

# Policy Statement

2021 – 08 – 09

## Code of Conduct for Boards/Commissions/Committees

### *I. Purpose*

The intent of this Code of Conduct, which shall be deemed a policy of the Select Board, is to establish clear guidelines to serve as the standard for achieving and maintaining a high level of public confidence, trust, and professional respect with regards to how the Town and its officials conduct business. This policy is intended to define and create a centralized policy with regard to standards of conduct.

The Select Board recognizes the importance of professional standards at all levels of government, including those who volunteer their time and services on behalf of the Town. The Board encourages other boards and committees of the Town who are not appointed by the Select Board per the Provincetown Charter to adopt this standard by reference, thereby creating a unified Code of Conduct for Town officials.

### *II. Applicability*

This policy and all its sections shall apply to the Select Board and to the other boards, presiding officers, public officials, commissioners, and committees, and other representatives of the Town appointed by the Select Board, including those special municipal employee status.

- The term “the Board” and “the Select Board” shall apply to the Select Board.
- The term “member” shall apply to those appointed by the Select Board.
- The term “official” shall apply to a Select Board member, member appointed by the Select Board and special municipal employees.
- The term “appointing authority” shall apply to the Select Board.
- All commission members, committee members, board members, representatives appointed by the Select Board and other officials mentioned in this guideline are subject to this policy, including those with special municipal employee status.

### *III. Code of Conduct*

These obligations and commitments shall be assumed by all members of the Board, Committee, or Commission and other officials defined in the Applicability section:

#### A. Conduct Generally and in Relation to the Community

- Be well informed concerning the local and state duties of a board/committee member.
- Remember that you represent the Town of Provincetown at all times.

- Accept your position as a means of unselfish public service, not to benefit personally, professionally, or financially from your board/committee position.
- Recognize that the chief function of local government at all times is to serve the best interest of all of the people.
- Demonstrate respect for the public that you serve.
- Safeguard confidential information.
- Seek no favor and believe that personal aggrandizement or profit secured by holding these positions is dishonest and/or unlawful.
- Conduct yourself as to maintain public confidence in our local government.
- Conduct official business in such a manner as to give the clear impression that you cannot be improperly influenced in the performance of your official duties.
- Unless specifically exempted (e.g. Executive Session), conduct the business of the public in a manner that promotes open and transparent government and maintain full compliance with the Open Meeting Law.
- Comply with all applicable Town policies.
- Comply with all applicable laws, including, without limitation, the following:
  - The Open Meeting Law
  - Public Records Law including all records retention schedules. Do not store originals of public records on your personal electronic device or in any location other than Town offices.
  - Procurement Laws
  - The Ethics/Conflict of Interest Statue (M.G.L. c.268A)
  - Special Municipal Employees are reminded that all Open Meeting Law and other regulations of the Commonwealth of Massachusetts and Town of Provincetown shall apply. Said status is subject to approval of the Select Board and the statute that governs it.
  - All necessary disclosures required by M.G.L. 268A Section 19 and M.G.L. 268A Section 20 shall be filed with the office of the Town Clerk in a timely manner.

#### B. Conduct on Social Media

- Officials shall ensure that postings are consistent with the requirements of both state and federal law, the rules of any social media site on which the Official is participating, as well as the Town's policies. Officials are advised to carefully read these guidelines. Officials should always be fair and courteous to fellow officials, employees and the public when posting, as they are required to do so in any public forum. Rude or unprofessional commentary, whether in person, in a public setting, or online can serve to discredit Town government as a whole. Officials with policy-making authority must take great care that their personal participation in social media does not undermine the Town's ability to effectively and efficiently provide necessary public services.
- No Town Systems are to be used to make personal posts on any social media site or platform.
- Town e-mail addresses should not be used to register on social networks, blogs, or other online tools utilized for personal use, and should not be used when setting up or establishing social media sites.

- Per G.L. c. 268, §35, no official shall post the Town Seal on any Internet site [i.e., social media network, website, blog site] or in any other Internet and/or social media communication or posting, with intent to give to such site or posting an official character which it does not possess, or unless authorized in writing in advance by the Town Manager.
- No official shall post images, or audio or video footage, of co-workers or other Town officials without consent from those individual(s).
- Officials are prohibited from posting any images of nonpublic areas of the Town's premises and property, without prior authorization of the Town Manager or his/her designee.
- Inappropriate postings that include, for example, discriminatory comments/remarks, harassment, bullying, and/or threats of violence or similar inappropriate or unlawful conduct, will not be tolerated.
- Do not post internal reports, draft policies, procedures, or other internal confidential communications or documents. Maintain the confidentiality of the Town's procedures for the development of policy and other such data exempt from the Public Records Law. The state Conflict of Interest Law [G.L. c. 268A, §23(c)(2)] expressly prohibits an Official from improperly disclosing materials or data obtained in the course of official duties, that is otherwise exempt from disclosure under the Public Records Law, and further prohibits the use of such information to further "personal interest."
- Do not post information about others that is protected from public disclosure by law, such as: Criminal Offender Record Information, HIPAA-protected information and any other personal medical information, information concerning allegations of domestic violence and abuse, information protected under student privacy statutes, and the like.
- Officials may include, in their social media personal profiles, their job titles, as well as information about their personal participation in Town sponsored events, including volunteer activities.
- Officials (elected or appointed) representing the Town via social media sites must conduct themselves at all times as a representative of the Town and in accordance with all applicable rules, regulations, and policies of the Town of Provincetown. Any official, Town board member or Town committee member shall not use a title unless they are posting in an official capacity or on an official Town social media site, with authority to do so.
- Officials must abide by laws governing copyright and fair use of copyrighted material owned by others, including written material, photography, videography and digital media. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote more than a short excerpt of someone else's work without acknowledging the source and, if possible, provide a link to the original.
- Officials are prohibited from using social media to engage in any activity that constitutes a conflict of interest for the Town or any of its employees, as defined by G.L. c. 268A.
- Officials are prohibited from posting legally protected personal information that has been obtained during the course of performing official duties (e.g.,

information that is not public record under the Public Records Law, G.L. c.66, §10 and G.L. c. 4, §7(26), or whose dissemination is restricted under

- Information about policies, rules, or plans that have not been finalized or officially adopted by the Town should not be posted unless explicitly approved in advance by the Town Manager.
- Town social media sites are not an appropriate forum for commentary about rumors, political disputes, and such comments are not permitted.
- Ethnic slurs, personal insults, obscenity, or any conduct that would not be acceptable in the workplace, is not permitted when using Town's social media sites.
- Officials acting in their individual capacity (not on behalf of the Town) are not immune from defamation claims. Under Massachusetts law, defamation is established by showing that the defendant published a false, non-privileged statement about the plaintiff to a third party that either caused the plaintiff economic loss or was of the type that is actionable without proof of economic loss. Some statements, like imputation of a crime, are defamatory per se. Avoid statements that may be interpreted as defamatory.
- Officials should not comment upon rumors or political disputes related to or concerning Town government, or Town employees and officials.
- Officials operating personal social media sites are subject to the same guidelines as above for the operation and administration of sites under their control, when focusing on topics relating to the functioning or operations of Town government. The site should clearly indicate their participation and carry a disclaimer that "The operation and administration of this site are my own and do not represent the views, positions or opinions of the Town" in order to avoid the appearance of being an official Town social media site.
- Members of multi-member boards, committees and commissions must be mindful of the requirements of the Open Meeting Law, when participating in social media, in both personal and (where authorized) official capacities. A quorum of a board/committee/ commission should avoid posting on social media sites discussing topics relating to the functioning or operations of Town government, or on topics relating to matters under that
- Be aware of the Open Meeting Law and possible violations for improper deliberations outside of a posted meeting. A series of individual postings on a social media site by members of a public body cumulatively may convey the position of a quorum regarding a subject within its jurisdiction, and may constitute improper
- Although the Town can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic, the Town cannot use the moderation function to restrict speech with which the Town merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media sites hosted by municipalities. The Town must respect those rights by posting all comments other than those excluded for specific legitimate reasons, as referenced above.

C. Conduct in Relation to Your Fellow Board/Commission/Committee Members

- Treat all members of the board/commission/committee with respect despite differences of opinion; keeping in mind that professional respect does not preclude honest differences of opinion but requires respect within those differences.
- Recognize your responsibility to attend all meetings of your Committee and promptly notify the chairman should you for any reason be unable or unwilling to continue to serve. Formal notice to resign from a board/commission/committee requires written notification to the office of the Town Clerk.
- Recognizes that action at official legal meetings is binding and that you alone cannot bind the board/commission/committee outside of such meetings.
- Wait until a public hearing, whereby one has the opportunity to hear the pros and cons of an issue, prior to making statements or promises as to how you will vote on quasi-judicial matters that will come before the board/committee/commission
- Uphold the intent of executive session and respect the privileged communication that exists in executive session.
- Make decisions only after all facts on a question have been presented and discussed.

D. Conduct in Relation to Town Administration.

- Treat all staff as professionals and respect the abilities, experience, and dignity of each individual.
- Recognize and support the administrative chain of command.
- Direct questions of Town staff and/or requests for additional background information through the Committee's respective staff or the Town Manager as applicable and channel instructions or requests for assistance from Town Department Heads through the full Board/Commission/Committee and the Town Manager.
- The Select Board, and individual committee members, shall refrain from giving direct orders to any Town staff who are under the direction and supervision of the Town Manager.
- Individual Committee members should refrain from impeding the Town Manager from discharging his or her responsibilities, and refrain from giving orders or direction to the Town Manager or attempting to direct the Town Manager to take any particular action.
- Provide orders or directions to the Town Manager for action as a Board, rather than as an individual Board member.
- Address any concerns about staff performance to the Town Manager through private communication, rather than publicly criticizing an individual employee or a department.

Investigations shall be based only upon factual allegations that can be confirmed or denied. If allegations are received from an individual, that person must be identified, and the allegations must be in writing and must be specific. Any anonymous allegations or one of verbal shall not be responded to. Once an allegation has been received, the Town Manager

shall investigate to determine if there is cause to believe that a person has violated this Code of Conduct by engaging in conduct. The Town Manager has 10 days to report to the Select Board. No Board member shall comment publicly while the investigation is occurring. If the Town Manager determines that there is cause to believe that a person has violated this Code of Conduct by engaging in conduct that would not constitute a violation of the Town Charter, but which may rise to the level of misconduct, the Select Board may, in its discretion, take appropriate action. The individual who is the subject of an investigation shall be informed in writing of the investigation and shall have the right to a Public Hearing. The Select Board may identify sanctions if the conduct is determined to be inappropriate. Sanctions may include an oral reprimand and guidance for future actions at a Select Board open meeting, and/or removal or referral to an appropriate body for action. A report of the investigation shall be posted on the Town's website by the Town Clerk after review from Town Counsel for any matters protected by the State's privacy law, which shall be redacted prior to the posting.

*Adopted: August 9, 2021*

*In favor: Abramson, Golden, Anthony, Sandberg, Venden*

*Opposed:*