use official City of West Hollywood virtual backgrounds to avoid distractions and create a more uniform view for the public in attendance; (2) mute themselves while not speaking; and (3) use a raise hand feature to indicate to the meeting chair that the Official would like to speak.

Policy 6. Officials should conduct themselves in a professional and businesslike manner during the meetings of the bodies of which they are members.

Rules:

6.1 Officials shall treat each other, members of the public and staff with respect.

Public meetings are the place where City officials and staff most often interact. The public has a right to participate in meetings in accordance with the structure and rules of the body. Public participation is a foundational element of participatory democracy. Officials should make a point of paying attention to public testimony and treating speakers courteously. Commentary should focus on issues, not personalities; ad hominem attacks should be avoided.

6.2 Officials should be engaged and attentive during public meetings. To avoid disruptions, electronic devices shall be set to silent or vibrate mode during public meetings. The use of electronic devices during official City meetings (except during recesses or breaks) for any purpose aside from reading agenda materials and related resources and taking notes shall be kept to a minimum. Officials shall not use electronic devices to communicate either directly or through social media with other members of the body or with any other person regarding a public hearing item during the hearing.

Use of smartphones, laptops, etc. during meetings can be distracting, create the appearance that officials are not paying attention and can compromise the rights of those with business before the City. In particular, surreptitious communications regarding public hearing items undermines the integrity and fairness of a public hearing.

V. Enforcement

The City is committed to maintaining a healthy, fulfilling and humane workplace. To that end, every City official is expected to observe the foregoing policies and rules when engaged in City business.

Complaints alleging a violation of this Code of Conduct by a City official should be directed to the City Manager or the City Attorney. Upon receipt of a complaint of a minor nature, the City Manager and the City Attorney shall together determine a course of action. The City Manager and the City Attorney shall, should they fail to resolve the complaint or should the complaint be of a serious nature, consult with the Mayor (unless the Mayor is the subject of the complaint, in which event they shall consult with the Mayor Pro Tem or other Councilmember, in order of seniority, as is appropriate under the circumstances) in order to determine an appropriate course of action.

The goal of enforcement of this Code of Conduct is corrective, rather than penal, and a progressive approach to curing violations shall be employed, beginning with informal methods and proceeding to more formal methods as necessary. If appropriate, informal counseling and instruction (including referral to the Employee Assistance Program if appropriate) shall be utilized to correct the official's behavior prior to recommending imposition of sanctions.

Should less drastic measures fail, the City Council may in a public meeting impose one or more of the following sanctions:

Reprimand

Censure

Travel or expense reimbursement restrictions

Loss of committee or liaison assignments

Removal from an appointed commission or board

Loss of staff support or use of City resources

Restrictions on access to City facilities

Other penalties as may be applicable under the circumstances

CITY OF WEST HOLLYWOOD
ADMINISTRATIVE REGULATION

No. 424

Effective Date: 05-31-2022

SUBJECT: ABUSIVE CONDUCT POLICY

PURPOSE

The City of West Hollywood (City) expects all employees to behave professionally and treat all other employees, interns, contractors, vendors, visitors, and/or members of the public with courtesy, dignity, and respect. The purpose of this policy is to communicate the City's expectations and address the consequences of intolerable behavior.

APPLICATION

This policy shall apply to all employees of the City of West Hollywood.

If a conflict occurs between this Administrative Regulation and a Memorandum of Understanding (MOU) for a Collective Bargaining Unit, the MOU shall prevail.

POLICY

Abusive conduct towards others in the workplace is prohibited. The definition of abusive conduct is conduct of an employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests.

Abusive conduct may include, but is not limited to, repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal, or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

Examples of abusive conduct may include, but are not limited to:

- Persistent or egregious use of abusive, insulting, or offensive language directed at an employee
- Behavior or language that frightens, humiliates, belittles, or degrades, including criticism or feedback that is delivered with yelling, screaming, threats, or insults
- Making repeated inappropriate comments about a person's appearance, lifestyle, family, or culture

- Regularly inappropriately teasing or making someone the brunt of pranks or practical jokes
- Purposefully inappropriately excluding, isolating, or marginalizing a person from normal work activities

There is a difference between bullying and appropriate supervision.

Examples of reasonable supervisory actions, include, but are not limited to:

- Legitimate, reasonable, and constructive criticism of an employee's performance or behavior
- Reasonable instructions given to employees in the course of their employment

RESPONSIBILITIES

A. REPORTING

Individuals who perceive conduct believed to be in violation of this policy should report it to their supervisor or the Human Resources Manager. All employees are strongly encouraged to report, either verbally or in writing, abusive conduct they experience or witness as soon as possible to allow their supervisor or Human Resources to take appropriate action. Supervisors who receive such reports are required to notify Human Resources as soon as possible, but no more than two (2) business days from day they receive a report.

B. INVESTIGATION

The City takes all allegations of abusive conduct seriously and will address such allegations promptly. The City will undertake an effective and objective investigation of any allegations of abusive conduct and/or retaliation for reporting abusive conduct, the scope of which will be determined by the surrounding circumstances. The City will make all reasonable efforts to keep investigations confidential and will remind all investigation participants that the City does not tolerate retaliation.

C. DISCIPLINE

The City may discipline anyone who engages in or encourages abusive conduct and/or retaliation against anyone who reports abusive conduct. Conduct prohibited by this or any applicable policy will be subject to corrective action and may result in discipline, up to and including termination.

D. PREVENTION

Pursuant to the Fair Employment and Housing Act and regulations issued by the Department of Fair Employment and Housing and City policy, training on prevention of abusive conduct in the workplace will be provided annually, as part of mandatory harassment training requirements for all employees.

The City will train all supervisory employees on abusive conduct and retaliation within six months of their assumption of a supervisory position or duties. The City will retrain each supervisory employee on abusive conduct and retaliation no less than once every two years. The training will teach supervisory employees how to identify, prevent, and stop abusive conduct and retaliation. It will also instruct supervisory employees on how to protect persons who have been subjected to abusive conduct.

E. RETAILIATION

The City will not take any adverse employment action against an employee because the employee makes a good faith report of a perceived violation of this policy. The City further prohibits retaliation against anyone who participates in an investigation regarding abusive conduct, or who supports others in their efforts to report, resist, or speak out against abusive conduct. This is true whether or not the knowledge came firsthand and whether or not the offender was an employee, or a third party connected to the workplace.

Nothing in this policy is intended to restrict an employee's rights to engage in legally protected conduct, such as concerted activity.