

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Steve Beaudoin
Councilor Skip Gilman
Councilor Ashley Desrochers
Councilor Tim Fontneau



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, December 1, 2022

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 October 6, 2022 *motion to approve P. 3*
4. Rules of Order Section 1.6 – Guidelines for Public Input P. 7
5. Constituent Item: 15 Summer Street Parking P. 9
6. **Review:** Code of Ethics and Conduct P. 11
7. **Discussion:** Revision to City Building Permits adding option for EPA “Renovation, Repair, & Painting” certification number P. 33
8. Other
9. Adjournment

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City Clerk's Office

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Steve Beaudoin, Vice Chair
Councilor Skip Gilman
Councilor Ashley Desrochers
Councilor Tim Fontneau



Others Present

Terence O'Rourke, City Attorney
Paul Lynch, School Board

CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, October 6, 2022
Council Chambers
6:01 PM

Minutes

1. Call to Order

Chair Lachapelle called the Codes and Ordinances meeting to order at 6:01 PM.

2. Public Input

There was no one present for public input.

3. Acceptance of the Minutes

3.1 September 1, 2022 *motion to approve*

Councilor Beaudoin **MOVED** to **ACCEPT** the minutes of the September 1, 2022 Codes and Ordinances meeting. Councilor Desrochers seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Code of Ethics and Conduct

Chair Lachapelle pointed out a minor correction needed to update to current terminology; on page 11, under section *C. Sanctions*, there is a reference to "Vice" Mayor which should be corrected to "*Deputy*" Mayor. This correction does not require a vote and can be updated when the other edits are reflected.

Chair Lachapelle asked School Board Member Paul Lynch if there were any suggested edits from the School Board. Mr. Lynch stated that due to the timing of the meetings, this has not been discussed by the School Board. However, he reported that he had reviewed the proposed Code of Ethics, as did School Board member Dave Camire who had been involved with the prior iteration of the Code of Ethics. They felt that the current code with the edits up until the current time will work well without any obvious issues. However, he stated he would like to bring the Code of Ethics to the School Board for discussion with the full board at the meeting the following week.

Chair Lachapelle noted that since the Code of Ethics was first proposed, it had been improved and softened in order to make it workable for all the relevant boards. He said once the Code has been enacted, there could potentially be an Ethics Committee formed in the future.

Councilor Fontneau inquired about the financial disclosure portion of the Code where it states that in the financial disclosure statement, a member's "primary source of annual income and capital assets" will be listed. He acknowledged that the financial disclosure was based on the process used by the State for representatives; however, he could not recall ever having to list capital assets and asked for clarification on what this would include. He speculated that if this category includes anything over \$10,000, then things such as automobiles, 401K, and investment accounts would need to be divulged. Chair Lachapelle said his understanding is that these assets would only need to be disclosed if they were a direct conflict of interest, which would not include personal finances. Councilor Fontneau reiterated that the current proposed verbiage seems to be requiring that *all* assets over \$10,000 be disclosed. Councilor Beaudoin stated that if this was the intention, the disclosure could be quite lengthy for those with multiple investment accounts and would likely need to be updated frequently as those investments aged. Councilor Fontneau suggested removal of any reference to capital assets.

Councilor Beaudoin stated that during discussions at the State House, members may recuse themselves due to conflict of interest or direct financial interest in a discussion. He said he did not see any wording in the Code that suggested recusal in such situations. Chair Lachapelle stated that there is a portion of the Council Rules of Order that covers such situations. Mr. Lynch agreed that the verbiage is important to allow board members to be able to properly do their job while also being open and transparent and not hindering the process. There was further discussion in Committee about what constitutes a conflict and the need for specific language to protect not only the process, but also the elected official participating in the process.

Attorney O'Rourke referenced the NH RSA 15-A form that will be cited in the Code of Ethics and read the following portion:

B. Indicate below whether you or a family member has a special interest in any of the following businesses, professions, occupations, groups, or matters. A person has a reportable special interest in an item on this list if a change in law, a change in administrative rule, a decision whether or not to award a contract, grant a license or permit, discipline a licensee or permittee, or other decision by government affecting the listed business, profession, occupation, group, or matter would potentially have a greater financial effect on you or a family member than it would on the general public:

<input type="checkbox"/> 1. Any profession, occupation, or business licensed or certified by the State of New Hampshire. List each such profession, occupation, or category of business:					
<input type="checkbox"/> 2. Health Care	<input type="checkbox"/> 3. Insurance	<input type="checkbox"/> 4. Real Estate, including brokers, agent, developers, and landlords	<input type="checkbox"/> 5. Banking or financial services	<input type="checkbox"/> 6. State of New Hampshire, county, or municipal employment	
<input type="checkbox"/> 7. N.H. Retirement System	<input type="checkbox"/> 8. Current use land assessment program	<input type="checkbox"/> 9. Restaurants/ lodging	<input type="checkbox"/> 10. Sale and distribution of alcoholic beverages	<input type="checkbox"/> 11. Practice of law	
<input type="checkbox"/> 12. Any business regulated by the Public Utilities Commission		<input type="checkbox"/> 13. Horse or dog racing, or other legal forms of gambling	<input type="checkbox"/> 14. Education	<input type="checkbox"/> 15. Water Resources	
<input type="checkbox"/> 16. Agriculture	<input type="checkbox"/> 17. N.H. taxes:	<input type="checkbox"/> Business Profits Tax	<input type="checkbox"/> Business Enterprise Tax	<input type="checkbox"/> Interest and Dividends Tax	<input type="checkbox"/> 18. Optional: Specify any other area in which you have a special interest ---

Councilor Fontneau said that by listing these potential sources of interest on the disclosure form, it would allow a board member to serve without recusing themselves from discussions or votes pertaining to these matters, as long as it does not directly affect them. Chair Lachapelle suggested that the City Attorney could rework the verbiage in this section just slightly and come back to the Committee. This would also allow Mr. Lynch time to bring the Code of Ethics to the School Board for further dialogue and edits. Mr., Lynch asked if the intention was for incoming school board members to sign an acknowledgment referencing this Code of Ethics along with the School Board code of ethics prior to taking office. Chair Lachapelle stated that this is the intention. Mr. Lynch stated that he would bring this discussion to the School Board and would confer with Superintendent Repucci and the Policy Administrator for feedback.

Chair Lachapelle stated that this discussion would be kept in Committee. The City Attorney will rework the section regarding the financial disclosure and return to Committee at the next meeting. He clarified that there would be no Codes and Ordinances meeting held in November due to the proximity to the Election. The next meeting will be held on December 1, 2022 at 6:00 PM. Mr. Lynch asked how the feedback from the School Board should be passed along for edits. Chair Lachapelle stated that members are welcome to attend the future meeting, however email feedback would be sufficient.

5. **Discussion:** Revision to City Building Permits adding option for EPA “Renovation, Repair, & Painting” certification number

Councilor Desrochers explained that this discussion centered on the option of adding a checkbox to the building permit application, which would allow contractors to list their RRP (Renovation, Repair, and Painting) EPA certification number. This certification is obtained when an individual is trained in lead safety practices. She clarified that this would be an optional field and not a requirement; it would be a starting point for distribution of education on lead safe practices along with information on funding programs to help with lead abatement and opportunities for training those interested in these practices. Councilor Desrochers requested that the proposal be run by Building and Licensing Director Jim Grant for his feedback and approval so that a decision is not being made without the approval of the department affected.

Councilor Fontneau expressed uncertainty about the inclusion of this checkbox and field for certification number without first determining if there could be potential liability for those

not providing the information. He speculated that if this checkbox were left blank and a project was later found to be in violation of lead safe practices, if the exclusion of this information could then be used as evidence that the contractor was aware it was a requirement to adhere to these practices. He stated that the huge majority of building permits are applied for online currently, and it would be difficult to distribute physical paperwork upon application.

Chair Lachapelle stated that the Committee would contact Jim Grant to determine if he could attend the December 1 meeting to offer his opinion. Councilor Desrochers clarified that this program is not meant to be punitive in any way, but rather a starting point for education. She emphasized that if lead safety practices are not being followed during a renovation, this is against the law and will be investigated by the appropriate entity. She acknowledged that if the majority of applications were being applied for online, it may be as simple as adding a link to the website to redirect to the educational information.

Councilor Beaudoin questioned whether there could be liability on the City's part if a contractor listed an EPA certification number and was later found to not be certified; would it be the City's responsibility to verify the validity of the certification. Attorney O'Rourke reiterated that the Committee should have further discussion with Director Grant to determine how to move forward.

Chair Lachapelle asked, if the decision is made that this addition to building permits was appropriate, would it need to go to full Council for a vote. Attorney O'Rourke stated that he would review this to determine if a Council vote is needed.

Councilor Desrochers restated that this proposal is not meant to be punitive and she would support having a link added to the website to offer the information and show that the City of Rochester is committed to lead safety. She reiterated that there is funding available for lead abatement, training, and education that often goes unused and this resource would direct parties to these opportunities.

6. Other

Chair Lachapelle reported that the Water Ordinance from Department of Public Works would be coming to the next Codes and Ordinances meeting in December; however, it may need more than one meeting to complete.

7. Adjournment

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 6:27 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

Section 1.6 PUBLIC INPUT (Including during Public Hearings) – Guidelines for Public Comment.

The City Council hereby acknowledges and affirms the value of and need for public input as it conducts the City's business. Public input and comment periods during City Council and subcommittee meetings is an essential part of local government meetings. This is the opportunity for members of the public to inform the City Council of their views and offer unique insights regarding topics the City Council is discussing. However, it must be clear that the meetings belong to the City Council. The public does not participate in the decision-making process. The public's role is to provide input for the City Council's consideration in making its decisions. Public input and comment are, therefore, limited to the purposes for which the City Council has requested the same

The receipt of constructive input must be balanced with the City Council's need to conduct its business in an orderly and fair manner. The meeting Chair must have discretion to curtail and even cut off public input which he/ she reasonably perceives to be irrelevant to the City Council's particular purposes or public input that constitutes defamation¹, fighting words², or a criminal threat³. Determining relevancy, although sometimes challenging, is fairly clear. Determining what constitutes appropriate criticism of elected and appointed officials versus unprotected speech is more challenging.

Although the Chair has the primary responsibility to enforce the rules, all members of the City Council and subcommittees have a responsibility to raise a Point of Order when appropriate. When that happens, the Chair determines whether the rules have violated and whether a speaker is allowed to continue. Any two Councilors can challenge the Chair's decision. In that event, by majority vote, the Council/ committee will decide whether the speaker is allowed to continue.

Citizens have a right to complain about elected officials as well as appointed officials, including City employees. These complaints are protected speech per the First Amendment to the U.S. Constitution. However, the City Council will not

¹ Defamatory statements are those that a speaker (a) knows to be false and defames the object of the statements; (b) makes with a reckless disregard for whether the statements are true or false; or (c) negligently fails to ascertain whether the statements are true. *McCarthy v. Manchester Police Dep't*, 168 N.H. 202, 210 (2015).

² "[F]ace-to-face words plainly likely to cause a breach of the peace by the" recipient. *State v. Oliveira*, 115 N.H. 559, 561 (1975).

³ RSA 631:4; *State v. Hanes*, 171 N.H. 173, 179 (2018).

allow defamation, fighting words, or criminal threats. These types of utterances are not protected by the First Amendment.

Comments identifying a specific action or a specific issue of concern are appropriate.. However, accusations of wrongdoing or illegal acts without evidence is defamatory and will not allowed.

Example of protected speech: The City Manager was wrong to eliminate parking in downtown Gonic. He failed to consider the needs of the residents who live there in the downtown that need the parking in close proximity/ He incorrectly determined that the parking obstructed the view of northbound motorists.

Example of an unprotected utterance: The City Manager was wrong to eliminate parking in downtown Gonic. He did this because he took a bribe from the landowner adjacent to the parking.

Citizens who wish to submit a criticism regarding elected and/ or appointed officials are encouraged to do so in writing or to meet with appropriate officials in a non-public setting to convey their input. However, if a citizen wishes to make a public criticism, the City Council recognizes the right to do so if it is conveyed in a manner that is legitimate speech.

From: Contact form at Rochester NH <cmsmailer@civicplus.com>
Sent: Monday, October 24, 2022 3:35 PM
To: Peter Lachapelle <peter.lachapelle@rochesternh.gov>
Subject: [Rochester NH] 2 hour parking request Summer st Rochester (Sent by Carol Fabian, skwirt2_2000@yahoo.com)

Caution: External email.

Hello plachapelle,
Carol Fabian (skwirt2_2000@yahoo.com) has sent you a message via your contact form (<https://www.rochesternh.gov/users/plachapelle/contact>) at Rochester NH.
If you don't want to receive such e-mails, you can change your settings at <https://www.rochesternh.gov/user/156/edit>.

Message:

Hi I work at Tangles hair salon at 15 Summer street here in Rochester and we have an increasingly hard time with parking. A few years back we requested the 2 spots in front of the salon be designated as 2 hour parking but that has proven to be inadequate. There are 3 employees at the salon which means there is the potential of 9 cars at any given time. There has been a vehicle parked and had not moved once across the street allll summer long that is registered in Massachusetts! I have contacted the parking enforcement but am told that there is no ordinance being broken. The person who lives next to us also parks her car there. The fire department takes up the in street parking in the Profile bank side. I have asked them as a neighborly gesture if they could park in the back municipal lot or on Columbus ave or in the spots in front of the bank on Wakefield and they took my phone number but the Chief never got back to me. We have many elderly ladies who have a hard time parking. We are simply trying to accommodate our clientele and make a living! We would like to request 2 spaces across the street be designated 2 hour parking.

Thank you for your consideration
Carol Fabian
603-781-8863

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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.

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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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LEAD HAZARD CONTROL & HEALTHY HOMES PROGRAM

**BEFORE****AFTER**

New Hampshire Housing's Lead Hazard Control and Healthy Homes Program is dedicated to eliminating childhood lead poisoning by providing funding through federal grants and state loans to assist homeowners, residential property owners, and childcare facilities to be lead-safe certified.

LEAD GRANT PROGRAM

Rental Units & Owner-Occupied/Single-Family:

- 10% minimum owner match required. State loan funds may help meet this requirement.
- Occupants must income qualify at or below 80% AMI.
- Grant assistance of up to \$12,000/unit under order, or up to \$6,500/unit not under order.
- An additional \$3,000/unit for Healthy Homes interventions.

LEAD GRANT PROGRAM FACTS

In 2020, \$4.98 million was awarded for lead abatement, \$700,000 will go towards Healthy Homes Interventions.

226 units will be cleared

110 people will be trained in lead safe work practices

120 outreach & education events

STATE LOAN PROGRAM

Rental Units:

- Occupants of rental units must income qualify at or below 90% AMI.
- State loan assistance of up to \$11,000/unit.

Owner-Occupied/Single-Family Homes:

- Must income qualify at or below 100% AMI.
- Must be occupied by a child under 6 years old or a pregnant woman.
- State Loan assistance max of \$100,000.

STATE LOAN PROGRAM FACTS

In 2019, \$3 million was awarded.

0% Interest Deferred Loan

State loan funds can be used in conjunction with Lead Grant Program funds and counted towards the **10% owner match**

Owners must first apply for the **Lead Grant**.



NEW HAMPSHIRE
HOUSING

📍 P.O. Box 5087 Manchester, NH 03108

📞 603-310-9387

✉ leadprogram@nhhfa.org



Key Partners

- New Hampshire Healthy Homes & Lead Poisoning Prevention Program (NHHHLPPP)
- Women, Infants & Children Nutrition Program (WIC)

Prioritization

- A property where a poisoned child under six years old with an elevated blood lead level (EBLL) resides.
- A unit in which a child under six years old visits the property on a regular basis.
- A pregnant woman resides at the property.
- A vacant unit where a child with an EBLL once lived but has since moved out.
- Occupied or vacant units in which a child does not reside, but the owner agrees to the 3-year compliance period.

High Risk Communities

Berlin, Franklin, Laconia, Claremont, Newport, Rochester, Manchester, and Nashua.

Funding for Childcare Facilities

- Up to \$150,000 per facility.
- Must be licensed under RSA170-E.
- Must prove through a statistically valid income survey that at least 51% of families are at or below 80% area median income

Since 1996, \$19.6 million has made 1,700+ units lead-safe and healthy homes certified in NH.

Intake Specialists

STATEWIDE

603-404-2306 | 603-216-2177

NASHUA

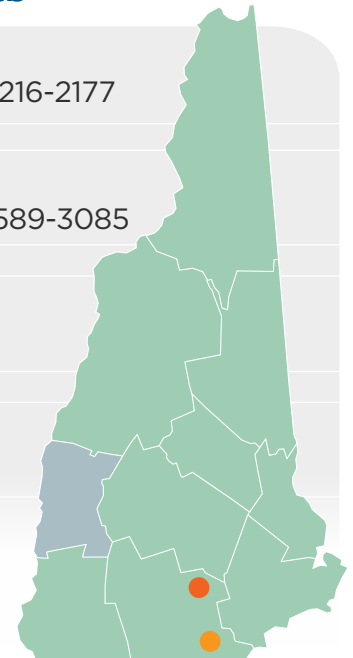
603-589-3071 | 603-589-3085

MANCHESTER

603-792-6726

SULLIVAN COUNTY

603-781-4304



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HOUSING

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✉ leadprogram@nhhfa.org



1/2022