



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

December 11, 2023

TO: Kill Devil Hills Board of Commissioners

FROM: Mayor John Windley

REF: New Business

2. Adoption of Code of Ethics and Conduct for the Board of Commissioners and Rules of Procedure (Attached NB-2)

In 2012, a Code of Ethics and Conduct was adopted by the then-seated Board of Commissioners; the most recent adoption was at the Board's organizational meeting in December 2019, with a Conflict of Interest Addendum adopted in November 2020. The Code is an affirming statement to our citizens of our pledge to conduct the Town's business in a manner to maintain the level of trust, professionalism, and moral conduct they expected when they voted us into office.

North Carolina General Statutes require local governments adopt a code of ethics to guide members in the performance of their official duties, which at the least must contain the following:

- The need [for all governing board members] to obey all applicable laws;
- The need [] to uphold the integrity of the office;
- The need [] to avoid impropriety in the execution of duties;
- The need [] to faithfully discharge the duties of the office; and,
- The need [] to conduct the affairs of the governing board in an open and public manner.

Attachments for this agenda item are:

- An adoptable Code: there are no changes from the 2019 document (with 2020 addendum);
- Amendments to the Allen, Trey (2017). *Suggested Rules of Procedure for a City Council* (4th ed.). School of Government. The University of North Carolina at Chapel Hill (the book and amendments have been previously provided to Board members and adopted)

I am requesting the Board of Commissioners be prepared to adopt a Code of Ethics policy and Rules of Procedure at this meeting. A motion to adopt a Code of Ethics policy and Rules of Procedure for the Kill Devil Hills Board of Commissioners will be in order.



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Code of Ethics and Conduct for the Kill Devil Hills Board of Commissioners

The stability and proper operation of democratic representative government depends upon the continuing consent of the governed, upon the public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people. Government decisions and policy must be made and implemented through proper channels and processes of the governmental structure. The purpose of this Code is to establish guidelines for ethical standards of conduct for the Mayor and Board of Commissioners and all references herein to the Board of Commissioners shall be understood to include the Mayor. It should not be considered a substitute for the law or a Board member's best judgement.

Board members must act in a manner to maintain their integrity and independence, yet must be responsive to the interests and needs of those they represent. Board members serve in an important advocacy capacity in meeting the needs of the citizens and should recognize the legitimacy of this role as well as the intrinsic relevance of this role to the proper function of representative government. At the same time, Board members must, at times, act in an adjudicatory or administrative capacity and must, when doing so, act in a fair and impartial manner. Board members must know how to distinguish these roles and when each role is appropriate and they must act accordingly. Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each Board member must find within his or her own conscience the touchstone on which to determine appropriate conduct.

Section One – A Board of Commissioners Member Shall Obey the Law

Board members shall support the Constitution of the United States, the Constitution of North Carolina and the laws enacted by the Congress of the United States and the General Assembly of North Carolina pursuant thereto. Members specifically acknowledge and agree to comply with the requirements of NCGS §14-234 entitled "Public officers or employees benefiting from public contracts; exceptions."

Section Two – A Board of Commissioners Member Should Uphold the Integrity and Independence of His or Her Office

Board members should demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in all their public activities in order to inspire public confidence and trust in town government. Board members should participate in establishing,

maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of their office may be preserved. The provisions of this Code should be construed and applied to further these objectives.

Section Three – A Board of Commissioners Member Should Avoid Impropriety and the Appearance of Impropriety in All His or Her Activities

- It is essential that town government attract those citizens best qualified and willing to serve. Board members have legitimate interests –economic, professional and vocational—of a private nature. Board members should not be denied, and should not deny to other Board members or citizens, the opportunity to acquire, retain and pursue private interests, economic or otherwise, except when conflicts with their responsibility to the public cannot be avoided. Board members must exercise their best judgement to determine when this is the case.
- Board members should conduct themselves at all times in a manner that promotes public confidence in the integrity of the office of Board of Commissioners and of town government.
- Board members should not allow family, social, or other relationships to unduly influence their conduct or judgement and should not lend the prestige of the office of Board of Commissioners to advance the private interests of others; nor should they convey or permit others to convey the impression that they are in a special position to influence them. Board members shall not grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
- Board members who have a financial interest in any official act or action before the Board shall publicly disclose on the record the nature and extent of such interest and shall withdraw from any consideration of the matter if excused by the Board pursuant to NCGS §160A-75.

Section Four – A Board of Commissioners Member Should Perform the Duties of the Office Diligently

Board members should, while performing the duties of the office as prescribed by law, give precedence to these duties over other activities. In the performance of these duties, the following standards should apply:

A. *Legislative Responsibilities:*

- Board members should actively pursue policy goals they believe to be in the best interests of their constituents within the parameters of orderly decision-making, rules of the Board of Commissioners and open government.

- Board members should respect the legitimacy of the goals and interests of other Board members and should respect the rights of others to pursue goals and policies different from their own.

B. Adjudicative Responsibilities:

- Board members should strive for professional competence in the law, and be unswayed by partisan interests, public clamor, or fear of criticism.
- Board members should demand and contribute to the maintenance of order and decorum in proceedings before the Town Board.
- Board members should be honest, patient, dignified and courteous to those with whom they deal in their official capacity.
- Board members should dispose promptly of the business of the town for which they are responsible.

C. Administrative Responsibilities:

- Board members should conserve the resources of the town in their charge. They should employ town equipment property, funds and personnel only in legally permissible pursuits and in a manner that exemplifies excellent stewardship.
- Board members should require town employees subject to their direction and control to observe the standards of fidelity and diligence that apply to Board members as well as those appropriate for employees.
- Board members who become aware of improper conduct by a town employee should promptly inform the Town Manager or Assistant Town Manager.

Section Five – A Board of Commissioners Member Should Conduct the Affairs of the Board of Commissioners in an Open and Public Manner

Board members should be aware of the letter and intent of the State's Open Meetings Law (NCGS Chapter 143, Article 33C), should conduct the affairs of the Board of Commissioners consistent with the letter and intent of that law and consistent with the needs to inspire and maintain public confidence in the integrity and fairness of town government and the office of Board of Commissioners. Consistent with this goal of preserving public trust, Board members should be aware of the need for discretion in deliberations when the lack of discretion would pose a threat to the resources of the town, to the reputation of current or potential town employees, to orderly and responsible decision making, to the integrity of other governmental processes or to other legitimate interests of the town.

Section Six – A Board of Commissioners Member should Regulate His or Her Extra Governmental Activities to Minimize the Risk of Conflict with His or Her Official Duties

- Board members should inform themselves concerning campaign finance, conflict of interest and other appropriate state and federal laws and should scrupulously comply with the provisions of such laws.
- Board members should refrain from financial and business dealings that tend to reflect adversely on the Board or on town government or to interfere with the proper performance of official duties.
- Board members should manage their personal financial interests to minimize the number of cases in which they must abstain from voting on matters coming before the Board.
- Information acquired by Board member in their official capacity may not be used or disclosed in financial dealings or for any other purpose not related to official duties.

Section Seven – A Board of Commissioners Member Should Refrain from Political Activity Inappropriate to His or Her Office

- A. Board members have a civic responsibility to support good government by every available means, to continue to inform and educate the citizenry about the affairs and processes of town government, and to make themselves available to citizens of the town so that they may ascertain and respond to the needs of the community. In doing so, Board members may and should join or affiliate with civic organizations whether partisan or non-partisan, may and should attend political meetings, may and should advocate and support the principles or policies of civic or political organizations consistent with the Constitution and laws of the United States and North Carolina.
- B. Candidates for the office of Board of Commissioners, including incumbents:
- Should inform themselves concerning the laws of this state with regard to campaigns and relevant disclosure requirements and should scrupulously comply with the provisions of such laws;
 - Should maintain the dignity appropriate to the office, and should encourage member and their families to adhere to the same standards of political conduct that apply to the Board of Commissioners;
 - Should not make pledges or promises of conduct in office that they will not or cannot perform or would be illegal if it were performed;
 - Should not misrepresent their identity, qualifications, present position, or other fact; and
 - Should avoid pledges or promises of conduct in office other than the faithful and

impartial performance of the duties of the office.

Section Eight – *A Board of Commissioners Member Shall Attend Ethics Education Training*

All member of governing board shall receive a minimum of two hours of ethics education within 12 months after initial election or appointment to the office, and again within 12 months after each subsequent election or appointment to the office in accordance with NCGS 160A-87. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct at the local government level. The ethics education may be provided by various qualified sources, including the North Carolina League of Municipalities and UNC School of Government, or other qualified sources of the Board's choosing. The Town Clerk shall maintain a record verifying receipt of the ethics education by each member of the Board of Commissioners. Be it further

RESOLVED that:

- A violation of this Code of Ethics may subject a Board member to a censure resolution by the Kill Devil Hills Board of Commissioners; however, no such censure resolution shall be adopted until the person alleged to have committed the violation has been given notice of the alleged violation and provided with the opportunity to appear before the Board and be heard regarding the allegation.
- When a Board member has a question as to the applicability of this Code to a particular situation, the member may apply, orally or in writing, to the Town Attorney for advisory guidance. Upon receipt of a request for advisory guidance and based only upon the information provided to the Town Attorney, the Town Attorney will provide advisory guidance to the Board member. At the Town Attorney's discretion, the Town Attorney may retain outside legal counsel to advise in connection with any request for advisory guidance. In no event will the Town Attorney's advisory guidance excuse a Board member from complying with the Code of Ethics or other applicable law.
- The Board's Conflict of Interest Policy, originally adopted on November 9, 2020, is fully incorporated into this Code of Ethics Policy, and is as follows:

Conflict of Interest Policy

Conflict of Interest Defined

A conflict of interest is defined as an actual or perceived interest by a (Employee / Board Member) in an action that results in, or has the appearance of result in, personal, organizational, or professional gain. A conflict of interest occurs when an Employee / Board Member has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Board of Directors / Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Directors / Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Board of Directors / Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Board of Directors / Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Board of Directors / Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest include any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an Employee and a Board Member, or a person who is an employee and who hires family members as consultants.

Employee Responsibilities

It is in the interest of the organization, individual Employees, and Board Members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest, or the appearance of conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics, and personal integrity even though law, regulation, or custom does not require them.

Acceptance of Gifts

Employees, members of Employee's immediate family, and Board Members are prohibited from accepting gifts, money, or gratuities from the following:

- A. Persons receiving benefits or services from the organization;

- B. Any person or organization performing or seeking to perform services under contract with the organization;
- C. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria from lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

Established by the Kill Devil Hills Board of Commissioners in 2012, reaffirmed in 2019, with addendum adopted and incorporated in 2020, and adopted this _____ day of December, 2023.

SEAL

John Windley
Mayor

ATTEST:

James Michael O'Dell
Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney



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**Allen, Trey (2017). *Suggested Rules of Procedure for a City Council (4th ed.)*.
School of Government. The University of North Carolina at Chapel Hill**

Amendments for the Town of Kill Devil Hills Board of Commissioners

Rule 1. Applicability of Rules (Page 5)

1. Kill Devil Hills City Council

Rule 2. Quorum (Page 6)

1. 4 Council seats
1 Voting Mayor
5 total – quorum = 3

Rule 9. Regular Meetings (Page 20)

1. Second Monday and Fourth Wednesday of each month.
2. Regular meetings shall begin at 6:00 p.m. in the Meeting Room at the Town Hall Meeting, 102 Town Hall Drive, Kill Devil Hills.
3. Unless otherwise adopted in the annual meeting schedule, which shall be posted at the Town Hall and on the Kill Devil Hills website www.kdhnc.com.
4. The annual meeting schedule may be amended.