



POSITION TITLE: MEMBER OF CITY COUNCIL
DEPARTMENT: COUNCIL
POSITION CLASSIFICATION: ELECTED OFFICIAL
POSITION REPORTS TO: CITIZENS

I. DEFINITION

Councilmembers direct the City's conduct of daily affairs and plan for the future development of the City. The future development of the City means not only the obvious physical land use, but also establishing effective and ethical policies and securing a strong financial stability. Councilmembers should devote their official time to problems of basic policy and act as liaisons between the City and the public.

II. QUALIFICATIONS

None, other than the City Councilmembers must live within the City limits.

III. RESPONSIBILITIES

The City Council has several major responsibilities. Please note that, as individuals, Councilmembers have no administrative authority. They cannot give orders or otherwise supervise City Employees unless specifically directed to do so by the Council. As a Council, however, Councilmembers have complete authority over all administrative affairs of the City.

- The most important single responsibility of a Councilmember is participation at Council meetings. Each Councilmember has full authority to make and second motions, participate in discussions, and vote on every matter before the Council. Any two (2) Councilmembers of a five-member Council can call special meetings.
- The Council may enact ordinances by a majority vote except where a larger number is required by law. The power to legislate also includes setting administrative policies and otherwise establishing public policy for the City.

The City Council has additional secondary responsibilities:

- To preserve order during its own meeting and to establish rules of procedure.
- Except for powers that the statutes delegate to a specific official or independent board or commission, the Council has the authority to exercise all the powers the statutes give to the City.
- The Council has the power to declare that violations of any ordinance shall be a penal offense and may prescribe penalties for ordinance violations. No penalty may exceed a fine of \$1,000 or imprisonment in jail for a period of 90 days, or both.

- The power to appoint officials (department heads and other employees) resides in the Council. Final authority of all departments belongs to the Council as a whole; the Council has the sole authority to appoint all employees of the city government. How the Council uses this power determines the quality of government itself.

IV. SUMMARY

All departments and employees responsible for the administration of policies and ordinances are under the direction of the City Council in the general administration of their duties. However, in the interest of general good government and chain of command, the Council should focus on general policy decisions and direction, but not common administrative details. For example, the Council should determine the emphasis put on the execution of the policies it establishes by determining the level of law enforcement, setting qualifications for the police use, and by directing and supervising the work of police officers. The City Council should not direct law enforcement officers and other employees as to how to act step-by-step in a particular situation.

Councilmembers are often criticized as acting from some personal agenda or on behalf of unseen interests. For these reasons, in order to be, and to be perceived as, an effective decision maker, certain standards of conduct should be followed. The laws and rules governing openness and ethics in government must be followed and promoted. Any actual or perceived conflict of interest should be avoided. All members of the City Council should encourage high ethical standards in making decisions. An ethical manner is essential to restore public confidence in our democratic institutions.

A Councilmember of a City may not have direct or indirect personal, financial interest in any sale, lease, or contract they are authorized to make in their official capacity. There are limited exceptions to this law. But, unless there is an exception, any contract made in violation of this law is void. That is, neither the Councilmember who benefits from the contract nor the City may enforce the contract.

There are also situations where Councilmembers may find they have an interest in a non-contract decision the Council will make. This type of interest could be of a financial nature but isn't always. These non-contract matters may include such things as Council decisions on zoning, local improvements, and the issuance of licenses. Although not generally prohibited by law, an interested Councilmember should abstain from participating in the Council discussions and from voting on these issues, otherwise the Council decision could be reversed by a Court because of the self-interest.

Virtually every resident of the City and anyone doing business in the City could at some time have direct financial interest in a decision a local official is authorized to make and thus would qualify as an interested person. The levying of property taxes, the spreading of special assessments, the valuation of property for tax purposes, the issuing of a license, the zoning of property or granting of a land use permit, are all examples where a property or business owner's financial interest could be effected. Thus, any person doing business or residing in the City is potentially an interested person as far as a City Councilmember is concerned. Whether a resident or business owner is a potential interested person as far as members of boards and commissions are concerned depends on the types of decisions or recommendations they are authorized to make.

City Officials can sometimes be held personally liable for failure to act, for improper actions, and for unauthorized actions on the part of the City. To avoid personal liability suits, City Officials should gain a working knowledge of the laws that regulate city government. Whenever there is any doubt about the validity of an action or procedure, City Officials should consult the City Attorney. One important step City Councils can take to reduce the City's and their own exposure to lawsuits is to limit the activities of the city government to things the City can perform effectively and well. The Council should not adopt ordinances unless they are enforceable. The City should not begin new projects and programs unless their City is committed to their success. A City Council should determine what it expects the City to accomplish and keep the City's activities within the scope of the Council's determination. This will reduce the possibility of an inadequate job, resulting in potential liability exposure.

City Councilmembers who knowingly authorize a prohibited contract, even though they do not benefit from it, may be guilty of a crime. The Councilmember who would benefit from the contract could also be guilty of a crime if that person entered into it knowing it would be illegal. The contract is invalid even if the benefiting Councilmember did not participate in the discussion of the contract or vote on it. Any, even if the Councilmember acted in good faith and the contract was fair and reasonable, the contract is void because it is prohibited by the conflict of interest in contracts law.

With some exceptions, every gift to any City Official is prohibited. An interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person. The law prohibits gifts to local officials, not to Cities. Thus, a gift can be given by an interested person to a City. The following types of gifts are permitted: political contributions, services to assist an official in the performance of official duties, services of insignificant monetary value, a plaque or similar memento recognizing individual services in a field or specialty or to a charitable cause, a trinket or a memento of insignificant value, and informational material of unexceptional value.

A City Council may not delegate legislative or quasi-judicial power unless authorized to do so by the Legislature. In addition, a Council may not delegate any administrative power of a discretionary nature to a Council Committee, Administrative Officer, Advisory Board, or Commission. Councils may delegate to others only those functions that do not involve the exercise of discretionary administrative power.

Overall, it is the duty of all Councilmembers to ensure the City is properly exercising its functions, fulfilling its duties under the law, and not exercising powers that it does not legally possess. The voters of the City and the Courts hold elected City Officials responsible for the proper performance of these duties.

V. **SALARY**

Annually (divided into four payments & paid quarterly). Plus, a Cost of Living (COLA) increase (bi-annually).