

# **TOWN OF LYONS CODE OF ETHICAL STANDARDS FOR TOWN OFFICERS AND EMPLOYEES**

## **1. PURPOSE**

The purposes of this Code of Ethical Standards are to:

- A. Identify minimum standards of ethical conduct for Town Officers and Employees;
- B. Help motivate Town Officers and Employees to pursue productive conduct and ethical ideals that exceed minimum standards;
- C. Inform the public of the minimum standards to which their Town Officers and Employees are expected to adhere;
- D. Provide a process by which Town Officers and Employees may identify and resolve ethical issues;
- E. Promote public confidence in the integrity of Town Officers and Employees;
- F. Establish penalties, when appropriate, for Town Officers and Employees who violate the public trust; and
- G. Protect to the fullest extent possible the rights of all individuals who are subject in any way to the provisions of this Code.

## **2. GENERAL POLICIES**

- A. **Duty.** All Town Officers and Employees have a duty to use their public positions to contribute to the public good. This Code shall not preclude Town Officers or Employees from acting in any manner consistent with their official duties or from providing assistance or public services to anyone who is entitled to them. However, all Town Officers and Employees also have a duty to refrain from using their positions in any manner for personal or private gain or which is detrimental to the public good. Town Officers and Employees must be mindful that the appearance of impropriety can be as corrosive of public confidence as actual impropriety, and therefore must strive to avoid situations which may create an appearance of impropriety.
- B. **Non-Partisan.** Town Officers hold non-partisan offices. There shall be no partisan references or campaigning for political office at meetings of the Town Board or other boards or commissions. Partisanship shall not be a factor in any official action of a Town Officer.
- C. **Endorsement of Candidates.** Town Officers have the right to personally endorse candidates for any Board seat or other elected office. However, it is inappropriate to mention endorsements during Board meetings or other official Town meetings.

### **3. EFFECT OF COMMON LAW AND STATE LAW**

This Code shall supersede and override the common law as to the subject matter of the Code. Notwithstanding the foregoing, all Town Officers and Employees, as applicable, shall comply with all applicable provisions of the Colorado Constitution and Colorado Revised Statutes regarding ethical conduct, including but not limited to Article XXIX of the Constitution, C.R.S. § 24-18-101, *et. seq.*, 24-18.5-101, *et seq.*, and § 31-4-404.

### **4. DEFINITIONS**

As used in this Code, the following words shall be defined as follows:

*Board of Ethics* means the Mayor and all members of the Board of Trustees, except the Board of Ethics shall not include any person being investigated by the Board of Ethics.

*Board of Trustees* means the Mayor and all elected Trustees as well as any individual appointed to fill a vacancy on the Board of Trustees.

*Commission* means the Town of Lyons Planning and Community Development Commission, Board of Adjustment, and any other Commissions, Committees, and appointed groups whether permanent or temporary.

*Employee* means any individual hired or appointed on a part-time or full-time, permanent basis by the Town of Lyons.

*Personal Interest* means an interest in personal gain or even an interest arising from blood or marriage relationship or close business or political association.

*Town Officers* means the Mayor and elected members of the Board of Trustees, as well as individuals appointed to fill a vacancy on the Board of Trustees. Where specifically indicated herein, *Town Officers* may also include members of any *Commission* as that term is defined herein.

*Trustee* means an elected member of the Town of Lyons Board of Trustees or an individual appointed to fill a vacancy on the Board of Trustees.

### **5. ETHICAL STANDARDS**

A. Town Employees and Officers. All Town Employees and Officers, including all members of Commissions, are required to adhere to the following ethical standards. All Town Employees and Officers must:

- 1). maintain the confidentiality of any information deemed to be confidential under federal, state or local law, including but not limited to information discussed in duly called executive sessions held by the Board of Trustees. Special care should also be exercised not to allow information obtained through one's Town work to be released or propagated in such a way as to cause ill will, negative perceptions, potential litigation, or other repercussions that are not in the Town's best interests.
- 2). avoid disclosure of any fact, issue or event that may cause a conflict of interest or the appearance of a conflict of interest.

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- 3). refrain from promoting personal agendas that conflict or do not align with the best interests of the Town.
- 4). refrain from engaging in acts of sexual harassment under any circumstances and report instances of sexual harassment immediately.
- 5). avoid communicating official Town positions to the media, except where explicitly or implicitly authorized to do so; e.g., the Mayor and Town Administrator are generally authorized to communicate Town positions to the media. Employees and Officers may contact the media to represent their own individual views, provided they do so in a manner that does is respectful towards Town Board or Commission positions as well as towards members of the public in general and/or other business and government entities.
- 6). be honest and truthful and to act with integrity at all times.
- 7). strive to make the highest standards of ethical behavior their personal ethical standards.
- 8). not engage in or tolerate unethical or illegal behavior under any circumstances
- 9). avoid holding or scheduling any meeting of the Board of Trustees without the knowledge of all other Officers or without reasonable notice to the public. Any gathering of three or more Trustees can be *perceived* by the public to be a “meeting,” whether the gathering is considered a meeting under the Colorado Open Meetings Law. While social gatherings are generally exempt from the Open Meetings Law, Town Officers must be careful not to discuss public business in such settings, and should be mindful of the risk of the perception of improper conduct. Unannounced regular or recurring meetings of groups of Trustees and/or other Officers run the risk of Town business being discussed outside of the public eye and leave observers with the impression that public business is being discussed in private.
- 10). not accept gifts of any kind from any vendor, possible vendor or other person who is doing business or could reasonably do business with the Town.
- 11). not accept or create the perception that they have accepted gifts, favors, or deals —whether monetary or not— if an observer would reasonably perceive that the gift was being exchanged for the purpose of influencing the outcome of a Board or Commission vote or position.
- 12). not use the authority of their position or information gained through their position in such a way that would be unfair or could reasonably be perceived as being unfair to any citizens of Lyons or its neighbors. In this case, “unfair” pertains to both preferential treatment as well as negative or even vindictive treatment.
- 13). remember that they are “ambassadors” of the Town of Lyons and as such, should interact with all persons and entities whether in public or in private in a respectful and fair manner at all times.
- 14). not formally represent or appear on behalf of any private individuals or entities before the Board of Trustees or any Commission of the Town, nor represent any private individual or entity in any action or proceeding against the interests of the Town in any litigation to which the Town is or may become a party. Nothing in this section shall be construed to interfere with a Board member’s duty to represent the interests of his or her constituents.
- 15). not grant any special consideration, treatment, or advantage to any citizen or resident of the town beyond that which is available to every other citizen, resident or business of the town.
- 16). not request or permit the use of Town-owned vehicles, equipment, materials, or property for personal convenience or profit except when such services are available

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to the public generally or are provided in an express Town policy for the use of such Town Officer in the conduct of official business.

17). not assist any person for a fee (other than that charged for that service by the Town) or other compensation in obtaining any contract, claim, license, permit, permission, approval, or other economic benefit from the Town (except as permitted pursuant to Town Charter or ordinance).

18). not accept a fee, or any other compensation, except his/her official compensation as provided by resolution, ordinance or contract of the Town, for promoting or opposing passage of any Town legislation.

19). not knowingly misrepresent or willfully fail to disclose any conflict of interest, or any personal or financial interest, when such disclosure is required by this Code, and federal, state or local law, or as a condition of appointment.

20). not be convicted of any misdemeanor or felony criminal offense whether or not such offense relates to the Employee's or Officer's position in public service.

21). not be found guilty of violating any Federal, State or Town laws or regulations prohibiting discrimination.

22). not be found guilty of violating any Federal, State or Town laws prohibiting sexual harassment or retaliation.

23). not use his or her own time or efforts or request or direct the use of another officer's or employee's time or efforts for personal or private purposes while such time is being compensated by the Town or intended for general public benefit.

24). not offer or promise to give his or her vote or influence in favor of or against any proposed Official Action in consideration of or upon condition that any other Town Officer or employee will promise or assent to give his or her vote or influence in favor of or against any other proposed Official Action.

25). at any time within one year after expiration of a term of office or termination from the Town, refrain from appearing on behalf of the interest of any person or entity before the Board or any board or commission, in relation to any matter concerning which the former Town Officer or employee performed an Official Act or had supervisory responsibility. During such period before a former Town Officer or employee represents any person or entity in a matter not involving an interest or in relation to a matter over which the former Town Officer or employee did not perform an Official Act or have supervisory responsibility, the former Town Officer or employee shall disclose his or her prior relationship to the Town.

26). interact with all persons and entities in a respectful and fair manner at all times, and should not criticize any member of the public for his or her requests or views.

27). not be directly responsible for the hiring, appointment, retention, or supervision of, or influence or attempt to influence the hiring, appointment, supervision, or retention by the Town of, any relative (by blood, marriage or adoption) of the Town Officer or Employee. Nothing in this section shall prohibit the hiring, appointment or retention by the Town of any person related to a Town Officer or Employee by blood, marriage or adoption if it is reasonably determined that the individual is the best qualified candidate for the position.

28). not influence or attempt to influence the compensation, benefits, or other terms and conditions of engagement by or service to the Town applicable to any relative (by blood, marriage or adoption) of the Town Officer.

29). not engage, hire or appoint a relative (by blood, marriage or adoption) of a Town Officer or employee as a Town employee unless the Town's personnel procedures applicable to such employment or appointment have been followed.

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30). not exhibit other similar conduct which threatens the public confidence in the integrity of government including but not limited to illegal conduct, conduct which puts self-interest before public interest, or conduct involving dereliction of duties.

The ethical standards in this document are applicable at all times. Stress or response to a heated discussion or otherwise will not be considered acceptable reasons for straying from these high standards.

B. Town Officers. In addition to the ethical standards in Section 5.A., above, Town Officers shall abide by the following:

Conduct in General

- 1). All Town Officers have equal powers and all should be treated with equal respect.
- 2). To ensure that all Town Officers have equal access to informational materials, Town Officers should only submit such materials if they can distribute them to all members of the Board or Commission on which the Officer serves.
- 3). Town Officers should make no promises or commitments on behalf of the Board or the Town, either explicitly or implicitly.
- 4). No Town Officer should ever presume to represent the past, current, or future position of any other elected official(s), Town officer(s), or Employee(s) except by quoting voting records or other statements as appearing in approved minutes. This standard applies to public and private conversations, emails, and any other forms of communication. For example, the Mayor, Mayor Pro Tem, and Administrator may be designated spokespersons for the Town but they would be acting unethically if they were to represent that the Board would be voting to approve (or deny) a measure that has not yet been voted on. At the same time, it would not violate these ethical standards for a member of the Board to express his or her personal belief that the Board will approve or deny a measure, as long as the member makes clear that the opinion is a personal one.
- 5). All Town Officers should support the formal actions of the Board or previous Board(s), and the official position of the Town, even if the member voted in the minority. This standard does not preclude an individual member from exercising his or her right to express a personal point of view in written or oral correspondence, but only if the member expresses the opinion in a way that would not undermine support for the Board's formal actions or Town positions. Any Board member may also move to revisit a previous Board decision in a manner consistent with Town policies and practices.
- 6). Town Officers are expected to prepare in advance for meetings and to be familiar with issues on the agenda in order to participate meaningfully in meetings.
- 7). Before sending outside correspondence, Town Officers should consult with the Mayor and/or the Town Administrator to determine whether an official Town response has already been sent or is being prepared.

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- 8). Unless directed to do so by the Board or compelled to do so by operation of law, Town Officers should not knowingly disclose information which he or she knows or reasonably should know is confidential information, regardless of the source of the information.
- 9). Town Officers should not knowingly use or disclose any confidential information gained in the course of or by reason of his or her official position and which has not been made public, in order to advance his or her financial interests or to further the financial interests of any family member.
- 10). Town Officers should serve as a model of leadership and civility to the community.
- 11). Town Officers should seek to inspire public confidence in Lyons government by demonstrating honesty and integrity in every action and statement.
- 12). Town Officers should work together for the good of the Town of Lyons.
- 13). Town Officers may take credit for work done and should give credit for work done by others.
- 14). Town Officers should admit mistakes, and should not hide or run away from responsibility.
- 15). Town Officers should act responsibly and hold themselves accountable.
- 16). Any Town Officer who has a problem or issue with a fellow Board member should contact the other member directly in an effort to resolve the situation.

Conduct During Meetings

- 1). Town Officers should prepare in advance and be familiar with issues on the agenda in order to participate meaningfully in any Board or Commission meeting.
- 2). Town Officers should stay focused and act efficiently during public meetings and should honor the efforts of the chair to focus discussion on current agenda items.
- 3). Town Officers may agree to disagree, but should not allow the disagreement to become personal.
- 4). Boards are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, Town Officers should acknowledge this common goal even as they "agree to disagree" on contentious issues.
- 5). Town Officers should attempt to reach agreement on contentious issues before accepting disagreement and differences of opinion.

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- 6). Town Officers should avoid personal attacks on other members and on individuals speaking or appearing at Board and Commission meetings.
- 7). After a decision is made, Town Officers should end the discussion and move on to the next issue, even if the Board or Commission member dissented from the decision.
- 8). Town Officers are expected to listen before judging or reacting.
- 9). Town Officers should assume that others are acting with good intentions.
- 10). Except when responding to comments made by a member of the public, Town Officers should address their comments to each other, not to the audience.
- 11). Town Officers should express their own views and avoid attempting to speak for others.
- 12). Town Officers should base their decisions on their own best judgment.
- 13). Town Officers should strive to develop and communicate new ideas, and should respect new ideas communicated by others.
- 14). Town Officers should consider referring to one another by formal titles during public meetings; e.g., Mayor, Mayor Pro Tem, or Trustee, followed by the individual's last name.
- 15). Town Officers should practice civility and decorum in discussions and debate. 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. Nevertheless, Town Officers should avoid making belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. Shouting and physical conduct that could reasonably be construed as threatening will not be tolerated.
- 16). Town Officers must honor the role of the Chair in maintaining order at meetings. It is the responsibility of the Chair to keep the comments of Town Officers on track during public meetings. Town Officers should honor efforts by the Chair to focus discussion on current agenda items. If there is disagreement about the agenda or about the Chair's actions, those objections should be voiced politely and reasonably, following procedures outlined in parliamentary procedure.
- 17). Town Officers should avoid personal comments that could reasonably be viewed as offensive by other Town Officers. It is the responsibility of the Chair to maintain control of discussions at Board and Commission meetings.
- 18). Town Officers should strive to demonstrate effective problem-solving techniques.
- 19). Town Officers should utilize their public stage to demonstrate how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

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20). Town Officers should strive to be fair and equitable in allocating public hearing time to individual speakers. The Chair will determine and announce limits on speakers at the start of the public hearing process. If many speakers are anticipated, the Chair may set the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

21). Town Officers should avoid turning any speaker away unless the speaker exhibits inappropriate behavior.

22). Town Officers should give speakers their attention, and should maintain at least the appearance of active listening. Speakers find it disconcerting when members of the Board do not make eye contact. Town Officers may look down at documents or make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Town Officers should also be aware of their facial expressions, and should avoid those that could be interpreted as "smirking," disbelief, anger, or boredom. Town Officers should also be aware that their body language and tone of voice can appear to be intimidating or aggressive.

23). Town Officers should recognize that making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice, or disrespect should be evident on the part of individual Town Officers toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

24). Town Officers may ask for clarification, but should avoid debate and argument with members of the public. Only the Chair – not individual Town Officers – may interrupt a speaker during a presentation. However, a Board member can ask the Chair for a point of order if the speaker is off the topic or exhibiting behavior or language the Board member finds disturbing.

25). It is the responsibility of the Chair, not individual Town Officers, to help calm and focus speakers who become flustered or defensive by Board comments or questions. Questions by Town Officers to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Town Officers' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

26). Town Officers must avoid personal attacks of any kind at all cost.

27). Town Officers should follow parliamentary procedure during public meetings. The Town Attorney serves as advisory parliamentarian for the Town and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Chair, subject to the appeal of the full Board.

Conduct in Other Settings

1). Town Officers should strive to continue respectful behavior when outside of Board and Commission meetings and other Town functions. The same level of



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respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

2). Town Officers must be aware of the vagaries of written notes, voicemail messages, and e-mail, and should treat such communications as if they were public. Technology allows words written or spoken without much forethought to be distributed wide and far. Town Officers should ask themselves: Would I feel comfortable to have this note faxed to others? How would I feel if this voicemail message were played on a speaker phone in a full office? What would happen if this e-mail message were forwarded to others?

3). Town Officers must be aware that even private conversations can have a public presence.

4). Town Officers must be aware that as elected officials, they are always “on display.” That is, their actions, mannerisms, and language are monitored by people they may not even know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings will be noted.

5). Town Officers must make no promises on behalf of the Board. While it is acceptable to publicly disagree about an issue, it is unacceptable to make derogatory comments about other Town Officers, their opinions or their actions.

6). Town Officers must remember that Lyons is a small town at heart. Town Officers are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the Town of Lyons. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Town Officers, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

7). Town Officers must be clear about whether their actions or opinions represent the Town or their own personal interests.

8). If a Town Officer appears before another governmental agency or organization to give a statement on an issue, the Officer must clearly state: 1) if his or her statement reflects personal opinion or is the official stance of the Town; and 2) whether this is the majority or minority opinion of the Board or Commission.

9). If the Town Officer is representing the Town, he or she must support and advocate the official Town position on an issue, and must not express his or her personal viewpoint. If the Town Officer is representing another organization whose position is different from the Town's, the Officer should withdraw from voting on the issue if it significantly conflicts with or is detrimental to the Town's interest. Town Officers should be clear about which organizations they represent and disclose any potential conflict to the Town Administrator through a written memorandum. Town Officers must also be clear about whom they represent in written correspondence.

10). Town Officers may use Town letterhead only when the Officer is representing the Town and the Town's official position. A copy of the official correspondence

should be given to the Town Administrator to be copied to the entire body and filed as part of the permanent public record. Town letterhead should not be used for correspondence of Town Officers representing a personal point of view, or a dissenting point of view from an official Board position. However, in the event a Town Officer uses Town letterhead to express a personal opinion, he or she must also clearly state the official Town position so the reader can understand the difference between the two positions.

#### Interaction with Commissions

- 1). The Town has established several Commissions as a means of gathering more community input on matters of public concern. Citizens who serve on Commissions become more involved in government and serve as advisors to the Board of Trustees. They are a valuable resource to the Town's leadership and should be treated with appreciation and respect.
- 2). Members of the Board of Trustees may attend any Commission meeting, which are always open to the public. However, Board members must be sensitive to the way their participation could be viewed, especially if a Board member appears on behalf of an individual, business or developer. Any public comments by a Board member at a Commission meeting should be clearly made as individual opinion and not a representation of the entire Town Board. Board members may not attend any Commission meetings where there is a pending application or quasi-judicial issue before the Board. Should an issue that later comes before the Board of Trustees be raised at a meeting of another Commission, the Board member in attendance must disclose his attendance and/or comments at the next Town Board meeting.
- 3). Except where the Officer is designated as a liaison to a particular Commission, Town Officers should limit contact with Commission members at Commission meetings to questions of clarification.
- 4). Town Officers must avoid contacting Commission members to advocate for or against any application or issue pending before the Commission or to lobby on behalf of an individual, business, or developer. Town Officers may contact the Town Administrator to request clarification of a position taken by the Commission.
- 5). Town Officers should remember that Commissions serve the community, not individual Town Officers. The Town Board appoints individuals to serve on Commissions, and it is the responsibility of Commissions to follow policy established by the Board. Nevertheless, Commission members do not report to individual Town Officers, nor should Town Officers feel they have the power or right to threaten Commission members with removal if they disagree about an issue. Appointment and reappointment to a Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Commission appointment should not be used as a political "reward."
- 6). Town Officers must be respectful of diverse opinions. A primary role of Commissions is to represent many points of view in the community and to provide the Board with advice based on a full spectrum of concerns and perspectives. Town

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Officers may have a closer working relationship with some individuals serving on Commissions, but must be fair and respectful of all citizens serving on Commissions.

7). Town Officers should keep political advocacy away from public forums. Commission members may express political support or opposition to a Board member, but not in a public forum while conducting official duties. Conversely, Town Officers may support or oppose Commission members who are running for office, but not in an official forum in their capacity as a Board member.

Interaction with the Media

1). Town Officers who are contacted by the media for background and quotes should avoid going "off the record." Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. Nevertheless, Town Officers must exercise caution and be discrete in the amount of information provided to reporters and other media representatives. In particular, Town Officers should remember that comments taken out of context can be misconstrued, and must be especially cautious about using humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

2). Town Officers must remember that the Mayor is the official spokesperson for the Town on most matters. If an individual Officer is contacted by the media, the Officer should be clear that his or her comments represent a personal viewpoint and *not* the official Town position.

Interaction with Town Staff

Governance of a town relies on the cooperative efforts of elected officials, who set policy, and Town staff, who implement and administer those policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

1). Town Officers should treat all staff as professionals.

2). Town Officers should engage in clear, honest communication that respects the abilities, experience, and dignity of each individual.

3). Town Officers should direct questions for Town staff and/or requests for additional background information to the Town Administrator. Whenever possible, requests to the Town Administrator for information should be made in writing.

4). Town Officers should direct follow-up questions or directions to staff to the Town Administrator or, when appropriate, the Town Attorney. When in doubt about what staff contact is appropriate, Town Officers should ask the Town Administrator for direction. Materials supplied to a Town Officer in response to a request will be made available to all members of the Board or Commission, as appropriate, so that all have equal access to information.

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- 5). Town Officers should not disrupt Town staff in the performance of their duties, and should avoid interrupting staff while in meetings, on the phone, or otherwise occupied with their responsibilities.
- 6). Town Officers must not publicly criticize an individual employee or otherwise express concerns about the performance of a Town employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should be made to the Town Administrator through private correspondence or conversation.
- 7). Town Officers should avoid becoming involved in day-to-day administrative functions of Town government.
- 8). Town Officers must not attempt to influence Town staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of Town licenses and permits.
- 9). Upon receipt of any correspondence concerning Town business, Town Officers should consult with the Town Administrator or other appropriate Town staff before taking action.
- 10). Town Officers should only attend meetings with Town staff when requested by staff to do so.
- 11). In order to control costs and minimize the risk of conflicting direction, Town Officers should limit requests for staff support. Routine secretarial support will be provided to all Town Officers, and all mail for Town Officers is opened by the Town Clerk, unless other arrangements are requested by a Board member. Mail addressed to the Mayor is reviewed first by the Town Administrator who notes suggested action and/or follow-up items. Requests for additional staff support – even in high priority or emergency situations – should be made to the Town Administrator, who is responsible for allocating Town resources in order to maintain a professional, well-run Town government.
- 12). Town Officers must not solicit political support of any kind, including financial contributions, display of posters or lawn signs, name on support list, from Town staff. Both Town Officers and Employees may exercise their constitutional right to support or oppose any candidate or issue, but must comply with federal, state and local law limiting such activities in the workplace.

Town Officer Attendance

Governance of the Town requires that all of the elected or appointed Officers attend all Regular Meetings of the Board or Commission in order to fulfill each member's obligation to the citizens of the Town to fully participate in the process of government. The Board or Commission must have a quorum to do business, and each member of the Board or Commission has an obligation to his or her fellow members to attend meetings and to be informed about pending issues and to attend the Regular Meetings of the Board or Commission.

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1). As a courtesy and when time permits, a Town Officer shall notify the Mayor, Chair or Town Administrator if he or she will not be able to attend a Meeting. The Board or Commission may determine whether an absence is excused or unexcused based upon the information provided by the Mayor or Town Administrator. Unless otherwise determined by a vote of the Board or Commission, each absence shall be noted as "excused" by the Clerk in the Minutes. Any member of the Board or Commission shall have the right at the meeting at which the absence occurs to move for a determination that the absence is "unexcused." If such a motion is seconded, a roll call vote shall be taken and if a majority votes in favor of the motion, the absence shall be noted by the Clerk as "unexcused" in the Minutes. Repeated failures to attend Regular Meetings of the Board or Commission may be cause for the Board or Commission to declare a vacancy in the office of the absent member.

2). A Board member's seat on the Board of Trustees shall be deemed vacant, and shall be filled by the Board in accordance with the provisions of the Lyons Municipal Code, when the member absents himself or herself from the duties and responsibilities of his or her office, without reasonable excuse, for a period of thirty consecutive days.

3). Should the attendance of any member of the Board become an issue, the Board shall first review the member's history of attendance since becoming a member of the Board based upon the records of the Town Clerk. The Board may consider the cause of the absences, including but not limited to issues related to the member's physical or mental health, if appropriate.

C. Town Employees. In addition to the ethical standards set forth in Section 5.A, above, Town employees shall abide by the following:

1). Town Employees may not provide special treatment, consideration or advantage to any member of the public in the performance of the Employee's official duties, beyond that which is available to every other member of the public.

2). Town Employees shall not accept or solicit gifts or special treatment from any member of the public in connection with the Employee's official duties. All Town Employees shall abide by all federal, state and local laws regarding acceptance of gifts and other things of value.

3). Town Employees should strive to continue respectful behavior when outside of Board and Commission meetings and other Town functions. The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

4). Town Employees must be aware of the vagaries of written notes, voicemail messages, and e-mail, and should treat such communications as if they were public. Technology allows words written or spoken without much forethought to be distributed wide and far. Town Employees should ask themselves: Would I feel comfortable to have this note faxed to others? How would I feel if this voicemail message were played on a speaker phone in a full office? What would happen if this e-mail message were forwarded to others?

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- 5). Town Employees must be aware that even private conversations can have a public presence.
- 6). Town Employees must make no promises on behalf of the Town, except when expressly authorized to do so. While it is acceptable to publicly disagree about an issue, it is unacceptable to make derogatory comments about other Town Employees, their opinions or their actions.
- 7). Town Employees must remember that Lyons is a small town at heart. Town Employees are often subjected to observation by the community. Their behaviors and comments should serve as models for proper deportment within the Town of Lyons. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Town Employees, 24 hours a day, seven days a week. It is a serious and continuous responsibility.
- 8). Town employees shall not:
  - a. Disclose or use confidential information acquired in the course of official duties, including any information obtained in a Town Board Executive Session, unless approved by a majority vote of the Town Board;
  - b. Waive any confidence or privilege of the Town Board or board or commission without the prior approval by majority vote of the Board, board or commission;
  - c. Represent or appear on behalf of any private individuals or entities before any Board, commission, agency or board of the Town, nor represent any private individual or entity in any action or proceeding against the interests of the Town in any litigation to which the Town is a party;
  - d. Request or permit the use of Town-owned vehicles, equipment, materials, or property for personal convenience or profit except when such services are available to the public generally or are provided in an express Town policy for the use of such employee in the conduct of official business;
  - e. Assist any person for a fee (other than that charged for that service by the Town) or other compensation in obtaining any contract, claim, license, permit, permission, approval, or other economic benefit from the Town (except as permitted pursuant to Town ordinance);
  - f. Accept a fee or any other compensation, except his/her official compensation as provided by resolution, ordinance or contract of the Town, for promoting or opposing passage of any Town legislation; or
  - g. Knowingly misrepresent or willfully fail to disclose any conflict of interest, or any personal or financial interest, when such disclosure is required by this Code, any federal, state or local law, or as a condition of employment.

## **6. DISCLOSURE OF CONFLICTS**

Town of Lyons  
Code of Ethical Standards

A. Declaration. In the event that a Town Officer has an actual or potential conflict of interest in any matter proposed or pending before the Board or Commission of which he or she is a member, the Officer shall declare such interest in a public meeting to the Board or Commission. In the event that any Town Officer is aware that he or she could reasonably be perceived as having such a conflict of interest but is unsure of, or does not believe in, the existence of such a conflict, the Officer shall nevertheless disclose the possibility of such conflict of interest to the Board or Commission.

In deciding whether or not a Town Officer has a conflict of interest, consideration should be given to the following:

- (1) Whether the potential conflict of interest would impede independence of judgment;
- (2) The effect of the Town Officer's participation on public confidence in the integrity of the governing body and Town government;
- (3) Whether the Town Officer's participation is likely to have any significant effect on the ultimate disposition of the matter;
- (4) The Town Officer's fiduciary obligations to the Town; and
- (5) The purposes of this Code.

B. Disqualification from Voting and Influencing.

(1) Upon declaration by a Town Officer of a conflict of interest with respect to any matter, or upon determination by the Board, board or commission of the existence of such a conflict of interest on a matter pending before such Board, board or commission, the Town Officer shall be disqualified from acting or voting on the matter or any related business. In addition, the disqualified Officer shall refrain from attempting to influence the decisions of other members of the Board, board or commission in voting on the matter, except as may be authorized pursuant to the Lyons Municipal Code. A Town Officer shall also be prohibited from voting on any motions directly arising out of the discussions on the matter.

(2) After declaration or determination of a conflict of interest, the officer shall leave the room while the matter is being considered, and shall refrain from participation in any manner in the deliberations of the Board, board or commission on the matter. The Board, board or commission shall have the right to ask the disqualified Town Officer to return solely to provide information which may be deemed valuable and which is not reasonably available from another source. The disqualification of a Town Officer from voting shall not preclude the existence of a quorum, of any board or commission other than the Town Board.

(3) In the event of disqualification of a Town Officer or officers from voting on a matter, approval of which requires the affirmative vote of a specific number of votes by members of the board or commission other than the Town Board, the required number of votes shall automatically be reduced by the

number of officers disqualified provided that a quorum is maintained by such reduction. In the event any disqualification results in a lack of quorum for purposes of taking action, the meeting shall be continued to a date certain in order to maintain the required quorum.

C. Rules of Procedure. The Board of Trustees is authorized to adopt rules of procedure consistent with this Code, under which the Board and/or Town Commissions conduct the business and affairs of the Town.

## **7. ENFORCEMENT**

A. The Board of Trustees, sitting as the Board of Ethics, shall have the responsibility for the enforcement of this Code as to Town Officers and those contract employees appointed or hired directly by the Town Board. It shall have the power to investigate any complaint, to initiate any suit and to prosecute any criminal or civil action on behalf of the Town where it believes such action is appropriate.

B. The Town Board may direct the Town Attorney or retain an independent investigator to investigate any violation of this Code.

C. Any person who believes that a violation of any portion of this Code has occurred may file a signed, written complaint with the Town Administrator or Board of Ethics, as the case may be, which complaint shall be promptly investigated and such action taken thereon as deemed appropriate. The various provisions of this Code are cumulative and not exclusive, and shall not be construed to condition or limit any administrative, civil, or criminal action or proceeding which may be instituted by the Town pursuant to this Code.

Regarding complaints against a Town Officer, the following procedures shall be followed:

(1) Ethics Complaints. The Board of Ethics shall accept from any person, Board or Commission a verified complaint in writing, signed by someone with personal knowledge of the facts giving rise to the complaint, which states the name of any person alleged to have committed a violation of this Code and which sets forth the particulars thereof. The Board of Ethics shall forward to the accused within ten days a copy of the complaint and a general statement of the applicable provisions with respect to such verified complaint. If the Board of Ethics determines that the verified complaint does not allege facts sufficient to constitute a violation of the Code, it shall dismiss the complaint and notify the complainant and the accused.

(2) Ethics Investigation. Following the receipt of a verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis to believe that a violation of the Code has been committed or that an investigation of a possible violation is warranted, the Board of Ethics may cause an investigation to be made of the circumstances concerning the possible violation. The Board of Ethics may also conduct an ethics investigation upon its



own initiative or the request of any Town Officer who has been alleged to have committed unethical conduct by sources unwilling to file a verified complaint. An ethics investigation shall be conducted by an impartial investigator engaged by the Board. Before invoking its investigatory powers, the Board of Ethics shall approve a motion, which shall state the nature and purpose of the investigation, the actions or activities to be investigated, and the persons who are the subject of the investigation. The Board of Ethics shall, within five days, serve a copy of the motion on the accused together with a notice informing the person that he or she is the subject of the investigation and a general statement of the applicable provisions whose violation are being investigated. If the Board of Ethics, during the course of an investigation, finds probable cause to believe that a violation of this Code has occurred, it may:

(i) Board of Ethics Complaint. If no verified complaint has been filed, make upon its own motion a verified complaint, which shall be in writing, shall state the name of the person who is alleged to have committed a violation of the Code and shall set forth the particulars thereof. The Board of Ethics shall forward to the accused within ten days a copy of the complaint, a general statement of the applicable provisions with respect to such verified complaint and a specific statement enumerating the source or sources of information upon which the complaint is based.

(ii) Amendment of Complaint. If a verified complaint has been filed and the Board of Ethics finds probable cause to believe that a violation, other than one contained in the complaint, has occurred, amend the complaint, upon its own motion, to include such violations. If the complaint is so amended by the Board of Ethics, a copy of the amendment shall be sent to the accused within forty-eight hours.

(3) Service. Service of any notice or other document pursuant to the Code is complete upon mailing certified mail to the person's last known address, or upon personal service.

(4) Dismissal or Hearing. Upon completion of the investigation, the Board of Ethics shall dismiss the complaint if it determines there was no violation of the Code. If the Board of Ethics determines, based on the investigative report, that a violation may have occurred, it shall, by motion, set a date, time, and place at which a hearing shall be held to hear and determine the complaint. The investigative report and notice of the hearing shall be served on the accused not less than thirty days prior to the hearing.

(5) Hearing. The Mayor or Board designee shall preside over the hearing on the ethics complaint and shall determine all procedural issues. The person appointed by the Board of Ethics to conduct the investigation shall present the case against the accused. The accused may be represented pro se, or by any person of accused's choice. The hearing shall be conducted so as to provide fundamental fairness, although strict rules of procedure and evidence need not be followed. All witnesses shall be subject to cross-examination. Documentary evidence that can be reasonably authenticated shall be admitted for

consideration. The ethics violation shall be proven by a preponderance of the evidence as determined by two-thirds of the Board of Ethics. Upon finding the accused violated the Code, the Board of Ethics may continue the hearing to discuss, and in its discretion to receive additional evidence, regarding the appropriate penalty.

(6) Findings. At the conclusion of the hearing regarding the alleged violation, the Board of Ethics shall dismiss the charges or find that the accused violated this Code. The Board of Ethics shall serve on the accused written findings and order within thirty days of conclusion of the hearing.

(7) Penalties. Upon finding that a Town Officer has violated this Code, the Board of Ethics, upon supermajority (i.e., 2/3 of the members present) vote, may order an oral or written reprimand, a public censure, or such other penalty as deemed just and appropriate, depending on the seriousness of the violation and any mitigating circumstances.

D. Violation of Rules of Procedure.

(1) If a violation of the Rules of Procedure adopted by the Board of Trustees is alleged to have occurred, it shall be privately reported to the Mayor or, if the member alleged to be in violation is the Mayor, to the Mayor Pro Tem. If deemed necessary by the remaining members of the Board, by unanimous vote, the Town Administrator may be directed to investigate the allegation(s) and shall make a written report of his or her findings to the Board and to the Town Attorney. The Town Attorney shall make a recommendation to the Board concerning the alleged violation. The member shall have the opportunity to respond to the allegation during a public meeting or in writing to other members of the Board. Thereafter, if there is a reasonable basis to believe a violation has occurred, the matter may be placed on the Agenda for discussion at a Regular Meeting.

(2) At the Regular Meeting, the Board shall review the investigative report and the findings of the Town Administrator and the recommendation of the Town Attorney concerning the alleged violations(s). The member shall have the opportunity to rebut the allegation(s) through his or her own statement, the testimony of other witnesses and by the presentation of documentary evidence. The member may be represented by legal counsel of his or her choice and at his or her own expense. Upon motion made, seconded and passed by a majority vote of the other members of the Board, a member may be sanctioned as herein provided. If the motion fails or a motion is passed stating that there has been no violation of the Rules of Procedure, then the member shall be deemed not to have been in violation of these Rules.

(3) A violation of the Rules of Procedure shall not be considered a basis for challenging the validity of a Board decision or determination.

(4) The Town Clerk shall provide a copy of the Rules of Procedure to any person who may request a petition of nomination for a position on the Board.

## **8. AMENDMENTS**

This Code may be amended and new Rules of Procedure may be adopted by a majority vote of all members of the Board of Trustees. Any such amendment shall be submitted in writing at a work session or a Meeting preceding formal action to amend. The proposed amendment(s) shall then be placed on the next Agenda.

## **APPENDIX A – GUIDELINES FOR SELF-EVALUATION OF CONDUCT**

### **Proper conduct IS...**

Keeping promises  
Being dependable  
Building a solid reputation  
Participating and being available  
Demonstrating patience  
Showing empathy  
Holding onto ethical principles under stress  
Listening attentively  
Studying thoroughly  
Keeping integrity intact  
Overcoming discouragement  
Going above and beyond, time and time again  
Modeling a professional manner  
Adhering to majority decisions

### **Proper conduct IS NOT...**

Showing antagonism or hostility  
Deliberately lying or misleading  
Speaking recklessly  
Spreading rumors  
Stirring up bad feelings, divisiveness  
Acting in a self-righteous manner  
Interfering with staff

### **Checklist for Monitoring Conduct**

Will my decision/statement/action violate the trust, rights, or good will of others? What are my interior motives and the spirit behind my actions?  
If I have to justify my conduct in public tomorrow, will I do so with pride or shame?  
How would my conduct be evaluated by people whose integrity and character I respect?  
Even if my conduct is not illegal or unethical, is it done at someone else's painful expense?  
Will it destroy their trust in me? Will it harm their reputation?  
Is my conduct fair, just, and unbiased?  
If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?  
Does my conduct give others reason to trust or distrust me?  
Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for? Do I exhibit the same conduct in my private life as I do in my public life? Can I take legitimate pride in the way I conduct myself and the example I set? Do I listen and understand the views of others?  
Do I question and confront different points of view in a constructive manner? Do I work to resolve differences and come to mutual agreement?  
Do I support others and show respect for their ideas?  
Will my conduct cause public embarrassment to someone else?