

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair

Councilor Tom Abbott

Councilor Laura Hainey

Councilor Christopher Rice

Councilor Daniel Fitzpatrick



**CODES AND ORDINANCES
COMMITTEE**

Of the Rochester City Council

Thursday, October 7, 2021

31 Wakefield Street, Rochester, NH

Council Chambers

6:00 PM

Agenda

1. **Call to Order**
2. **Public Input**
3. **Acceptance of the Minutes**
 - 3.1 **August 5, 2021 *motion to approve* P. 3**
4. **Code of Ordinances Review**
 - 4.1 **Amendment to Chapter 254 of the General Ordinance of the City of Rochester regarding storage of Recreational vehicles, travel trailers, campers and boats P. 11**
5. ***Discussion:* Ethics Committee & Code P. 15**
6. **Other**
7. **Adjournment**

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City Clerk's Office

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Tom Abbott (absent)
Councilor Chris Rice (excused)
Councilor Laura Hainey
Councilor Daniel Fitzpatrick



Others Present

Terence O'Rourke, City Attorney
Lisa Stanley, Police Commissioner
Dave Camire, School Board member

**CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, August 5, 2021
Council Chambers
6:00 PM**

Minutes

1. Call to Order

Chair Lachapelle called the Codes & Ordinances meeting to order at 6:00 PM

Deputy City Clerk Cassie Givara took a silent roll call. All Councilors were present except for Councilor Rice who was excused and Councilor Abbott who was absent. There was a quorum present.

2. Public Input

There was no one present in Council Chambers for public input.

3. Acceptance of the Minutes

3.1 May 6, 2021 *motion to approve*

Councilor Hainey **MOVED** to accept the minutes of the May 6, 2021 Codes & Ordinances Committee. Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Discussion: Ethics Committee & Code

Chairman Lachapelle opened up the discussion for edits and corrections to the draft Code of Ethics which had been distributed in the packet as well as to the School Board and the Police Commission.

The following minor grammatical corrections were identified for correction:

- page 10, 6th paragraph down where the title reads “*Do no solicit political support from staff*” and should be changed to “Do not solicit.”
- Page 14, first paragraph, 2nd to last sentence which should be changed from “ability to work with staff and ~~they~~ public” should be changed to “staff and the public.”
- Page 15, under the title “Inappropriate Staff Behavior” the sentence which reads “These employees may be disciplines...” should read “...may be disciplined.”

Councilor Hailey inquired if the Code of Ethics was the correct place to outline repercussions for inappropriate staff behavior because it would likely be covered in the employee handbook or employee contracts. She stated that this document was intended for City Council, School Board, and Police Commission members as opposed to City staff and suggested that this entire section be removed. Dave Camire, School Board, suggested that the intent was to outline the reporting of inappropriate behavior by staff. Councilor Hailey **MOVED** to strike the last sentence in the paragraph as follows:

Inappropriate Staff Behavior

Council members should refer to the city manager any City staff or to the city attorney any City Attorney’s staff who do not follow proper conduct in their dealings with Council members, other City staff, or the public. ~~These employees may be disciplines in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)~~

Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

There was discussion regarding changing the title of the above listed section to something indicating it was about the reporting of said inappropriate behavior. Councilor Fitzpatrick stated that the intention seemed to be to prevent having a Council or Board member confront staff behavior personally, but rather taking the proper channels through the City Manager or City Attorney to report and address the behavior. The Committee set aside the decision to return to later in the meeting.

Lisa Stanley, Police Commissioner, directed the Committee to page 3 of the document, bullet point 2 which states, in part, “Members shall comply with the laws of the nation, the State of New Hampshire and the City of Rochester in the performance of their public duties.” She questioned why this was only referencing public duties as opposed conduct both publicly and privately. She stated

that members of boards and commissions already sign an oath of office promising to carry out these duties and to maintain this conduct and it should not be restricted to their public conduct. Attorney O'Rourke stated that the verbiage in this subsection of the Code of Ethics is actually broader than what is contained in the oath of office. Commissioner Stanley suggested changing the passage as follows:

2. Comply with both the spirit and the letter of the Law and City Policy. Members shall comply with the laws of the nation, the State of New Hampshire and the City of Rochester. ~~in the performance of their public duties. These laws include, but are not limited to: the United States and New Hampshire constitutions; the Rochester City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.~~

Councilor Lachapelle **MOVED** to remove the sentence as listed above. Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Commissioner Stanley directed the committee to page 5, section 12 which reads:

12. Representation of Private Interests. In keeping with their role as stewards of the public interest, members shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

Commissioner Stanley pointed out that on page 13 section 5 reads "However, they should be sensitive to the way their participation especially if it is on behalf of an individual, business or developer– could be viewed as unfairly affecting the process." which appears to directly conflict with the earlier passage on page 5. Attorney O'Rourke clarified that in section 12, "representing" referred to appearing as legal counsel or a paid consultant on behalf of a third party. The caution suggested on page 5, as listed above, refers to a Councilor or board member appearing as a private citizen in support of a particular project or group. Attorney O'Rourke suggested adding the verbiage "as a paid or retained representative" to section 12. Councilor Fitzpatrick **MOVED** to add the verbiage as follows:

"...In keeping with their role as stewards of the public interest, members shall not appear **as a paid or retained representative** on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City..."

Councilor Hainey seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Commissioner Stanley questioned section 14 on page 5 titled “Police role of Members” and asked if the word “police” was necessary. Councilor Lachapelle stated that in drafting this code, they had taken multiple examples from other communities and combined the relevant pieces to develop a document for Rochester’s needs. This process accounts for some of the items which remain to be addressed. Attorney O’Rourke said that the word “police” in this context refers to overseeing a role, not to the police department. He stated that it was a non-interference clause and could be changed to “Non-interference of members.” Councilor Fitzpatrick **MOVED** to change the title of section 14 on page 5 as follows:

14. Police Role **Non-interference** of Members.

Councilor Hailey seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Commissioner Stanley directed the committee to page 9, section 4 of the document in regards to non-routine requests requiring special effort. The document says these requests need to start with the City Manager, but Commissioner Stanley stated that the Police Commission would more likely go to the Chief and the School Board would report to the superintendent. Attorney O’Rourke said that verbiage could be added in a footnote referencing the appropriate party for each board to report. Councilor Lachapelle **MOVED** to update the footnote to reference this correct reporting information for each board. Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Commissioner Stanley referenced the first paragraph on page 10 titled “*Never publicly criticize an individual employee.*” She said she had discussed this with the City Manager and there was a reference to the City Attorney which should not be included because it relates to elected officials. A motion was not needed because this item was identified as needing to be changed from the beginning. It was updated as follows:

Never publicly criticize an individual employee

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee’s manager. Comments about staff performance should only be made to the city manager through private correspondence or conversation. ~~Comments about staff in the office of the city attorney should be made directly to the city attorney.~~ Appointed officials should make their comments regarding staff to the city manager or the Mayor.

Commissioner Stanley said that same issue is contained on page 15 and that passage was additionally changed as follows:

~~Inappropriate~~ **Reporting** Staff Behavior

Council members should refer to the city manager any City staff **or to the city attorney any City Attorney’s staff** who do not follow proper conduct in their dealings with Council

~~members, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)~~

Mr. Camire stated that the School Board has an attorney and questioned if this deletion would be relate to that attorney as well. Attorney O'Rourke said that in the case of the School Board, with the footnote referencing the proper reporting authorities, it would indicate that the School Board members should refer to the Superintendent. He stated he would update the footnote to state that any reference to City Council throughout the document also refers to School Board and Police Commission, and any reference to City Manager also refers to Superintendent and Chief of Police.

Commissioner Stanley pointed to the sections on page 11 which refer to public speaking at meetings and questioned whether this document was the proper place for this wording as opposed to how it already stands in the rules of order. City Attorney O'Rourke agreed that some of this could be removed, but recommended keeping the portion which reads "No qualified speaker will be turned away unless he or she exhibits inappropriate behavior" because this sentence refers to the conduct of board members in relation to their treatment of public speakers. Councilor Hainey said that this information is already covered in section 3(a) on page 10 Elected and Appointed Officials' Conduct with the Public. Commissioner Stanley suggested the sentence in question could be placed at the end of the "In Public Meetings" section of 3(a). Councilor Hainey suggested striking all of page 11 and the top of page 12 and moving the sentence "No qualified speaker will be turned away unless he or she exhibits inappropriate behavior" to the end of section 3(a) on page 10. Councilor Hainey **MOVED** to remove the top two paragraphs on page 11. After further discussion, the motion was amended to change the paragraphs as follows:

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. Questions should not be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?"). ~~Generally, each speaker will be allocated three minutes with the applicants and appellants or their designated representatives allowed ten. If many speakers are anticipated, the chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.~~

~~No qualified speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the chair requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.~~

Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Hainey **MOVED** to change the paragraph on page 11 titled "*Give the appearance of active listening*" to "*Be an active listener.*" Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

There was a discussion regarding the section on page 11 in regards to asking a public speaker for clarification. It was determined that this section was germane and should remain in the document.

Commissioner Stanley referred to the page 15, section C titled Sanctions and the paragraph regarding “Public Disruption.” She said it seemed to relate more to public conduct as opposed to the conduct of elected officials. Attorney O’Rourke agreed that this information is included in other places such as the Council Rules of order and could be removed from this ethics document. Councilor Lachapelle **MOVED** to remove the section on page 15 as follows:

C. SANCTIONS

~~Public Disruption~~

~~Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.~~

Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

The last sentence on page 15 was changed as follows to correct an omitted word:

City Council members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, or **lose** committee assignments.

Commissioner Stanley suggested that the word “censure” as used in the sentence may need to be defined within the document. Council Lachapelle said that it is the prerogative of the chair to use their gavel to restore order and it is under the mayor’s authority to have a member removed. Attorney O’Rourke stated that censure is a formal statement of disapproval. It was decided that a definition of censure should be added to the “Glossary of terms” within the document.

Commissioner Stanley reference the sentence at the top of page 12 which refers to “Serious infractions of the Code of Ethics or Code of Conduct” and questioned to what “serious” refers. Attorney O’Rourke said the law does not define “serious” and cautioned against a definition due to the subjective nature of the term and what may be considered serious to various people or organizations. The sentence already references the City Charter and state RSA.

There was a brief discussion regarding the process to be taken when confronting behavior/infractions by board members and the steps which need to occur.

Commissioner Stanley referred to page 17 with the bullet points under “Principles of Proper Conduct.” She stated that she felt the list was juvenile and might better be purposed as a handout for new board members or as part of the statement of page 20 which members would be signing. Attorney O’Rourke said the wording was intended as aspirational principles that board members would be agreeing to. Councilor Lachapelle suggested moving this list to the Member Statement document on page 20. Councilor Fitzpatrick suggested changing the title to “Aspirational Principles” or “Aspirational Goals.” Councilor Hainey **MOVED** to change pages 17 and 18 as follows:

D. PRINCIPLES OF PROPER 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~~

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~~

~~It all comes down to respect~~

~~Respect for one another as individuals...respect for the validity of different opinions...respect for the democratic process...respect for the community that we serve~~

E. 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? Morally right?~~
- ~~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?~~

Councilor Fitzpatrick seconded the motion. Attorney O'Rourke said that removing these sections would undermine the entire document; it is a code of ethics and conduct, with both ethics and conduct being defined earlier in the code. While ethics is covered throughout, removing this section removes the description of conduct. Councilor Hainey **WITHDREW** her motion. Councilor Fitzpatrick withdrew his second. The **MOTION CARRIED** by a unanimous voice vote.

Mr. Camire asked if there was a timeline on the document which dictates when it would need to be reviewed. Councilor Lachapelle said that it can be changed and nothing is set in stone at this stage. He suggested that every two years when the Codes committee reviews the rules of order, this Code of Ethics can be reviewed at the same time. Attorney O'Rourke clarified that this document would not be adopted as part of the City Ordinances. He stated that each board could potentially make reviews and changes to suit their needs independent from the other boards. Councilor Lachapelle stated that this could be added to the next Codes & Ordinances agenda to add to the Rules of Order that the Codes Committee will review the Code of Ethics.

It was discussed that any further minor grammatical changes could be sent directly to Attorney O'Rourke for correction.

Mr. Camire stated that the School Board was meeting the following week and they would have a discussion on the changes that had been made this evening and discuss any further changes to come back to the Codes Committee. Commissioner Stanley stated that the Police Commission was not meeting in September, but they would discuss the document at their next meeting and forward any further suggested changes.

The changes to the Code of Ethics document were kept in committee.

15. Other

No Discussion.

16. Adjournment

Chairman Lachapelle **ADJOURNED** the Codes & Ordinances Committee meeting at 7:20 PM.

Respectfully Submitted,

Cassie Givara, Deputy City Clerk

**Amendment to Chapter 254 of the General Ordinances of the City of Rochester Regarding
Storage of Recreational Vehicles, Travel Trailers, Campers and Boats**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 254 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (additions in *italics*):

§ 254-28 Additional parking regulations.

D. Storage of recreational vehicles, travel trailers, campers and boats. Recreational vehicles, travel trailers, campers or boats shall be stored in a carport, enclosed building or rear yard area and shall not be located within 10 feet of the lot line. No such equipment shall be used for living, sleeping or housekeeping purposes.

The effective date of these amendments shall be upon passage.

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City Clerk's Office

§ 254-28. Additional parking regulations.

- A. Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to the right-hand curb, or, if upon a roadway where there are no curbs, said vehicle shall be so stopped or parked with the right-hand wheels of such vehicle parallel to the right-hand side of the traveled portion of the way.
- B. Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or edge of the roadway, or its left-hand wheels within 12 inches of the left-hand curb or edge of the roadway.
- C. The City Council may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal aid or state way unless authorized by the Commissioner of Transportation.

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City Clerk's Office

City of Rochester

Code of Ethics and Conduct

For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Rochester City Council, Police Commission, School Board, or the City's board and commissions established by the City Charter, City Ordinance or Council policy, "City Council" shall refer to the Rochester City Council, Police Commission, School Board, or the City's board and commissions established by the City Charter, City Ordinance or Council policy, and "City Manager" shall refer to the Superintendent of Schools and the Chief of Police when appropriate.

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Policy Purpose

The Rochester City Council has adopted a Code of Ethics and Conduct for members of the City Council and City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

A. ETHICS

The citizens and businesses of Rochester are entitled to have fair, ethical and accountable local government which has earned the public's full confidence for integrity. In keeping with the City of Rochester Commitment to Excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for the personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Rochester City Council, Police Commission, and School Board have jointly adopted a Code of Ethics and Conduct for members of the City Council, Police Commission, School Board, and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. The Ethics section of the City's Code of Ethics and Conduct provides guidance on ethical issues and questions of right and wrong.

1. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Rochester and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. Comply with both the spirit and the letter of the Law and City Policy. Members shall comply with the laws of the nation, the State of New Hampshire and the City of Rochester. These laws include, but are not limited to: the United States and New Hampshire constitutions; the Rochester City Charter; laws pertaining to conflicts of interest, election

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campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. **Conduct of Members.** The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by each body governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions by City staff.
5. **Conduct of Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
7. **Communication.** Members shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.
8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits

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which might compromise their independence of judgement or action or give the appearance of being compromised.

10. Confidential Information. Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. Use of Public Resources. Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
12. Representation of Private Interests. In keeping with their role as stewards of the public interest, members shall not appear as a paid or retained representative on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. Advocacy. Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Rochester, nor will they allow the inference that they do. Council members and board and commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, board/commission meetings, or other official City meetings.
14. Non-Interference of Members. Members shall respect and adhere to the council-manager structure of Rochester City government as outlined by the Rochester City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by the City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

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15. Independence of boards and commissions. Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.
16. Positive Work Place Environment. Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. Conduct

The Conduct section of the City's Code of Ethics and Conduct is designed to describe the manner in which members should treat one another, City staff, constituents, and others they come into contact with in representing the City of Rochester.

The constant and consistent theme through all of the conduct guidelines is "respect." Members experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected and appointed officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide members to do the right thing in even the most difficult situations.

1. Elected and Appointed Officials' Conduct with One Another

Elected and appointed officials 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, this common goal should be acknowledged even though individuals may "agree to disagree" on contentious issues.

1a. In Public Meetings

Use formal titles

Elected and appointed official should refer to one another formally during public meetings, such as Mayor, Deputy Mayor, Chair, Commissioner or Councilor followed by the individual's last name.

For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Rochester City Council, Police Commission, School Board, or the City's board and commissions established by the City Charter, City Ordinance or Council policy, "City Council" shall refer to the Rochester City Council, Police Commission, School Board, or the City's board and commissions established by the City Charter, City Ordinance or Council policy, and "City Manager" shall refer to the Superintendent of Schools and the Chief of Police when appropriate.

Practice civility and decorum in discussion 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. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

Honor the role of the chair in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other members

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenged the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

Demonstrate effective problem-solving approaches

Members have a public stage to show how individuals with disparate points of view can find common ground and seek compromise that benefits the community as a whole.

Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose. In private settings, board and commission members may communicate at any time and on any subject with individual members of the City Council, and may express to them individual viewpoints and opinions. In public, however, all members shall represent the official policies or positions of their board or commission, with the following exception. During a council public hearing on any item addressed by the board or commission, any member may speak under standard time limits, but shall indicate whether their testimony represents an official position (majority opinion) or a minority opinion of the board/commission to which they belong. The chair shall represent the majority view of the board or commission, but may report on any minority views as well, including his or her own. When an official board or commission position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the board or commission (or his/her

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designee) to explain the position of the board/commission or to rebut statements made by staff or the public. If new information is brought to light during a public hearing which was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the board or commission for further study prior to taking other action itself.

Individual opinions and positions may be expressed by board and commission members regarding items that have not come before the particular board/commission to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Rochester, nor will they allow the inference that they do.

Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner contrary to the established policy adopted by the Council.

1(b). In Private Encounters

Continue respectful behavior in private

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.

Be aware of the insecurity of written notes, voicemail messages, and E-mail

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to other? How would you feel if this voicemail message were played on a speaker phone in a full office? What would happen if the E-mail message were forwarded to others? Written notes, voicemail messages and E-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence

Elected and appointed officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after meetings noted.

2. Elected and Appointed Officials' Conduct with City Staff

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Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implements and administers the Council's 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.

Treat all staff as professionals

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

Member questions/inquiries to City staff

1. General. Council and board/commission communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.
2. Routine Requests for Information and Inquires. Members may contact staff directly for information made readily available to the general public on a regular basis (e.g., "What are the library hours of operation?") Under these circumstances staff shall treat the member no differently than they would the general public, and the member shall not use their elected status to secure preferential treatment. The city manager does not need to be advised of such contacts.
3. Non-Routine Requests for Readily Available Information. Members may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., "How many traffic lights are there in the City?" or "Under what circumstances does the City lower its flags to half mast?").
4. Non-Routine Requests Requiring Special Effort. Any member request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the city manager¹ (e.g., "How many Study Issues completed over the past five years have required 500 or more hours of staff time?", or "What is the logic behind the City's sign ordinances affecting businesses along Route 11?"). The city manager shall be responsible for distributing

¹ In the case of the Police Commission directed to the Chief of Police and in the case of the School Board to the Superintendent.

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such requests to his/her staff for follow-up. Responses to such requests shall be copied to all Council members (if originating from a Council member), relevant board or commission members (if originating from a board or commission member), the city manager, and affected department directors.

5. Meeting Requests. Any member request for a meeting with staff must be directed to the city manager.

Do not disrupt City staff from their jobs

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

Never publicly criticize an individual employee

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the city manager through private correspondence or conversation. Appointed officials should make their comments regarding staff to the city manager or the Mayor.

Do not get involved in administrative functions

Elected and appointed officials must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

Check with City staff on correspondence before taking actions

Before sending correspondence, Council members should check with City staff to see if an official City response has already been sent or is in progress.

Limit requests for staff support

Routine secretarial support will be provided to all Council members.

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Requests for additional support staff – even in high priority or emergency situations – should be made to the city manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.

Do no solicit political support from staff

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

3. Elected and Appointed Officials' Conduct with the Public

3(a). In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evidence on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

Be welcoming to speakers and treat them with care and gentleness. While questions of clarification may be asked, the official's primary role during public testimony is to listen. No qualified speaker will be turned away unless he or she exhibits inappropriate behavior.

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. Questions should not be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?").

Be an Active Listener

It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

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Maintain an open mind

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials. To express an opinion or pass judgment prior to the close of a public hearing casts doubt on a member's ability to conduct a fair review of the issue. This is particularly important when officials are serving in a quasi-judicial capacity.

Ask for clarification, but avoid debate and argument with the public

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by members to the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

No personal attacks of any kind, under the circumstances

Members should be aware that their body language and tone of voice, as well as words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings

The city attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The chair, subject to the appeal of the full Council or board/commission makes final rulings on parliamentary procedure.

3(b). In Unofficial Settings*Make no promises on behalf of the Council, board/commission, or City*

Members will frequently be asked to explain a Council or board/commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or board/commission action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

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Make no personal comments about other members

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other members, their opinions and actions.

Remember that despite its impressive population figures, Rochester is a small town at heart

Members 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 City of Rochester. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

4. Council Conduct with Other Public Agencies

Be clear about representing the City or personal interests

When representing the City, the Council members must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official board or commission meetings, board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board commission to do so for a particular purpose.

When representing another organization whose position is different from the City, the Council members should withdraw from voting on the issue if it significantly impacts or it detrimental to the City's interest. Council members should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

Correspondence also should be equally clear about representation

City letterhead may be used when the Council member is representing the City and the City's official position. A copy of official correspondence should be given to the City Manager to be filed with the Clerk's Office as part of the permanent public record.

City letterhead should not be used for non-City business nor for correspondence representing a dissenting point of view from an official Council position.

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5. Council Conduct with Boards and Commission

The City has established several boards and commissions as a means of gathering more community input. Citizens who serve on boards and commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

If attending a board or commission meeting, be careful to only express personal opinions

Council members may attend any board or commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by a Council member at a board or commission meeting should be clearly made as an individual opinion and not a representation of the feelings of the entire City Council.

Limit contact with board and commission members to questions of clarification

It is inappropriate for a Council member to contact a board or commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Council members to contact board or commission members in order to clarify a position taken by the board or commission.

Remember that boards and commission serve the community, not individual Council members

The City Council appoints individuals to serve on boards and commissions, and it is the responsibility of boards and commissions to follow policy established by the Council. But board and commission members do not report to individual Council members, nor should Council members feel they have the power or right to threaten board and commission members removal if they disagree about an issue. Appointment and re-appointment to a board or commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A board or commission appointment should not be used as a political "reward."

Be respectful of diverse opinions

A primary role of boards and commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Council members may have a closer working relationship with some individuals serving on boards and commissions, but must be fair and respectful of all citizens serving on boards and commissions.

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Keep political support away from public forums

Board and commission members may offer political support to a Council member, but not in a public forum while conducting official duties. Conversely, Council members may support board and commission members who are running for office, but not in an official forum in their capacity as a Council member.

6. Conduct with the Media

Board and commission members are not authorized to represent the City outside of official board/commission meetings unless specifically authorized to do so.

Council members are frequently contacted by the media for background and quotes.

The best advice for dealing with the media is to never go “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. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

The Mayor is the official spokesperson for the City on City positions

The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Council member is contacted by the media, the Council member should be clear about whether their comments represent the official City position or a personal viewpoint.

Choose words carefully and cautiously

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

C. SANCTIONS

Reporting Staff Behavior

Council members should refer to the City Manager any City staff who do not follow proper conduct in their dealings with Council members, other City staff, or the public.

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Council members Behavior and Conduct

Compliance and Enforcement. The Rochester Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Rochester City Council, boards and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

City Council members who intentionally and repeatedly do not follow proper conduct may be reprimanded by the presiding officer or formally censured by the Council, or lose committee assignments.

Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council, in compliance with the New Hampshire Revised Statutes Annotated and the City Charter.

Council members should point out to the offending Council member infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor² ³in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Deputy Mayor.

It is the responsibility of the Mayor to initiate action if a Council member's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

Board and Commission Members Behavior and Conduct

Counseling, verbal reprimands, and written warnings may be administered by the Mayor to board and commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective board or commission, the city clerk, the city attorney, the city manager, and the City Council.

² In regards to the Police Commission and School Board, referrals must be made to the Chair of those respective bodies.

³ Any member may refer a violation to the City Attorney's Office if they feel a conflict exists with the Mayor, Deputy Mayor, Chair, or Vice Chair.

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Written reprimands administered by the Mayor shall not be included in packets for public meetings and shall not be publicized except as required under the Right to Know Law.

Any report addressing alleged misconduct by a board or commission member shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Right to Know Law.

When deemed warranted, the Mayor or majority of Council may call for an investigation of board or commission member conduct. Should the city manager or city attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the city manager and/or the city attorney to investigate the allegation and report the findings.

The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as "Information Only". Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Right to Know Law.

It shall be the Mayor and/or the Council's responsibility to determine the next appropriate action. Any such action taken by Council (with the exception of "take no further action") shall be conducted at a noticed public hearing. These actions include, but are not limited to: discussing and counseling the individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

D. ASPIRATIONAL PRINCIPLES OF PROPER CONDUCT

Proper conduct IS...

- Keeping promises
- Being dependable
- Building a solid reputation

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- 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

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

It all comes down to respect

Respect for one another as individuals...respect for the validity of different opinions...respect for the democratic process...respect for the community that we serve

E. 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? Morally right?
- 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?

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- 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?

F. GLOSSARY OF TERMS

Attitude	The manner in which one shows one's dispositions, opinions, and feelings
Behavior	External appearance or action; manner of behaving; carriage of oneself
Censure	A formal statement of disapproval by a board administered to a Member
Civility	Politeness, consideration, courtesy
Conduct	The way one acts; personal behavior
Courtesy	Politeness connected with kindness
Decorum	Suitable; proper; good taste in behavior
Manners	A way of acting; a style, method, or form; the way in which things are done
Point of Order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
Privilege	Fellow member considers offensive
Propriety	Conforming to acceptable standards of behavior
Protocol	The courtesies that are established as proper and correct
Reprimand	A public expression of disapproval administered to a Member by the presiding officer of a board
Respect	The act of noticing with attention; holding in esteem; courteous regard

G. IMPLEMENTATION

As an expression of the standards of conduct for members expected by the City, the Rochester Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective

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when members are thoroughly familiar with it and embrace its provisions. For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to board and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Rochester Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commission and update if necessary.

(Adopted:)

Lead Department: Office of the City Manager

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APPENDIX A – Model of Excellence Member Statement

MODEL OF EXCELLENCE**Rochester City Council, Boards and Commissions****MEMBER STATEMENT**

As a member of the Rochester City Council or of a Rochester board or commission, I agree to uphold the Code of Ethics and Conduct for Elected and Appointed Officials adopted by the City and conduct myself by the following model of excellence. I will:

- Recognize the worth of individual members and appreciate their individual talents, perspectives, and contributions;
- Help create an atmosphere of respect and civility where individual members, City staff, and the public are free to express their ideas and work to their full potential;
- Conduct my personal and public affairs with honesty, integrity, fairness, and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interest of Rochester;
- Treat all people with whom I come in contact in any way I wish to be treated;

I affirm that I have read and understood the City of Rochester Code of Ethics and Conduct for Elected and Appointed Officials.

 Signature

 Date

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Name

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