

**Codes and Ordinances Committee**

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



**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday, May 5, 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 April 7, 2022 *motion to approve* P. 3
4. Proposed Amendment to Chapter 75-1 of the General Ordinances of the City of Rochester “Appointment and requirement of Fire Chief” P. 7
5. **Discussion:** Code of Ethics and Conduct P. 9
6. **Discussion:** City Council Rules of Order Section 4.7 “Public Input at Workshop or Committee Meetings” subsection 5 regarding two-way dialogue
7. **Discussion:** Proposed addition of an additional “public input” at the close of Workshop meetings
8. Adjournment

---

*Intentionally  
left blank...*

---

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 (absent)



**Others Present**

Mayor Paul Callaghan  
Terence O'Rourke, City Attorney

**CODES AND ORDINANCES COMMITTEE**  
Of the Rochester City Council  
**Thursday, April 7, 2022**  
**Council Chambers**  
**6:00 PM**

**Minutes**

**1. Call to Order**

Chair Lachapelle called the Codes and Ordinances Committee meeting to order at 6:00 PM. Deputy City Clerk Cassie Givara took a silent roll call. All Councilors were present except for Councilor Fontneau, who was absent.

**2. Public Input**

Ray Varney, resident, was present for public input. However, the topic he was present to discuss was included later on the agenda. Chair Lachapelle stated that he would invite him to speak at the time this agenda item is discussed.

**3. Acceptance of the Minutes**

**3.1 March 3, 2022 *motion to approve***

Councilor Desrochers **MOVED** to **APPROVE** the minutes of the March 3, 2022 Codes and Ordinances Committee meeting. Councilor Beaudoin seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**4. Proposed Amendment to City Council Rules of Order Section 4.14 "Elections"**  
**(addendum A)**

Attorney O'Rourke explained that the proposed change is to make all Council votes public rather than using secret ballot. This would eliminate the secret ballot votes for non-elected

officials, which is the current practice.

Ray Varney, Ward 1 resident, agreed that it made sense to utilize a voice or hand count vote for positions that are appointed by Council. However, he cautioned against elected positions, such as replacement City Council seats, being voted on publicly. He stated this situation could cause hard feelings amongst Councilors who then will need to continue working with each other for the foreseeable future.

Chair Lachapelle recalled that any publicly elected position, such as Councilor or election officials, were required to be voted on publicly. Attorney O'Rourke confirmed that publicly elected positions needed to be voted on publicly, and appointed position could be voted on via secret ballot. Although if the recommended changes are approved, this would eliminate the use of secret ballots. Mr. Varney agreed that the use of secret ballot for appointed officials is unnecessary, but reiterated that he felt use of secret ballots for elected positions was best practice.

Chair Lachapelle acknowledged that there had been suggested edits to section 4.14 submitted by resident Bill Elwell. He stated that these suggested changes would be reviewed for relevance.

Councilor Beaudoin agreed with Mr. Varney that a public vote on elected officials has the potential to cause hard feelings amongst fellow Councilors. However, he felt the Council had an obligation to the public to be transparent in their business and stated that he would support this amendment to eliminate secret ballots.

Mayor Callaghan stated that he had originally recommended this change to the rules of order due to the need for transparency with these votes. He also specified that he did not believe these votes for elected positions were covered under the RSA 91-A "Right to Know" law. Attorney O'Rourke clarified if this change is approved, all votes moving forward would be by public vote; however, appointed positions in which there is only one candidate with no other nominees can still be voted on with a single ballot cast by the City Clerk. Due to an inquiry in Mr. Elwell's suggested edits, it was confirmed that although there is no physical ballot, this vote is still referred to as casting a "ballot."

Councilor Desrochers thanked Mr. Varney for his input and expressed appreciation for both points of view; however, she stated that as a City Councilor she agreed with the need for transparency in these votes.

Councilor Beaudoin **MOVED** to recommend to full Council the amendments to Section 4.13 "Elections" of the Rules of Order. Councilor Gilman seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 5. Other

Mr. Varney referred the Committee to the portion of the March minutes referencing Chapter 7-63 "Economic Development Special Reserve Fund." He referenced the suggested addition of a paragraph reading: "Further, the proceeds from any City owned land sales, with the exception of all TIF 162-K development zones, may be allowed to be directly received into the Economic Development Special Reserve Fund upon direction of City Council." He stated that this

additional paragraph is unnecessary because Council will still have oversight and will still need to act on where to distribute these funds. Attorney O'Rourke clarified that the City Council had not voted yet to move forward with these suggested changes and the entire section was being deleted and revised in its entirety. It will be discussed at the April 12, 2022 Finance Committee meeting.

Mr. Varney suggested that, for the sake of transparency, the sale of any City-owned land or property should go to a public hearing prior to the sale in order to allow the public to weigh in and to inform them of the intent. He felt that the residents on Hanson Street should have had the opportunity to give input regarding the sale of 38 Hanson and the affect it would have on their parking areas. Councilor Beaudoin paraphrased a portion of RSA 91-A regarding land which states that divulgence of sale details, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community." He stated that in the case of 38 Hanson where the City owned the property and had the right to sell, or not sell, as they deemed fit, it would have been advantageous to hold a public hearing and allow public input.

Mr. Varney inquired who owned the School Department lands and buildings. Attorney O'Rourke stated that the City owns these lands and buildings, but they are under the control of the School district until a time when they cease to be used for school purposes, at which time the City takes over.

Chair Lachapelle referenced the list of city codes to be reviewed and the remaining DPW chapters. He stated that the Director of City Services would be ready to continue presenting the remaining chapters in late summer. These chapters will likely have multiple amendments and will be spread over several meetings as needed. However, currently there are no other pressing matters; so unless something come up, the May 5, 2022 Codes and Ordinances meeting will be canceled.

## 6. Adjournment

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 6:12 PM.

Respectfully Submitted,

Cassie Givara  
Deputy City Clerk

## ADDENDUM A

**SECTION 4.14 ELECTIONS BY BALLOT**

In all elections ~~by ballot~~ on the part of the City Council, ~~blank ballots and all ballots for persons not eligible shall be reported to the Council~~the members of the City Council shall vote publicly by roll call. To be elected any person seeking election must receive a majority of the votes of those members present and voting. ~~Tally of the ballots shall be reported to the Council and recorded in the minutes. Unless otherwise directed by the Council all ballots shall be destroyed after being reported.~~

A. ~~Boards and Commissions appointments shall be elected by ballot of the City Council with the exception of a single candidate.~~ Single candidates upon nominations ceasing will be elected by City Council voice vote that the City Clerk cast one ballot for that candidate.

Formatted: Space Before: 3.45 pt, No bullets or numbering, Don't allow hanging punctuation

**§ 75-1 Appointment and requirements of Fire Chief.**

Upon appointment, the Fire Chief shall within six months establish residence within the City's boundaries, **unless this requirement is waived by the City Manager.** The Fire Chief shall work under the direct supervision of the City Manager in accordance with the provisions of Section **18** of the Rochester City Charter. The Fire Chief shall manage the Fire Department and consult with and advise the City Manager on all matters pertaining to the equipment and control of the Fire Department. Subject to the approval of the City Manager, the Fire Chief shall make rules and regulations for the internal operation of the Fire Department as he/she deems necessary and shall keep the same posted in the fire station and other buildings of the Department.

---

*Intentionally  
left blank...*

---

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.*

## TABLE OF CONTENTS

<u>Title</u>	<u>Page No.</u>
A. Ethics	
B. Conduct	
1. Elected and Appointed Officials' Conduct with One Another	
2. Elected and Appointed Officials' Conduct with City Staff	
3. Elected and Appointed Officials' Conduct with the Public	
4. Council Conduct with Other Public Agencies	
5. Council Conduct with Boards and Commissions	
6. Conduct with the Media	
C. Sanctions	
D. Principles of Proper Conduct	
E. Checklist for Monitoring Conduct	
F. Glossary of Terms	
G. Implementation	
APPENDIX A - Model of Excellence Member Statement	

*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.*

## 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

*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.*

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

*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.*

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.

*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.*

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

*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.*

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**

*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.*



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 manager<sup>1</sup> (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

---

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

*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.*

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.

*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.*

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.

*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.*

*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.).

*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.*

*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.

*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.*

## 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 on 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.

*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.*

*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.

*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.*

*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 Mayor<sup>2</sup> <sup>3</sup>in 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.

---

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

<sup>3</sup> 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.

*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.*



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

*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.*

- 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?

*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.*

- 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

<b>Attitude</b>	The manner in which one shows one's dispositions, opinions, and feelings
<b>Behavior</b>	External appearance or action; manner of behaving; carriage of oneself
<b>Censure</b>	A formal statement of disapproval by a board administered to a Member
<b>Civility</b>	Politeness, consideration, courtesy
<b>Conduct</b>	The way one acts; personal behavior
<b>Courtesy</b>	Politeness connected with kindness
<b>Decorum</b>	Suitable; proper; good taste in behavior
<b>Manners</b>	A way of acting; a style, method, or form; the way in which things are done
<b>Point of Order</b>	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
<b>Privilege</b>	Fellow member considers offensive
<b>Propriety</b>	Conforming to acceptable standards of behavior
<b>Protocol</b>	The courtesies that are established as proper and correct
<b>Reprimand</b>	A public expression of disapproval administered to a Member by the presiding officer of a board
<b>Respect</b>	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

*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.*

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

*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.*

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

*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.*

---

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.*