

ORDINANCE No. 15-112

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE TOWN OF DEWEY-HUMBOLDT, ARIZONA CODE OF ORDINANCES, TITLE III ADMINISTRATION, CHAPTER 35 CODE OF ETHICS AND CONDUCT, § 35.06 COMPLIANCE AND ENFORCEMENT RELATED TO COMPLAINTS OF VIOLATION OF THE ETHICS CODE, PROCEDURES AND SANCTIONS; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES

Be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

Section I. In General

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 35 Code of Ethics and Conduct, Section 35.06 Compliance and Enforcement is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

§ 35.06 COMPLIANCE AND ENFORCEMENT.

(A) Public officials take an oath when they assume their duties to uphold the laws of the United States of America, the State of Arizona, and the Town of Dewey-Humboldt. Therefore, it is the intent of the Town Council to educate and, where necessary, to discipline public officials who violate this chapter.

(B) The process for enforcement follows:

(1) If a resident (complainant) thinks that a violation of this chapter has occurred, ~~they~~ HE shall complete a complaint form AND FILE IT WITH THE TOWN CLERK WITHIN FOURTEEN DAYS OF THE DISCOVERY OF THE ALLEGED VIOLATION. The form will be available online or at Town Hall. The form will include the date of filing the complaint, the date of the ALLEGED violation, the facts supporting the complaint, which part of the code was IS ALLEGED TO HAVE BEEN violated, and the name of the person ~~that~~ ALLEGED TO HAVE violated the code. The complainant will supply contact information so ~~they~~ HE can be told of the outcome of ~~their~~ THE complaint.

(2) WITHIN SEVEN DAYS OF RECEIPT OF THE COMPLAINT, THE TOWN CLERK SHALL FORWARD THE complaint AND SUPPORTING DOCUMENTATION TO A HEARING OFFICER APPOINTED PURSUANT TO PARAGRAPH (C) OF THIS SECTION.

(3) THE HEARING OFFICER SHALL CONDUCT A HEARING ON THE COMPLAINT WITHIN FORTY-FIVE DAYS OF THE DATE OF THE COMPLAINT, WHICH DATE MAY BE EXTENDED BY THE HEARING OFFICER FOR GOOD CAUSE. THE HEARING IS NOT SUBJECT TO THE OPEN MEETING LAW. ~~then goes to the Ethics Committee. This Committee will be made up of the Mayor, Vice-Mayor and a rotating Council Member. The rotating Member will be selected in the same manner in which the Vice-Mayor is selected on a yearly basis. The Committee will determine whether a violation has occurred.~~

(a) THE HEARING OFFICER SHALL PROVIDE NOTICE OF THE HEARING TO THE COMPLAINANT AND PUBLIC OFFICIAL ALLEGED TO HAVE VIOLATED THIS CHAPTER AT LEAST TEN DAYS PRIOR TO THE HEARING.

(b) ~~The Ethics Committee~~ HEARING OFFICER may request additional information from staff, the ~~respondent (object of the complaint)~~ PUBLIC OFFICIAL, the complainant and the Town Attorney.

(c) AT THE HEARING, THE COMPLAINANT AND THE PUBLIC OFFICIAL MAY SUBMIT EVIDENCE AND TESTIMONY REGARDING THE ALLEGED VIOLATION. AT THE END OF THE HEARING, THE HEARING OFFICER SHALL ISSUE HIS WRITTEN DECISION REGARDING WHETHER THERE HAS BEEN A VIOLATION OF THIS CHAPTER AND, IF SO, WHETHER THE VIOLATION WAS A MAJOR OR MINOR VIOLATION.

(d) THE HEARING OFFICER SHALL FORWARD HIS WRITTEN DECISION TO THE TOWN COUNCIL WITHIN FIVE DAYS OF THE END OF THE HEARING. THE WRITTEN DECISION SHALL BE A PUBLIC RECORD.

(4) THE TOWN COUNCIL SHALL REVIEW THE WRITTEN DECISION OF THE HEARING OFFICER AT ITS NEXT REGULARLY SCHEDULED MEETING OR AT A SPECIAL MEETING. IF THE COMPLAINANT IS A MEMBER OF THE COUNCIL, HE SHALL RECUSE HIMSELF FROM THE DISCUSSION AND THE VOTE. IF THE DECISION OF THE HEARING OFFICER IS THAT THE PUBLIC OFFICIAL VIOLATED THIS CHAPTER, THE COUNCIL SHALL DETERMINE WHAT SANCTIONS, IF ANY SHALL BE IMPOSED.

(a) FOR A FIRST MINOR VIOLATION, THE COUNCIL MAY DISCUSS THE VIOLATION WITH THE PUBLIC OFFICIAL AND EXPLAIN HOW TO AVOID A VIOLATION IN THE FUTURE. FOR A SECOND MINOR VIOLATION, THE COUNCIL MAY EITHER DISCUSS THE VIOLATION WITH THE PUBLIC OFFICIAL OR MAY ADOPT A PUBLIC CENSURE. FOR A THIRD MINOR VIOLATION, THE COUNCIL MAY ADOPT A PUBLIC CENSURE.

(b) FOR A FIRST MAJOR VIOLATION, THE COUNCIL MAY ADOPT A PUBLIC CENSURE. FOR A SECOND MAJOR VIOLATION, THE COUNCIL MAY REMOVE THE PUBLIC OFFICIAL FROM A TOWN BOARD, COMMITTEE OR

COMMISSION, OR REMOVE HIM FROM REPRESENTING THE TOWN AT OTHER GOVERNMENT ENTITIES SUCH AS CYMPO, NACOG, WAC OR THE LIKE. FOR A THIRD MAJOR VIOLATION, THE COUNCIL MAY IMPOSE A FINE OF UP TO \$500 PER § 10.99.

(c) THE DECISION OF THE COUNCIL SHALL BE FINAL. THE COMPLAINANT SHALL BE NOTIFIED IN WRITING OF THE DECISION OF THE COUNCIL.

~~—(3) The Ethics Committee will then decide whether or not there was a violation, and whether it was a minor or major violation of the ethics code. The ruling of the majority of the Committee is then presented to the full Council. If there is not a unanimous decision by the Committee, a minority report can be presented along with the majority opinion. The whole Council can also look at all the information received by the Ethics Committee to make its determination. The Ethics Committee discussion may be held in executive session.~~

~~—(4) If a majority of the Council determines that no violation occurred, no action will be taken and the complainant will be notified of the outcome.~~

~~—(5) If a majority of the Council agrees that a minor violation has occurred, the Committee has the following options:~~

~~—(a) For the first minor offense, the Committee can talk to the violator in executive session and explain how to avoid a violation in the future.~~

~~—(b) For the second minor offense, the Committee can choose to again speak to the violator on how to avoid a violation in the future or recommend a public censure.~~

~~—(c) For the third minor offense, the committee can recommend a public censure.~~

~~—(6) If a majority of the Council agrees that a major violation has occurred, the Committee has the following options:~~

~~—(a) For the first major offense, the Committee can recommend a public censure.~~

~~—(b) For the second major offense, the Committee can recommend a public sanction. This can be removal from a town board, committee or commission, or removal from representing the town at other government entities such as CYMPO, NACOG, WAC or the like.~~

~~—(c) For the third major offense, the committee can recommend a fine of up to \$500 per § 10.99.~~

~~—(7) For any outcome the complainant will be notified of the decision.~~

~~—(8) If the complaint is against one of the members of the Ethics Committee, that person will be excused from the proceedings and another Council Member will be appointed in his or her place.~~

~~—(9) The respondent has the right to appeal any Council decision to binding arbitration by an independent hearing officer mutually agreed to between the Town Council and the public official. The cost of the hearing officer shall be borne equally between the town and the public official.~~

(C) THE TOWN ATTORNEY SHALL PREPARE A LIST OF AT LEAST THREE QUALIFIED HEARING OFFICERS FOR PRESENTATION TO THE COUNCIL. FOR EACH ETHICS CODE VIOLATION COMPLAINT FILED WITH THE TOWN CLERK, THE COUNCIL SHALL SELECT A HEARING OFFICER FROM THE LIST PREPARED BY THE TOWN ATTORNEY. A COMPLAINANT OR PUBLIC OFFICIAL WHO IS A MEMBER OF THE COUNCIL SHALL RECUSE HIMSELF AND NOT PARTICIPATE IN THE SELECTION OF THE HEARING OFFICER.

Section II. Savings Clause

☐ If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

Section III. Repeal of Conflicting Ordinance

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

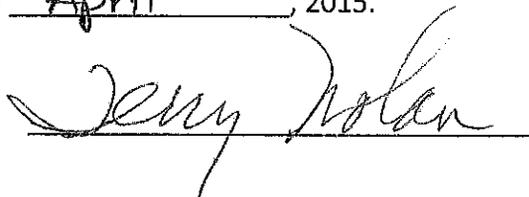
PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 21st day of April, 2015, by the following vote:

AYES: 5

NAYES: 2 ABSENT: 0

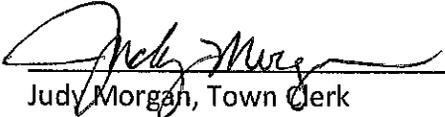
EXCUSED: 0 ABSTAINED: 0

APPROVED this 21st day of April, 2015.

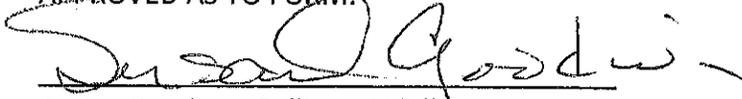


Terry Nolan, Mayor

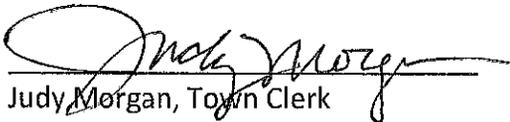
ATTEST:


Judy Morgan, Town Clerk

APPROVED AS TO FORM:


Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
Town Attorneys
By Susan D. Goodwin

I, JUDY MORGAN, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 15-112 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE 21st DAY OF April, 2015, WAS POSTED IN THREE PLACES ON THE 27th DAY OF April, 2015.


Judy Morgan, Town Clerk