

MEMO to the City Council from Mayor Ron Morrison

Agenda Item #14.1

Discussion and possible action of the City Council of the City of National City of a Censure of Councilmember Jose Rodriguiz for a pattern of violations of City Council Policy #119, specifically Policy Nos. III (1), (2), (3), (10), and the Code of Fair Campaign Practices Sections 1 + 2.

The following issues have been raised;

- 1) Use of public resources in the course of actions of his office; giveaways, travel, reimbursements, and use of city funded resources on political campaign media sites.
- 2) The appearance, if not reality, of the use of City contractors and City hired staff under his direct control for the use of campaigning
- 3) The use of media to cause a hostile environment within the community in the form of bullying and non inclusive intimidation that has cause members of the community including a City Commissioner to feel that they and their families are threatened.
- 4) The appearance of hiring people that have been involved in his campaign as his City Staff
- 5) The continuing media attention concerning his character and actions which reflect upon the City's reputation as well
- 6) A total lack of remorse or change in actions when concerns of his character and actions are brought to his attention.

According to Policy #119,

“The City Council may impose sanctions on Members whose conduct is not in compliance with the ethical standards as set forth. Those sanctions my include, but are not limited to: reprimand, formal censure, and removal from Boards, Commissions and Committees.”

# CITY COUNCIL POLICY CITY OF NATIONAL CITY

**TITLE:** Code of Ethics and Conduct for Elected Officials, Council Appointed Officials and Members of City Boards, Commissions and Committees **POLICY # 119**

**ADOPTED:** September 4, 2018

**AMENDED:** August 15, 2023

## I. PURPOSE

The City Council of the City of National City ("City") has adopted a Code of Ethics and Conduct ("Code") for all National City elected officials, council appointed officials, and members of the City's Boards, Commissions and Committees, to assure public confidence in the integrity of local government and its effective and fair operation. The people of National City expect public officials, both elected and appointed, to comply with both the letter and the spirit of the laws of the State of California, the United States of America, and the Municipal Code and established policies of the City of National City affecting the operations of local government.

While it is not possible to anticipate and provide a rule of conduct and ethics for all situations that public officials may face, this Code of Ethics and Conduct is designed to provide a framework to guide public officials in their daily duties and describe the manner in which members should treat one another, staff, constituents, and others they come into contact with in representing the City of National City. The term "member" refers to any National City Elected Official, Council Appointed Official, and Member of any City Board, Commission and Committee established by the National City Municipal Code, Ordinance or Policy.

The constant theme throughout the Code is respect and civility. Elected Officials experience large workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, officials are called upon to exhibit civil and ethical behavior at all times. Demonstrating respect for each individual through words and actions is the standard that can help members to do the right thing in even the most difficult situations.

While it is understood that there are numerous federal and state laws that guide the ethical behavior of public officials, the City wishes to establish that this is a community whose ethical values are clearly stated and fully understood by its members to represent the values this community holds in highest regard. The Code addresses various aspects related to the governance of the City and supplements, but does not supplant, other laws and rules that prescribe the legal responsibilities of City Officials. All persons covered by this Code will aspire to meet the highest ethical standards in the conduct of their responsibility as an Elected or Appointed Official of the City of National City.

Members are expected to be familiar with these laws to ensure that they exercise their public responsibilities in a proper fashion, including, but not limited to the Federal and State Constitutions, various provisions of the California Government Code (such as the Brown Act and the Political Reform Act), the Labor Code, laws prohibiting discrimination and harassment, and the City of National City Municipal Code and Policies.

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## II. SCOPE

The provisions of this Code of Ethics and Conduct shall apply to the Mayor and Members of the City Council, the Council Appointed positions of City Manager and City Attorney, and to all members of the Boards, Commissions, and Committees appointed by the Mayor or the Mayor and City Council, established by the City of National City Municipal Code, Ordinance or Policy, including any Ad-Hoc Committees.

## III. POLICY

The City Council of the City of National City sets forth the following Code of Ethics and Conduct with the expectation that all National City Elected Officials, Council Appointed Officials, and Board Commissions, and Committee Members will incorporate the spirit of this document into their daily lives and will represent the community with the utmost integrity.

1. **Use of Office.** Public office shall be used for the public good and not for personal gain. Recognizing that stewardship of the public interest must be their primary concern; members will work for the common good of the people of the City of National City and not for any private or personal interest. Members will assure fair and equal treatment of all persons, claims and transactions coming before the City Council, Boards, Commissions, and Committees.
2. **Conduct.** The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall treat other elected officials, Council Appointed Officials, City Staff, Board, Commission and Committee Members, and the public with civility and respect. Harassment by any member for whatever motive is harmful to the environment desired by the Agency and will not be permitted. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Elected Officials, Council Appointed Officials, City Staff, Board, Commission and Committee Members, or the public. No physical or verbal actions that could be construed as threatening or bullying will be tolerated. Belligerent, personal, demeaning, intimidating, slanderous, threatening, abusive, or disparaging comments that affect the ability to work, conduct business, or take part in City Government are not consistent with the standards of civility and respect referenced in this policy and are unacceptable.
3. **Role Models.** Members shall conduct themselves in a way that brings pride to the community and not in a way that brings disdain, embarrassment, or mockery. Members shall perform as role models for the community with an atmosphere of respect and civility.

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4. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for residents and businesses dealing with the Agency. Members shall recognize their special role in dealings with City Employees to in no way create the perception of inappropriate direction to Staff.
5. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council, and Board, Commissions and Committees governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of City Council policy decisions by City Staff.
6. **Communication.** Members shall publicly disclose substantive information that is relevant to a matter under consideration by the City Council or Boards, Commissions and Committees, which they may have received from source outside of the public decision-making process.
7. **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.
8. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
9. **Confidential Information.** Members shall respect the confidentiality of information concerning the property, personnel or affairs of the city. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

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10. **Use of Public Resources.** Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
11. **Advocacy.** Members shall represent the official policies or positions of the City Council, board, commission or committee to the best of their ability when representing that body or the City of National City. When presenting their individual opinions and positions, members shall explicitly state that they do not represent their body or the City of National City, nor will they allow the inference that they do. Elected officials, Board, Commission, and Committee members have the right to endorse candidates for all council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, Board, Commission and Committee meetings, or other official City Meetings.
12. **Policy Role.** Members shall respect and adhere to the council-manager structure of government of the City of National City as outlined in the National City Municipal Code and shall not interfere with the administrative functions of the City or the professional duties of City staff. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, Boards, Commissions, and Committees, and City staff. Except as provided by the National City Municipal Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
13. **Independence of Boards, Commissions and Committees.** Because of the value of the independent advice of boards, commissions and committees to the public decision-making process, members shall refrain from using their position to unduly influence the deliberations or outcomes of such proceedings.

## IV. IMPLEMENTATION AND ENFORCEMENT

This Code of Ethics and Conduct is an expectation of all members entrusted to public service and will be included in the orientations for all Elected Officials, Council Appointed Officials, and Members of Boards, Commissions and Committees.

The City Council may impose sanctions on Members whose conduct is not in compliance with the ethical standards as set forth. Those sanctions may include, but are not limited to: reprimand, formal censure, and removal from Boards, Commissions and Committees.

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Retaliation for reporting violations of this Code, for seeking to have prohibited conduct corrected, or for participating in an investigation is prohibited.

An annual review of the Code shall be conducted to ensure that the Code is an effective and vital document.

This policy shall in no way be construed to restrict any type of constitutionally protected speech or activities.

**V. ETHICS TRAINING – AB1234**

Effective January 1, 2006, California State law (AB 1234) requires, among other things, that local officials that receive compensation, salary, stipends, or expense reimbursements must receive training in public service ethics laws and principles every two years. The requirement applies not only to the governing body of a local agency, but also Boards, Commissions, and Committees, or other local agency bodies, whether permanent or temporary, decision-making or advisory.

To help local officials meet their ethics training requirements, the City of National City conducts bi-annual training. Additionally, the Institute for Local Government and the Fair Political Practices Commission have developed the ethics training course available on their website. The course has been approved by the Attorney General's Office and Fair Political Practices Commission (FPPC).

How to File a Complaint:

- Conflict of Interest, financial or campaign disclosures
  - California Fair Political Practices Commission (FPPC)
  - Phone: 916-322-5660
- Criminal
  - San Diego County District Attorney's Office
  - Phone: 619-531-4040
  - State of California Office of the Attorney General, Public Inquiry Unit
  - Phone: 800-952-5225

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## VI. GLOSSARY OF TERMS

<b>behavior</b>	External appearance or action; manner of behaving, carriage of oneself.
<b>censure</b>	A formal statement or resolution by the City Council officially reprimanding a National City Elected Official, City Council Appointed Official, or Member of any City Board, Commission, and Committee.
<b>civility</b>	Polliteness, consideration, courtesy.
<b>conduct</b>	The way one acts; personal behavior.
<b>council-manager structure of gov't</b>	Under this structure, residents elect a governing body, including a chief elected official, such as a mayor or board chairman, to adopt legislation and set policy. The governing body then hires a manager or administrator with broad executive authority to carry out those policies and oversee the local government's day-to-day operations.
<b>courtesy</b>	Polliteness connected with kindness.
<b>ethics</b>	The moral principles or philosophy that govern a person's behavior or the conducting activity.
<b>manners</b>	A way of acting; a style, method, or form; the way in which things are done.
<b>member</b>	Any National City Elected Official, City Council Appointed Official, and Member of any City Board, Commission, and Committee established by the National City Municipal Code, Ordinance or Policy, including Ad-Hoc Committees
<b>Impropriety</b>	A failure to observe standards or show dishonesty, improper language, behavior or character.
<b>respect</b>	The act of noticing with attention; holding in esteem; courteous regard.
<b>retaliation</b>	The act of seeking revenge upon another.
<b>sanction</b>	A form of punishment that can be used if someone disobeys a rule or

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law bringing disrespect to public office.

### **values**

A person's principles or standards of behavior; one's judgment of what is important in life. Also refers to National City's *Core Values* wherein members pledge to provide (1) *Commitment* – We strive for excellence, as we serve the public and each other with integrity, compassion, responsiveness, and professionalism; (2) *Customer Service* – We provide excellent service to residents, businesses, visitors, and colleagues; (3) *Courtesy* – We treat everyone with dignity and respect; (4) *Communication* – We communicate openly, honestly, and with clear, consistent messages; and (5) *Collaboration* – We work to achieve common goals and value our differences.

### **Related Policy References**

National City Municipal Code

*California Government Code* section 34851, *et. seq.*

Ralph M. Brown Act, *California Government Code* section 54950 *et seq.*

Rosenberg's Rules of Order

City Council Policy #104 – Conduct of City Council Meetings

City Council Policy #108 – City Manager as Chief Administrative Officer

City Council Policy #601 – Employer-Employee Relations

City Council Policy #604 – Harassment and Discrimination

City Council Policy #605 – Workplace Violence and Security

### **Prior Policy Amendments**

September 5, 2017 (Resolution No. 2017-181) - Establishing Policy

September 4, 2018 (Resolution No. 2018-160)



# CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammled choice and the will of the people may be fully and clearly expressed on the issues.

**THEREFORE:**

(1) **I SHALL CONDUCT** my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties that merit this criticism.

(2) **I SHALL NOT USE OR PERMIT** the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.

(3) **I SHALL NOT USE OR PERMIT** any appeal to negative prejudice based on a candidate's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, sex, including gender identity, or any other characteristic set forth in Section 12940 of the Government Code, or association with another person who has any of the actual or perceived characteristics set forth in Section 12940 of the Government Code.

(4) **I SHALL NOT USE OR PERMIT** any dishonest or unethical practice that tends to corrupt or undermine our American system of free elections, or that hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.

(5) **I SHALL NOT** coerce election help or campaign contributions for myself or for any other candidate from my employees.

(6) **I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE** support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.

(7) **I SHALL DEFEND AND UPHOLD** the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

 \_\_\_\_\_  
Signature Date 8/7/2024

Jose Rodriguez  
Printed Name

NOVEMBER 5<sup>TH</sup> 2024  
Date of Election

**RECEIVED**

AUG 07 2024  
Office of the City Clerk  
City of National City