

ORDINANCE N^o-13-103

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 30 TOWN COUNCIL AND OFFICIALS, BY ADDING NEW SECTION 30.020 CODE OF ETHICS AND CONDUCT TO ESTABLISH A CODE OF ETHICS AND CONDUCT FOR MEMBERS OF THE TOWN COUNCIL AND MEMBERS OF TOWN BOARDS, COMMISSIONS AND COMMITTEES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING PENALTIES

Whereas, Arizona Revised Statutes Section 9-240(b)(29) authorizes the Town Council to adopt ordinances for the government of its officers; and

Whereas, The Town Council of the Town of Dewey-Humboldt finds that a code of ethics and conduct for public officials of the Town would further public confidence in the integrity of the Town's public officials.

Now, Therefore, 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 30 Town Council and Officials is hereby amended by adding new Section 30.020 Code of Ethics and Conduct to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

§ 30.020 CODE OF ETHICS AND CONDUCT FOR THE TOWN COUNCIL AND TOWN BOARDS, COMMISSIONS AND COMMITTEES

(A) *PREAMBLE*

(1) THE RESIDENTS AND BUSINESSES OF DEWEY-HUMBOLDT ARE ENTITLED TO HAVE A FAIR, ETHICAL AND ACCOUNTABLE LOCAL GOVERNMENT AND TO DEMAND THE HIGHEST STANDARD OF ETHICS FROM ALL ITS OFFICIALS. ALL MEMBERS OF TOWN BOARDS, COMMISSIONS, COMMITTEES AND THE TOWN COUNCIL SHALL MAINTAIN THE UTMOST STANDARDS OF PERSONAL INTEGRITY, TRUTHFULNESS, HONESTY AND FAIRNESS IN CARRYING OUT THEIR

PUBLIC DUTIES, AVOID ANY IMPROPRIETIES IN THEIR ROLES AS PUBLIC SERVANTS, COMPLY WITH ALL APPLICABLE LAWS, WHETHER LOCAL, STATE OR FEDERAL, AND NEVER USE THEIR POSITION OR POWERS IMPROPERLY OR FOR PERSONAL GAIN.

(2) ETHICS IS DEFINED HERE AS THE RULES OR STANDARDS GOVERNING THOSE PERSONS FUNCTIONING AS REPRESENTATIVES OF THE TOWN DEWEY-HUMBOLDT. THESE RULES AND STANDARDS ARE BASED UPON A SET OF VALUES JUDGED TO BE MORAL TO THE EXTENT THAT THEY ENHANCE SOCIETY AND AN INDIVIDUAL'S RELATIONSHIP TO OTHERS. HONESTY AND INTEGRITY SHALL BE THE PRIMARY VALUES IN ALL ISSUES WHETHER IT BE IN THEIR DUTIES FOR THE TOWN OF DEWEY-HUMBOLDT OR IN ANY REGARD TO THEIR CONSTITUENTS.

(3) THE PURPOSE OF THIS CODE IS TO ESTABLISH ETHICAL STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS ACTING IN THEIR OFFICIAL PUBLIC CAPACITY.

(B) *DEFINITIONS*

"CENSURE" MEANS:

1. AN EXPRESSION OF STRONG DISAPPROVAL OR HARSH CRITICISM.
2. AN OFFICIAL REBUKE, AS BY A LEGISLATURE OF ONE OF ITS MEMBERS.
3. TO CRITICIZE SEVERELY; BLAME.
4. TO EXPRESS OFFICIAL DISAPPROVAL OF
5. A FORMAL, PUBLIC REPRIMAND FOR AN INFRACTION OR VIOLATION.

"PUBLIC OFFICIAL" MEANS THE MAYOR, TOWN COUNCIL MEMBERS, AND ANY TOWN BOARD, COMMISSION OR COMMITTEE MEMBER.

"SANCTION" MEANS:

1. THE PENALTY FOR NONCOMPLIANCE SPECIFIED IN A LAW OR DECREE.
2. A PENALTY, SPECIFIED OR IN THE FORM OF MORAL PRESSURE, THAT ACTS TO ENSURE COMPLIANCE OR CONFORMITY.
3. TO PENALIZE, ESPECIALLY FOR VIOLATING A MORAL PRINCIPLE OR INTERNATIONAL LAW.
4. TO IMPOSE A SANCTION ON; PENALIZE, ESP. BY WAY OF DISCIPLINE
5. TO PUNISH SO AS TO DETER

(C) *RESPONSIBILITIES OF PUBLIC OFFICE*

(1) BY OATH OF OFFICE EACH PUBLIC OFFICIAL IS RESPONSIBLE TO UPHOLD THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF

THE STATE OF ARIZONA, AND THE ORDINANCES AND REGULATIONS OF THE TOWN OF DEWEY-HUMBOLDT. PUBLIC OFFICIALS ARE OFTEN ASKED TO MAKE DECISIONS THAT AFFECT VARIOUS GROUPS AND INDIVIDUALS ADVERSELY. BALANCING DIVERSE CONSTITUENT INTERESTS IS A DIFFICULT TASK AND THEREFORE THE PUBLIC OFFICIAL SHALL PERFORM HIS OR HER OBLIGATIONS IN A MANNER THAT IS IMPARTIAL AND RESPONSIBLE TO ALL PEOPLE AND SHALL ADHERE TO ETHICAL STANDARDS THAT ELIMINATE DISAPPOINTMENT BORNE OF DISHONESTY, CONFLICTS OF INTEREST, UNFAIRNESS OR ILLEGALITY.

(2) THE PUBLIC OFFICIAL SHALL NOT USE HIS POSITION FOR PERSONAL OR MONETARY GAIN, WHETHER DIRECTLY OR INDIRECTLY OR ANY OTHER MANNER IN WHICH THE POSSIBILITY OF GAIN MIGHT BE PERCEIVED BY THE PUBLIC OR ANOTHER MEMBER OF THE PUBLIC BODY AND AS DESCRIBED HERE WITHIN IN SECTION II.

(3) THE PUBLIC OFFICIAL SHALL NOT DISCLOSE CONFIDENTIAL INFORMATION CONCERNING THE PROPERTY, GOVERNMENT, OR AFFAIRS OF THE TOWN OF DEWEY-HUMBOLDT WITHOUT PROPER LEGAL AUTHORIZATION. ARIZONA LAW PROVIDES THAT DURING A PERSON'S EMPLOYMENT OR SERVICE TO THE TOWN AND FOR TWO YEARS THEREAFTER, NO PUBLIC OFFICIAL MAY DISCLOSE OR USE CONFIDENTIAL INFORMATION WITHOUT APPROPRIATE AUTHORIZATION AS SET FORTH IN A.R.S. SECTION 38-504(B).

(4) PUBLIC OFFICIALS HAVE AN OBLIGATION TO BE ACCESSIBLE, OPEN AND DIRECT, NOT ONLY WITH THE OTHER MEMBERS OF THE COUNCIL AND/OR BOARDS, COMMISSIONS OR COMMITTEES BUT ALSO TO THE CITIZENS AND BUSINESS REPRESENTATIVES THAT APPEAR BEFORE THEM, BOTH IN THE PUBLIC FORUM AND IN PRIVATE. THE PUBLIC IS ENTITLED TO COMMUNICATE WITH THEIR PUBLIC SERVANTS AND UNDERSTAND THE POSITION OF THE COUNCIL AND BOARDS, COMMISSIONS AND COMMITTEES ON PUBLIC ISSUES.

(5) PUBLIC OFFICIALS HAVE AN OBLIGATION TO ATTEND MEETINGS AND BE PREPARED. IT IS EXPECTED THAT PUBLIC OFFICIALS WILL REVIEW THE MATERIALS, PARTICIPATE IN DISCUSSIONS AND MAKE INFORMED DECISION OF THE MERITS OF THE ISSUE AS OPPOSED TO ACTING OUT OF EMOTIONAL BIAS.

(D) *CONFLICT OF INTEREST*

(1) PUBLIC OFFICIALS MUST BE CONSTANTLY ON GUARD AGAINST CONFLICTS OF INTEREST AND SHALL NOT BE INVOLVED IN ANY ACTIVITY WHICH CONFLICTS WITH THEIR RESPONSIBILITIES TO THE TOWN OF DEWEY-HUMBOLDT AND ITS RESIDENTS. THE PEOPLE OF THIS TOWN HAVE A RIGHT TO EXPECT INDEPENDENCE AND FAIRNESS TOWARDS ALL GROUPS WITHOUT FAVORING INDIVIDUALS OR PERSONAL INTEREST.

(2) ARIZONA CONFLICT-OF-INTEREST LAWS APPLY TO PUBLIC OFFICIALS. AND AS SUCH, THIS CODE SHALL REINFORCE ANY EXISTING AFFIRMATION REGARDING CONFLICT OF INTEREST CONTAINED IN THE PUBLIC OFFICIAL'S OATH OF OFFICE. WHEN ACTING IN A PUBLIC CAPACITY, THE PUBLIC OFFICIAL SHALL ABSTAIN FROM PARTICIPATING IN DISCUSSION AND VOTE ON ANY PENDING MATTER THAT WOULD RESULT IN HIS FINANCIAL OR PRIVATE GAIN.

(3) PUBLIC OFFICIALS SHALL NOT DIRECTLY OR INDIRECTLY SOLICIT, ACCEPT OR RECEIVE ANY GIFT--WHETHER IT BE MONEY, SERVICES, LOAN, TRAVEL, ENTERTAINMENT, HOSPITALITY, PROMISE, OR ANY OTHER FORM THAT COULD BE REASONABLY INFERRED TO INFLUENCE THE PERFORMANCE OF HIS OFFICIAL DUTIES AND ACTIONS OR SERVE AS A REWARD FOR ANY OFFICIAL ACTION. IN ADDITION AND EXTENDED UNDER THIS ISSUE, UNDER NO CIRCUMSTANCES SHALL A PUBLIC OFFICIAL ACCEPT A GIFT OR FAVOR THAT IS A BRIBE, OR REFLECTS, TO A REASONABLE PERSON, AN EFFORT TO IMPROPERLY INFLUENCE THE PUBLIC OFFICIAL CONTRARY TO THAT PUBLIC OFFICIAL'S RESPONSIBILITY TO THE PUBLIC IN TOTAL OR TO ACT IMPARTIALLY AND ON THE MERITS OF THE MATTER. PUBLIC OFFICIALS MUST NOT BE INVOLVED IN DISCUSSING ISSUES THAT APPEAR TO BE SELF-DEALING. THAT IS, PUBLIC OFFICIALS MUST NOT BE INVOLVED IN DISCUSSING OR DECIDING ON ANY ISSUE OVER WHICH THEY HAVE JURISDICTION AS A COUNCIL OR BOARD, COMMITTEE OR COMMISSION MEMBER, WHICH MAY IMPACT THE PUBLIC OFFICIAL OR MEMBERS OF HIS FAMILY OR THE PUBLIC OFFICIAL'S BUSINESS, FINANCIALLY OR IN ANY WAY THAT MAY BE PERCEIVED BY ANY REASONABLE MEMBER OF THE COMMUNITY AS ADVANTAGEOUS TO THAT PUBLIC OFFICIAL. IT SHOULD ALSO BE NOTED THAT COUNCILMEMBER'S MUST COMPLY ANNUALLY WITH THE FINANCIAL DISCLOSURE ACT, AS REQUIRED IN A.R.S. 38-541-545. ARIZONA LAW ALSO PROHIBITS PUBLIC OFFICIALS FROM RECEIVING ANYTHING OF VALUE OR ANY COMPENSATION OTHER THAN THEIR NORMAL SALARY OR STIPEND FOR ANY SERVICE RENDERED IN CONNECTION WITH THAT PUBLIC OFFICIAL'S DUTIES WITH THE TOWN OF DEWEY-HUMBOLDT.

(E) *CONDUCT IN PUBLIC OFFICE*

(1) THE PUBLIC OFFICIAL SHALL NOT DISCUSS OR DIVULGE CONFIDENTIAL INFORMATION ACQUIRED BY HIM IN THE COURSE OF HIS OFFICIAL DUTIES NOR SHALL HE USE THIS INFORMATION FOR HIS OWN PERSONAL INTEREST OR AGGRANDIZEMENT AND AS A MINIMUM, UTILIZE A.R.S. 38-504 AS, BUT NOT LIMITED TO, A GUIDELINE.

(2) THE PUBLIC OFFICIAL SHALL RESPECT THE RIGHTS, PRIVILEGES AND OPINIONS OF HIS FELLOW OFFICIALS.

(3) PROPRIETY DICTATES THAT THE PUBLIC OFFICIAL BE SENSITIVE TO THE POSSIBLE CONFIDENTIAL OR PERSONAL NATURE OF DIRECTIVES ADDRESSED TO OTHER INDIVIDUALS.

(4) IN ANY DEALINGS WITH TOWN OF DEWEY-HUMBOLDT EMPLOYEES, THE PUBLIC OFFICIAL SHALL MAINTAIN PROFESSIONAL CONDUCT WITH RESPECT TO THE EMPLOYEE'S WORK ASSIGNMENTS AND OBLIGATIONS. THE OFFICE OF THE PUBLIC OFFICIAL SHALL IN NO SITUATION BE USED TO WRONGFULLY OBTAIN INFORMATION EITHER BY INTIMIDATION OR BY DELIBERATELY VIOLATING THE PRIVACY OF AN EMPLOYEE'S WORK STATION.

(5) PUBLIC DECISION-MAKING MUST BE FAIR AND IMPARTIAL AND SHALL BE NON-DISCRIMINATORY ON THE BASIS OF PROTECTED CLASSES, SUCH AS RACIAL AND RELIGIOUS GROUPS, OUTLINED IN FEDERAL, STATE AND TOWN LAWS AND ORDINANCES. PUBLIC OFFICIALS SHALL CONDUCT BUSINESS AND OPERATE IN A MANNER THAT IS FREE FROM ILLEGAL DISCRIMINATION ON THE BASIS OF AGE, SEX, COLOR, RACE, DISABILITY, NATIONAL ORIGIN, OR RELIGIOUS PERSUASION.

(5) PUBLIC OFFICIALS SHALL NOT USE THEIR POLITICAL OR APPOINTED OFFICE TO ADVANCE PRIVATE INTERESTS AND ENGAGE IN POLITICAL CAMPAIGNING AT TOWN MEETINGS OR WITHIN TOWN BUILDINGS.

(6) NO RELATIVE OF A SITTING COUNCIL MEMBER, MEMBER OF A TOWN BOARD, COMMITTEE OR COMMISSION MAY BE EMPLOYED BY THE TOWN.

(7) DISCUSSION OF ISSUES WHICH MAY APPEAR IN THE FUTURE BEFORE THE COUNCIL OR A BOARD, COMMITTEE OR COMMISSION SHALL BE PROHIBITED WHEN A SITUATION ARISES WHERE A QUORUM OF THE COUNCIL OR A BOARD, COMMITTEE OR COMMISSION EXISTS. NUMEROUS ARIZONA LAWS REQUIRE THAT MEETINGS OF PUBLIC BODIES BE OPEN TO THE PUBLIC AND THAT PUBLIC RECORDS BE AVAILABLE FOR INSPECTION.

(F) *COMPLIANCE AND ENFORCEMENT WITH THE DEWEY-HUMBOLDT CODE OF ETHICS*

(1) 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 CODE.

(2) THE PROCESS FOR ENFORCEMENT FOLLOWS:

(A) IF A RESIDENT (COMPLAINANT) THINKS THAT A VIOLATION OF THIS CODE HAS OCCURRED THEY SHALL COMPLETE A COMPLAINT FORM. THE FORM WILL BE AVAILABLE ON-LINE OR AT TOWN HALL. THE FORM WILL INCLUDE THE DATE OF FILING THE COMPLAINT, THE DATE OF THE VIOLATION, THE FACTS SUPPORTING THE COMPLAINT, WHAT PART OF THE CODE THAT WAS VIOLATED, AND THE NAME OF THE PERSON THAT VIOLATED THE CODE. THE COMPLAINANT WILL SUPPLY CONTACT INFORMATION SO HE CAN BE TOLD OF THE OUTCOME OF THEIR COMPLAINT.

(B) THE COMPLAINT 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 AS THE VICE-MAYOR IS SELECTED ON A YEARLY BASIS. THE COMMITTEE WILL DETERMINE WHETHER A VIOLATION HAS OCCURRED. THE ETHICS COMMITTEE MAY REQUEST ADDITIONAL INFORMATION FROM STAFF, THE RESPONDENT (OBJECT OF THE COMPLAINT), THE COMPLAINANT AND TOWN ATTORNEY.

(C) THE ETHICS COMMITTEE WILL THEN DECIDE WHETHER OR NOT THERE WAS A VIOLATION AND WHETHER THE VIOLATION 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 THEIR DETERMINATION. THE ETHICS COMMITTEE DISCUSSION MAY BE HELD IN EXECUTIVE SESSION.

(D) 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.

(E) IF A MAJORITY OF THE COUNCIL AGREES THAT A MINOR VIOLATION HAS OCCURRED, THE COMMITTEE HAS THE FOLLOWING OPTIONS:

(1) FOR THE 1ST MINOR OFFENSE THE COMMITTEE CAN TALK TO THE VIOLATOR IN EXECUTIVE SESSION AND EXPLAIN HOW TO AVOID A VIOLATION IN THE FUTURE.

(2) FOR THE 2ND 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.

(3) FOR THE 3RD MINOR OFFENSE THE COMMITTEE CAN RECOMMEND A PUBLIC CENSURE.

(F) IF A MAJORITY OF THE COUNCIL AGREES THAT A MAJOR VIOLATION HAS OCCURRED THE COMMITTEE HAS THE FOLLOWING OPTIONS:

(1) FOR THE 1ST MAJOR OFFENSE THE COMMITTEE CAN RECOMMEND A PUBLIC CENSURE.

(2) FOR THE 2ND 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.

(3) FOR THE 3RD MAJOR OFFENSE THE COMMITTEE CAN RECOMMEND A FINE OF UP TO \$500 PER TOWN CODE 10.99.

(G) FOR ANY OUTCOME THE COMPLAINANT WILL BE NOTIFIED OF THE DECISION.

(H) 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.

(I) 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.

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.

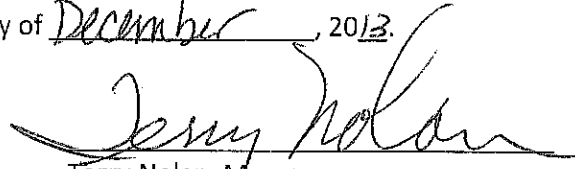
PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 17th day of December, 2013, by the following vote:

AYES: 5

NAYES: 2 ABSENT: 0

EXCUSED: 0 ABSTAINED: 0


APPROVED this 17th day of December, 2013.


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. 13-103 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE 17th DAY OF December, 2013, WAS POSTED IN THREE PLACES ON THE 18th DAY OF December, 2013


Judy Morgan, Town Clerk