

## **Chapter 6**

### **Mayor and Commissioners Code of Conduct**

#### **§ 6.1 Code of Conduct for Mayor and Commissioners-Purpose**

#### **§ 6-2. Policies and Rules.**

#### **§ 6-3. Enforcement**

**[HISTORY: Adopted by the Mayor and Commissioners of the Town of Perryville: Adding Chapter 6 Mayor and Commissioners Code of Conduct Sections 6-1 through 6-2 by Ord. 2022-17 Amended 2-7-23. Adding Chapter 6 Mayor and Commissioners Code of Conduct Section 6-3 by Ord. 2023-15, 9-5-23]**

## **Chapter 6 – MAYOR AND COMMISSIONERS CODE OF CONDUCT**

### **§ 6-1. CODE OF CONDUCT FOR MAYOR AND COMMISSIONERS - PURPOSE**

- A. The purpose of this Chapter is to define the role of Mayor and Commissioners in the Governance of the Town of Perryville and to advance the Town's goals of providing efficient and high-quality services to its residents and providing a safe and productive work environment for its employees.
- B. This Chapter implements the provisions of section C3-10 of the Charter of the Town of Perryville by providing for the enforcement of that section and establishing policies, rules, explanations and interpretive guidance for implementing that section.
- C. This Chapter does not provide a rule of conduct for all situations. However, the Mayor and Commissioners shall manage their behavior in a manner consistent with the policies, rules and guidance that follow in § 6-2.

### **§ 6-2. POLICIES AND RULES.**

Policies governing the conduct of the Mayor and Commissioners are listed in this section. Following each policy is a set of rules that give specific application to the policy. In italics following each rule is an explanation of the rule and guidance for interpreting and applying the rule.

- A. (1) Policy A. The Mayor and Commissioners shall deal with the administrative service solely

through the Town Administrator except as otherwise may be provided by ordinance.

(2) Rules and Guidance:

- A. The Mayor and Commissioners shall not direct, order or make demands on any Town Employee, other than inquiries that can be answered routinely and without research.
  - (I) Town staff are organized in a hierarchical structure, and Town employees work under the direction and control of several layers of management culminating with the Town Administrator. The Mayor and individual Commissioners are not part of that management structure and have no authority to direct employees. When an official attempts to give an employee direction, the employee is put in an awkward position and the management structure is undermined. In some cases, such actions have the potential for liability. The Mayor and Commissioners are not authorized directly to give work assignments to employees, including department heads. Employees are instructed not to take directions or work assignments from officials and to report any such attempts to their department head. An official may ask a routine question of staff; beyond that, concerns about work assignment should be addressed to the Town Administrator.
- B. The Mayor or Commissioners shall not attempt to reorganize an employee's priorities or influence how town staff perform their assigned functions or duties.
  - (I) Town employees are directed in their everyday tasks by their immediate supervisor in accordance with approved work plans. Interference with an employee's work routine, priorities or decision-making processes by the Mayor or a Commissioner creates confusion and stress and places the employee in the difficult position of either disregarding his or her assigned work or appearing to disrespect the official's wishes. All requests for work or research by should be directed to the Town Administrator. From time to time an official may believe that a problem must be looked into immediately and is tempted to direct an employee to drop everything and focus on that problem. This is unacceptable and the Mayor or Commissioner must, however, communicate the concern to the Town Administrator.
- C. Neither the Mayor nor a Commissioner shall retaliate or threaten to retaliate against an employee as a result of disagreements over policy recommendations.
  - (I) It is critical to the success of the Town that its employees enjoy a workplace free of the fear of retaliation. The Town takes great pride in its creativity and its receptivity to new and different ideas. An open and nonjudgmental atmosphere fosters creativity where candor is not penalized. Town employees are hired to offer their professional judgments and opinions. The Mayor and Commissioners are certainly free to disagree with those judgments and, indeed, those officials ultimately may have the final word. But those disagreements must not extend to threats or generate fear of reprisal. The Mayor and Commissioners enjoy substantia influence within Town Hall, and this authority must not be exercised in a manner that intimidates degrades morale with resulting damage to the fabric of the organization.

D. Neither the Mayor nor a Commissioner shall threaten a Town Employee with disciplinary action.

(I) If the Mayor or a Commissioner is concerned about the performance of a Town employee, that concern should be expressed privately to the Town Administrator. Such criticisms can then be addressed in accordance with the Town's personnel rules, in a manner that protects the employee's rights and protects the town's authority properly to discipline its employees. It is never acceptable for an official directly to threaten disciplinary action of any kind, and rarely, if ever, is it appropriate to criticize publicly an employee. Officials should certainly have high expectations of employees' work performance; but there is no room in the town organization for public humiliation of any person.

(B)(1) Policy B. The Mayor and Commissioners shall act collectively in a properly noticed and constituted meeting and have no authority to make decisions or take actions on behalf of the body unless expressly authorized to do so.

(2) Rules and Guidance:

A. Neither the Mayor nor any Commissioner shall make representations or promises to any third party regarding the future actions of the Town or of the Mayor and Commissioners unless the Mayor and Commissioners has duly authorized such representation or promise.

(I) When officials engage in conversations with residents, applicants, developers, lobbyists and officials of other governmental agencies, they should be cautious not to make representations or promises that they cannot legally make or keep. Future actions of the Mayor and Commissioners cannot be promised or predicted with certainty. Individual officials do not have authority to make commitments on behalf of the Town unless expressly authorized to do so by the Mayor and Commissioners.

B. When making public utterances, the Mayor and Commissioners shall make it clear whether they are authorized to speak on behalf of the Mayor and Commissioners or whether they are presenting their own views.

(I) The Mayor and Commissioners occasionally speak before other public bodies and neighborhood groups or to the press. When doing so, they should always make it clear whether they are presenting their own views or whether they have been authorized by the Mayor and Commissioners to present a particular view. The Mayor and each Commissioner should be clear in all oral and written utterances and communications whether they are using their title for identification purposes or because they are speaking in an official capacity.

C. Neither the Mayor nor any Commissioner shall interfere with how the Town Administrator

performs his or her duties.

- (I) The Town Administrator cannot function effectively if he or she receives inconsistent direction from the Mayor or individual Commissioners or is not given the support and independence necessary to administer the Town. Questions and regarding the priorities of the Town Government shall be brought to the attention of the Mayor and Commissioners.
- D. Neither the Mayor nor any Commissioner shall interfere with the implementation by Town staff of approved projects and programs.
  - (I) The Town Administrator is charged with the implementation of approved projects or programs. The Mayor and Commissioners must avoid interfering with or directing the Town Administrator's method of carrying out the Mayor and Commissioners' decisions, even if the project or program was conceived and initiated by the Mayor or an individual Commissioner. Once a project or program receives Mayor and Commissioners approval, it is an official activity of the town, not of any individual official. The Mayor and Commissioners do not have authority and should refrain from giving directions or instructions to the town's contractors or consultants working on town projects or programs.
- C.(1) Policy C. Town resources shall be used solely for proper governmental purposes and only with proper authorization.

(2) Rules and Guidance:

- A. The Mayor and Commissioners may use Town letterhead only for official city business.
  - (I) Town letterhead must be used with care to avoid misunderstandings. Letterhead may be used to communicate official Town policy or actions. It is also routinely used by officials to respond to inquiries or communicate their individual opinions, in which event the author should be clear about whose view is being presented.
- B. Neither the Mayor and nor any Commissioner shall ask or direct Town employees to spend time on non-town business. Further, Town employees should not be solicited to engage in political activity on behalf of the Mayor or a Commissioner.
  - (I) It is improper to ask or require a Town employee to engage in non-town-related activities. Non-town activities include, among other things, election campaign related activities and personal errands. Further, Town employees should not be solicited to engage in political activity on behalf of the Mayor or a Commissioner.
- C. Neither the Mayor nor a Commissioner shall use or disclose information obtained through Town service for improper or illegal purposes.
  - (I) Officials often acquire information in performing their duties that is not generally available to the public, including information received in closed sessions. Sometimes this information is confidential or highly sensitive. Information that is not generally available

to the public must remain confidential and be used only for the purposes for which it was divulged. In particular, this information can never be used for personal gain.

- D. (1) Policy D. When representing the Town, the Mayor and Commissioners shall conduct themselves in a dignified manner and in accordance with all legal requirements.

(2) Rules and Guidance:

- A. When representing the Town, the Mayor and Commissioners shall behave responsibly and in a manner that projects a positive image for the Town. The Mayor and Commissioners shall use their best judgment to appear as professional as possible during Town meetings. Furthermore, neither the Mayor nor a Commissioner shall attend a Town meeting or event while under the influence of alcohol or drugs (except for medications taken in prescribed doses).
- (I) Whenever the Mayor or Commissioner is representing the Town, in or out of Town, the official is "on duty" and should behave in a manner that will reflect well on the Town. When out of Town or at social events there is a temptation to behave more informally than one might in Town Hall, which can lead to awkward or embarrassing situations and in extreme cases to improper or illegal behavior. When at government, civic or political functions, the Mayor and Commissioners should avoid drinking alcohol to excess.
- B. The Mayor and Commissioners shall exercise best efforts to avoid the appearance of impropriety in the performance of their official duties. The Mayor and Commissioners shall disclose on the annual disclosure form submitted pursuant to Chapter 8 of this code any relationships (familial, sexual, or romantic) with any Town employee or with any contractor or vendor that does business with the Town. Additionally, the Mayor or any Commissioner who is involved in any such relationship shall promptly and concurrently disclose that relationship, in writing, to the Mayor and Commissioners.
- (I) The public's confidence in the integrity and fairness of Town government often hinges on the behavior of the Mayor and Commissioners. Real or perceived ethical lapses by the Mayor and Commissioners undermine the effectiveness of the Town and cast a shadow on the decisions of its officials. Often, ethical considerations extend beyond the legal requirements of conflict.
- C. While in session, the Mayor and Commissioners must preserve order and decorum, and neither the Mayor nor a Commissioner shall, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Mayor and Commissioners, disturb any member while speaking, or refuse to obey the orders of the Mayor and Commissioners or its presiding officer.

**§ 6-3. ENFORCEMENT**

- A. The goal of enforcement of this Chapter and of section C3-10 of the Town Charter is corrective, rather than penal, and a progressive approach to curing violations shall be

employed when possible, beginning with less severe methods and proceeding to more severe methods as necessary.

- B. Complaints alleging a violation of section C3-10 of the Town Charter or of this Chapter by an elected official shall be submitted to the Town's Ethics Commission. A complaint shall be in writing, shall identify the name of the accused, shall include a statement of facts and identify the provision or provisions of section C3-10 of the Town Charter or of this Chapter that the complainant alleges has been violated, and shall be signed and dated by the complainant.
- C. The Ethics Commission shall conduct an investigation of the allegations of the complaint if the commission determines that the complaint alleges a violation of section C3-10 or this Chapter. The complaint and investigation shall be confidential. Upon the completion of an investigation, the Ethics Commission shall prepare and forward findings of fact to the Town's Board of Appeals.
- D. Upon receipt of findings of fact from the Ethics Commission, the Board of Appeals shall conduct a hearing on the complaint. The hearing shall be closed to the public unless the accused elected official requests that the hearing be open to the public and the Board of Appeals determines that conducting an open hearing will not involve an unwarranted invasion of personal privacy of other individuals or the disclosure of confidential information. At the hearing the accused official shall be given an opportunity to present a defense against the accusations.
- E. After the hearing, the Board of Appeals, by motion approved by the affirmative vote of at least three (3) members of the board, shall approve, modify or reject findings of facts submitted to it by the Ethics Commission and shall determine whether a violation of section C3-10 of the Charter or of this Chapter has occurred. If the Board of Appeals determine that a violation has occurred, the board may impose any sanction provided in subsection (f) that the board determines to be appropriate to the complaint. The action of the Board of Appeals to impose a sanction must be approved by the affirmative vote of at least three (3) members of the board.
- F. The Board of Appeals, after finding that a violation of section C3-10 of the Charter or of this Chapter has occurred, may, in a public meeting, impose one or more of the following sanctions that the board determines to be commensurate with the nature of the violation:
  - (1) Reprimand.
  - (2) Censure.
  - (3) Fine, not to exceed \$500, to be withheld from any monies payable by the Town to the elected official.
- G. The Board of Appeals referred to in this section is the Board of Appeals referred to in section 21 of Chapter 84 of this Code. The duties and responsibilities of the Board of Appeals

under this section are in addition to the other duties and responsibilities of the board under Chapter 84.

- H. The Ethics commission referred to in this section is the Ethics Commission referred to in section 8-3 of Chapter 8 of this Code. The duties and responsibilities of the Ethics Commission under this section are in addition to the other duties and responsibilities of the Commission under Chapter 8.