

# TOWN OF CAVE CREEK CODE OF CONDUCT

## PREAMBLE

All elected and appointed officials should strive to operate in the following manner:

- **Honesty and Integrity:** these characteristics shall be the primary values evident in the dealings of the elected and appointed officials on all issues. The public trust in the Town Council, advisory boards, commissions, and committees can be a reality only when public officials operate with honesty and integrity.
- **Fairness, Impartiality and Respect:** All issues and citizens shall be handled with fairness, impartiality and respect. Elected and appointed officials have an obligation to treat all citizens fairly, such as by dividing time reasonably among potential speakers on an issue at a public hearing or meeting. In reviewing, discussing and deciding issues, elected and appointed officials have an obligation to be accessible, open and direct, not only with the other committees, but also to the citizens and business representatives who appear before them. The public is entitled to communicate with their public servants and understand the position of the Town Council, advisory board commission, and committee members on issues before them.
- **Effort:** Elected and appointed officials have an obligation to attend meetings and to be prepared. It is expected that these officials will review the materials, participate in discussions and make an informed decision on the merits of the issue.

## 1. CODE OF CONDUCT

A. This Code of Conduct provides guidance on the standards of behavior that are expected and required from all elected and appointed officials of the Town of Cave Creek. This Code of Conduct applies to all elected and appointed officials in their dealings with:

- Each other,
- Town staff,
- Town residents,
- Media,
- Contractors,
- Vendors, and
- The general public.

B. The objective of this Code of Conduct is to enhance:

- The effectiveness of all elected and appointed officials of the Town;
  - The credibility and accountability of the Town Council within the community;
  - Mutual trust, respect, and tolerance between the elected and appointed officials as a group and between the elected and appointed officials individually and all of the other constituencies of the Town.
- C. The residents and businesses of Cave Creek are entitled to have fair, ethical, and accountable local government. Such a government requires that all elected and appointed public officials:
- Comply with applicable laws and policies affecting operations of the government;
  - Be independent, impartial and fair in their judgment and actions;
  - Use their public office for the public good, not for personal gain;
  - Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.
- D. To this end, the Cave Creek Town Council adopted this Code of Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

## **2. CONFLICT OF INTEREST**

- A. Elected and appointed officials shall ensure they comply and are familiar with the provisions of Arizona Revised Statutes § 38-501, et seq., which refer to all elected and appointed officials of a city who may have a “substantial interest” in any “contract, sale, purchase or service” to the city.
- B. In accordance with the provisions of Arizona Revised Statutes, an elected or appointed official who has a substantial interest must declare a conflict of interest and additionally refrain from voting upon or otherwise participating in approval of the contract, sale, or purchase. “Substantial interest” is defined as “any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.” A.R.S. § 502(11).
- C. Elected or appointed officials shall not take advantage of services or opportunities for personal gain by virtue of their public office that is not available to the public in general.
- D. Any elected or appointed official who has an interest in any business before the council or commission or committee with which that individual has a conflict of interest shall withdraw from any discussion, deliberation, or decision regarding said matter.
- E. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain

from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase. A.R.S. § 38-503 (A)

- F. Any public officer or employee who has, or who's relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision. A.R.S. § 38-503 (B)

### 3. CONDUCT

- A. Elected and appointed officials shall treat people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability, and should not unlawfully discriminate against any person or group of persons.
- B. 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. This does not allow, however, elected or appointed officials to make belligerent, personal, vulgar, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.
- C. Elected and appointed officials shall fully participate in council, commission and committee meetings and other public forums while demonstrating respect and courtesy to others, practicing civility and decorum in discussions and debate, listening courteously and attentively, and engaging in effective communications.
- D. Elected and appointed officials shall not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behavior.
- E. Elected and appointed officials shall be scrupulously honest in their use of Town assets, funds, and equipment, and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body.
- F. Elected or appointed officials shall not use Town resources, including the services of Town staff, for private purposes or personal gain.
- G. Elected and appointed officials shall make impartial decisions, free of bribes, unlawful gifts, narrow political interests and financial or other personal interests that impair independence of judgment or action.
- H. Elected and appointed officials shall not use their official position or the Town's facilities for their private gain, or for the benefit of any individual, which benefit would not be available to any other member of the public in the same or similar circumstance.

- I. Elected and appointed officials shall not use or disclose confidential information gained in the course of or by reason of their official position with the Town, including but not limited to, for purposes of advancing;
  - Their financial or personal interest;
  - The interest of a business entity of which the elected or appointed official, or of which an immediate family member has an interest;
  - The financial or personal interest of a member of their immediate family; or
  - The financial or personal interest of any citizen beyond that which is available to every other citizen.
- J. Elected and appointed officials shall conduct the business affairs of the council, commission or committee of which they are a member in an open and public manner consistent with the letter and spirit of the Arizona Open Meeting Law. Elected or appointed officials may not use email or other forms of communication to circumvent the Open Meeting Law requirements by exchanging email or other forms of communications that involve discussions, deliberations or taking legal action by a quorum of the public body concerning a matter than may foreseeably come before the public body for action.
- K. Newly elected or appointed officials shall attend a briefing on the provisions of this Code of Conduct by the Town attorney and/or the Town Manager, and sign the attached acknowledgement appearing at the end of this Code of Conduct upon its enactment and annually reaffirming that they have read, understand, and will comply with the provisions of this Code of Conduct.
- L. All elected and appointed officials shall sign the acknowledgement appearing at the end of this Code of Conduct upon its enactment and annually reaffirming that they have read, understand, and will comply with the provisions of this Code of Conduct.

#### **4. COMMUNICATIONS WITH STAFF**

- A. Treat all staff as professionals.
- B. Elected and appointed officials shall deal with the employees and services of the Town only through the Town Manager, except for the purpose of inquiry, and neither the council, commission or committees nor any members thereof shall give any direct orders or instructions to any employees of the Town. It shall be the responsibility of the Council and its members, when requested, to aid and assist any Town employee in an advisory capacity on any phase of policy or public relations. Such an effort shall not conflict with the administrative duties of the Town Manager.

- C. With regard to employees appointed by the Town Manager, neither the Council nor any of its members shall direct or request the appointment of any person to, or the removal or suspension from, office by the Town Manager or any of the Town Manager's employees, or in any manner take part in the appointment or removal of such officer(s) and employee(s) in the administrative services of the Town.
- D. Elected and appointed officials shall never express concerns about the performance of a Town employee in public, to the employee directly, or to the employee's supervisor. Comments about staff performance shall only be made to the Town Manager, excluding those employees appointed by the Council, i.e., the Town attorney, the Town prosecutor or the municipal judge.

## **5. CONDUCT REVIEW BOARD (CRB)**

There will be established, at the first meeting of the Council, after November 30 of each election year, a Conduct Review Board comprised of three members of the Council selected by the entire Council by majority vote. Upon the request of an aggrieved party, the CRB will investigate the complaint, assess the merits of the case, and recommend to the full Council actions to be taken, which may include sanctions noted below.

- A. If a member of the CRB is the subject of a grievance, they will be replaced on the CRB by vote of the Council at least until that grievance is adjudicated.
- B. Any Town employee, member of the public or others may confidentially contact any member of the CRB if a violation of this policy or any law or any Town Code has occurred. Confidentiality is not possible if any matter proceeds to the full CRB investigation stage.

## **6. SANCTIONS**

Sanctions should not be approached lightly, utilized as a form of punishment for a differing point of view, or used as a way to try to silence or discredit any individual who is serving the Town in an official capacity. Sanctions may be considered only where an elected or appointed official exhibits unprofessional behavior in such an egregious manner while participating in Town activities so as to be detrimental to the functioning of the council, advisory board, commission or committee upon which they are serving and the behavior prevents, significantly restricts, or undermines the achievement of one or more of the Town's priorities.

When sanctions are being considered for any elected or appointed official, the individual shall be apprised of the specific behavior for which the sanctions are being considered. The specific unprofessional behavior shall be identified and addressed by the Conduct Review Board as an agenda item in a regularly scheduled council meeting. Additionally, independent legal or other experts may be utilized by the CRB for the purpose of an unbiased investigation.

Following the initial review at a regularly scheduled council meeting as identified above, the matter shall be considered at a second regularly scheduled council meeting, at which time the individual being considered for sanctions shall be given the opportunity to respond and defend his or her behavior. Town officials and members of the public shall also be provided with the opportunity to voice viewpoints in the second council meeting. After comments, Council Members shall be given the opportunity to ask questions directly pertaining to the situation and behavior exhibited. All disputes and verified complaints shall be resolved by swift mediation by the CRB.

Elected and appointed officials who are found to have violated the behavioral and/or related requirements of the Town Code and/or the Code of Conduct shall be reprimanded or formally censured by the Council, and potentially have sanctions imposed. The council will consider the severity of the violation(s), and the recommendations of the CRB in determining if sanctions are to be imposed. Such sanctions may include the following and shall be binding and not appealable:

- A. For Council Members: They may have their participation in Town assignments terminated (other than directly participating in regular and special meetings of the Council), both within the Town and/or with inter-governmental agencies, for a period of up to one year, and they may have official travel restricted. Other sanctions, such as limiting access to Town Staff without the specific approval and possible involvement of the Town Manager, if the Town Manager is the aggrieved party, sanctions may include the requirement that another Council Member be involved in meetings.
- B. For non-Council Members: To have their participation terminated in the advisory board, committee or commission upon which they serve.