

ETHICS COMMISSION

Tuesday, October 28, 2025 at 6:00 PM
Via Zoom



MEMBERS

Carolyn Braun
Peter Goldman
Jennifer Goodwin
William Hayward
Maria Maffucci
Rosemary Paine
Jennifer Wriggins

REMOTE ACCESS INFORMATION:

<https://portlandmaine-gov.zoom.us/j/84432517532?pwd=3Beeaa67m3EThvpV6w0WTW1jWz2lFa.1>

The Ethics Commission will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

<https://portlandmaine-gov.zoom.us/j/84432517532?pwd=3Beeaa67m3EThvpV6w0WTW1jWz2lFa.1>

PUBLIC COMMENT INFORMATION:

To submit written public comment on an agenda item, email ethics@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Ethics Commission meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

AGENDA:

1. **Call to Order**
2. **Roll Call**
3. **Approval of Minutes from Previous Meeting**
 - i. Ethics Meeting- Tuesday, September, 30, 2025
4. **Unfinished Business**
 - i. Draft Code of Ethics (Continued)
Review of the Intro Section
Review of the Conflict of Interest Section
5. **Hour Mark-10 Minute Recess**
6. **New Business**

7. Public Comment

- i. Members of the public may speak on any item on the agenda for 3 minutes.

8. Next Meeting Date

- i. Tuesday, November 25, 2025

9. Adjourn



City of Portland-Ethics Commission

Meeting Date: Wednesday, August 27, 2025 at 5:00 pm-Meeting Minutes

Attendees

Carolyn Braun, Peter Goldman, Jennifer Goodwin, Will Hayward, Jennifer Wiggins

Not present: Maria Maffucci, Rosemary Paine

Staff: Rachel Millette, Associate Corporation Counsel

Agenda

1. Call to Order

Peter Goldman (Chair) called the meeting to order at 6:01 pm

2. Approval of Minutes from Previous Meeting, August 27, 2025

Minutes were unanimously approved as submitted

3. Unfinished Business

I. Draft Code of Ethics (Continued)

Peter asked Rachel if the Commission could have Word versions of the ethics codes. *Rachel will send Word versions of Portland Codes and will get permission from the other communities.*

Participation from the public: The committee received 1 document. We will address how to invite and accept input in New Business, later tonight.

-Begin to create Code of Ethics:

Carolyn suggested that the commission look at the Minneapolis Code

8:18 - 13:14 Clarification of the Commission's oversight and purpose

13:41 - 39:03 Discussion on where to begin, what will be included, what will be the process and who is the audience regarding the Code of Ethics:

39:22 - 54:55 Creating a draft:

Intro: Will Hayward, Jennifer Goodwin

Standards of Conduct

Conflict of Interest: Peter Goldman, Carolyn Braun

Confidential information

Disclosure Statement

Consequences for violations

1:06:00 - 1:22:19 Draft (con't)

Conflict of Interest: Peter Goldman, Carolyn Braun

Will suggested that the creators of this section be mindful of what is included in the present code, since it will be repealed by the new Code. Rachel suggested that the writers be mindful of two clear legal pieces : statute 30AMRS2605, Charter provision article 7:1

4.The Chair calls for a 10-minute recess at the hour mark

5. Next Steps: Begin to develop the Code

Peter suggested, and commission members agreed that Commissioners might focus on the following codes and distill out the best features

1. The current COE of City Council
2. School Board ethics code
3. Cape Elizabeth
4. Bangor

6. New Business 1:23:00 - 1:33:11

Public Comment Process

At end of meeting, 3 minutes/person

Future agenda: Accountability officer

7. Next Meeting Date

- i. Tuesday, October 28, 2025 (Via zoom)

8. Meeting adjourned at 7:30

City of Portland Maine Code of Ethics

Overview/Preamble

The City of Portland Maine government exists to serve the people of Portland. In order to do so effectively, the people must have confidence and trust in the integrity of their city government. They deserve elected and appointed officials, and city employees who maintain the highest ethical principles and avoid misconduct and conflicts of interest, apparent or real. Effective democracy depends on a government that is fair, ethical and accountable to the people it serves.

The code of ethics is designed to promote high ethical standards and conduct, and to foster a healthy ethical culture throughout city government. The code defines city values and sets a clear, minimum expectation for performance in the service of the City of Portland. Inherently, high ethical standards may set forth tenets more rigorous than city or state laws and statutes.

CITY OF PORTLAND, MAINE

CONFLICT-OF-INTEREST POLICY

Preamble

Citizens' faith in government and its even-handed application to all is fragile. Faith in government rests in part on the assumption that elected and appointed officials, and the government's employees, will execute their duties fairly and without favoritism.

It is the law in Maine that certain acts and proceedings of municipalities and quasi-municipal corporations, and their officials, are voidable and actionable if the act or proceeding is tainted by a conflict of interest. It is also the law in Maine that an impermissible conflict of interest may be direct or indirect and may be non-monetary as well as pecuniary.

To head off – as much as possible – disputes that might trigger these laws or undermine the public's trust in government, the City of Portland, Maine ("Portland" or the "City") requires all *compensated* personnel, including but not limited to employees and independent contractors (collectively, "*Employees*"), to adhere to the provisions, terms and conditions of this Conflict-of-Interest Policy ("Policy" or "Conflicts Policy").

The City also requires all *non-compensated* persons associated with the City and acting in its name or on its behalf, including but not limited to elected officials, advisors, appointees, volunteers (collectively, "*Officials*"), to adhere to the provisions, terms and conditions of this Conflicts Policy.

To be clear, and for the avoidance of doubt, adherence to the provisions, terms and conditions of this Conflicts Policy is a material requirement, and condition of, each Official's and Employee's association with the City.

Policy Statement

The City requires its Employees and Officials to avoid any relationship, activity, or ownership that might create a conflict between their personal interest and the interest of the City in any of its business dealings.

The City expects its Employees and Officials to adhere to strict

standards of loyalty and ethics in avoiding situations that might be thought to influence their actions or prejudice their judgment in handling City business. They are expected to avoid allowing themselves to become obligated in any way to third parties, such as individuals and/or firms with which they deal, and to show no preference to third parties based on self or family or friendship interest.

The possibility of a conflict is particularly sensitive for those Employees and Officials whose jobs or association with the City involve their making decisions for the City in its dealings with members of the public.

The possibility of conflict exists as well for those advising the decision maker, who are in a position to influence or make recommendations concerning these decisions.

Application

A conflict of interest exists when the loyalties or actions of an Official or Employee are divided between the interests of the City and the interest of the Official or Employee. Both the fact and the appearance of a conflict of interest should be avoided.

Duty of Care/General

It is the Employee's and the Official's primary duty to represent the City at all times to the best of their ability. Therefore, no Employee or Official should become involved in any situation which would impair or interfere with this primary duty.

While it is the responsibility of each individual Employee and Official to recognize conflict-of-interest situations, should they be in doubt as to any particular set of facts which might be deemed to present a conflict of interest, the question should be submitted in writing to senior management or City counsel, as appropriate.

Questions Regarding Policy and Reporting of Violations

Questions concerning this Conflicts Policy or its application in specific circumstances should be resolved with senior management and the City's counsel before any action is taken. It is the responsibility of every Official and Employee to report to senior management or the City's counsel any situation or

occurrence that is believed to be contrary to this Conflict-of-Interest Policy.

Examples of Possible Conflicts

It is not feasible to describe all the situations that could give rise to a conflict of interest, nor is it desirable to try to define exact limitations. The following examples are not intended to be exclusive, but to illustrate various kinds of situations that would ordinarily raise a question of conflict of interest.

1. Hearings, Voting and Dispositions. No Official or Employee shall participate in the hearing or disposition of any matter in which the Official or Employee has an interest. Any question of whether an Official or Employee has a conflict of interest sufficient for the Official or Employee to be recused shall be decided by senior management or City counsel, to whom the question of conflict shall be submitted by the Official or Employee within three (3) business days after the Official or Employee first learns of it.

2. Improper Influence. No Official or Employee may grant or deny permission to a third party to do a thing, or refrain from doing a thing, when such granting or denying decision is not based on the merits of the facts.

3. Confidential Information.

a. Disclosure Prohibited. Disclosure of the City's Confidential Information to outsiders or using Confidential Information for personal profit or advantage is prohibited.

b. Definition of Confidential Information. "Confidential Information" shall mean any information in the City's possession or control, or that comes into the City's possession or control during or following the term of the Official's or Employee's association with the City, of any kind and in any form relating to any aspect of the City's business, projects, plans, affairs, products, or services that is not generally known which by its disclosure would give the disclosing party a personal or competitive advantage. By way of illustration only and not as a limitation "Confidential Information" shall include strategies, designs, drawings, sketches, models, prototypes, patterns, notes, memoranda, letters, emails, papers, charts, data, documentation, code, firmware, formulae, discussions, plans, software, programs, algorithms, know-how, branding and/or marketing materials, and information developed by the City or developed by third parties for the City

or submitted by them to the City and any documents or things marked “CONFIDENTIAL”.

c. Non-fixed Media. Confidential Information can and often does exist in forms not fixed in any medium, such as conversations and discussions. To be clear, it is the content of the information, not its form, that determines whether the information is Confidential Information. When in doubt whether the information is Confidential Information, Employees and Officials should treat the information as Confidential Information.

d. Irreparable Harm. Each Official and Employee acknowledges that the Confidential Information is the valuable property of the City and is a valuable trade secret of the City. Each Employee and Official further acknowledges that any disclosure or unauthorized use of the City’s Confidential Information will cause irreparable harm and loss to the City, or to the party entrusting the Confidential Information to the City, for which monetary damages would be inadequate compensation.

e. Duty of Confidentiality. Each Employee and Official understands and agrees that by executing this Conflicts Policy the Employee or Official is entering into a special relationship with the City imposing a duty of confidentiality upon the Employee and Official.

4. Insider Information. “Insider Information” is a form of Confidential Information. Insider Information is non-public information which comes to Employees during the course of their employment or Officials in the course of their association with the City. Officials and Employees shall not use any Insider Information, or reveal it to others who may use it, in connection with business transactions related to the City or contemplated by the City. This applies not only to non-public information relating to the City, but also to non-public information relating to third parties such as individuals or businesses.

5. Contracts; Personal Investments.

a. General. A conflict could exist through the ownership, directly or indirectly, by an Employee or Official with substantial financial interest in any outside concern which does or seeks to do business with the City, or to furnish it services regarding which the Employee

or Official has authority to make any decisions or recommendations or could have any influence. In Maine, for the purposes of a determination of conflict of interest, a “substantial financial interest” constitutes ten percent (10%) or more of the outside concern. In any such case, the circumstances must be fully disclosed to and approved in writing by the corporate officer or City counsel having jurisdiction over the Employee’s or Official’s activity in order for the activity not to be prohibited.

b. Business Opportunities. In addition, no Employee or Official should acquire any participating interest, direct or indirect, in any entity or venture when it is known, or they know, or they reasonably should know, that the City may take or is taking steps to acquire any interest in such entity or venture.

c. Ownership or Participation. For purposes of this Conflicts Policy, ownership or participation by the spouse or other family relation of an Employee or Official shall be considered as ownership or participation by the Employee or Official, absent a clear showing that this is not the case, supported by the written approval of senior management or City counsel, as appropriate.

6. Employment.

a. Outside Employment and Consulting. Employment by, or rendering consulting services to, any outside concern which does or may do business with the City or is a competitor of the City, except as a representative of the City or with its written consent, is prohibited.

b. Outside Business Activities. Employees and Officials shall not engage in outside business activities or employment incompatible with the City’s right to the Employee’s and/or the Official’s time and efficient service.

7. Outside Business Directorships. No Employee or Official may serve as a director of any outside business concern, other than on behalf of the City, except with the written approval of the City’s corporate officer or counsel having jurisdiction over the Employee’s or Official’s activity.

General Undertakings

The Employee or Official signing below acknowledges and agrees that they have undertaken a special duty of confidentiality, care and loyalty to the City as provided in this Conflicts Policy. The Employee or Official signing below further agrees that the duties they have undertaken shall remain in full force and effect for one (1) year following the termination of their employment or other relationship with the City.

Employees and Officials who sign this Conflicts Policy understand and agree that, by signing below, they have read and understood the Policy and have agreed to its provisions, terms and conditions.

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

30-A MRS §2605 et seq.

Notes on the Ethics Commission

5 messages

Zack Barowitz <zbarowitz@gmail.com>
To: ethics@portlandmaine.gov

Fri, Sep 19, 2025 at 7:22 AM

Dear Members of the Ethics Commission:

The Portland Charter Commission recommended the Ethics Commission amendment to help city officials at all levels understand and establish processes to distinguish between right and wrong. I was the co-author of the amendment.

Joey Brunelle contacted me to say that you have some questions about the purpose and background of the Ethics Commission, specifically:

- Why was this a good idea? What problems would it be solving?
- What is the role of the Accountability Officer?
- How should we go about working on a code of ethics?

The first place that I would first direct you is to the Charter Commission report. Of particular relevance are the **Ethics Commission background report** (pg. 36), and the actual **Ethics Commission amendment** (pg. 79); I've included both at the bottom of this message. I'd also suggest reading the report and charter language of the **Police Review Board** beginning on pages 5 & 74 (NB: the page numbers are of the actual document, the online PDF is about 5 pages ahead). I believe the report conveys it all out pretty clearly.

Nevertheless, I am happy to provide further background, details, and examples. I'll address each question in turn (albeit primarily based on memory).

Thank you for your kind attention and please let me know if I can be of further assistance.

Cordially,

Zack Barowitz

I. Why is this a good idea?

What problems would it be solving?

(Deep) Background

The Charter Commission was established because the City Manager insisted that a Clean Elections program required reopening the Charter, not just a ballot measure, although the courts eventually ruled in favor of a ballot measure. The issue gained momentum during the Black Lives Matter demonstrations in 2020 where the central question that the Charter Commission considered shifted to whether or not to adopt a Mayor-Council form of Government or stick with the status quo, which is a Council-Manager system. What this means is whether to grant executive powers to an elected official (i.e., a mayor) or an appointed official (a

city manager). The Portland system is somewhat confusing in that it has a popularly elected mayor (albeit in a low turnout off-year election) who does not have executive powers; rather they function as city council chair. My intention is not to relitigate the whole Mayor vs Manager debate (failures of an excessively strong executive branch are all too clear) but to relay our investigations into what constitutes good government.

From the outset, the charter commissioners received multiple email messages claiming that governments with elected mayors were "more corrupt" than Council-Manager governments. Since this factoid seemed to be a coordinated talking point, I did some research into it and I found that the claim of being "more corrupt" suspect on the face of it. (All governments have "corruption" anytime someone steals a pen, or does personal business on company time that is technically corruption.) The question was what metric were they using. Well, it turns out that the claims were based on a study that found that Council-Manager systems were "57 percent less likely to have corruption convictions" than Mayor-Council systems. The study also claims that this condition is due to Council-Manager systems being inherently structurally superior because they have, among other reasons, "more checks and balances." However, I would argue that the Council-Manager system has more impediments to the exercising of checks and balances than one with an elected executive. For example, if the council has hired an agent to run their government, how likely are they to call out their employee for overseeing a corrupt organization? Vice versa, if there is a balance of power between the Executive and Legislative branches (such as between the President and Congress), then it seems far more likely that a city council will try to root out corruption, especially if the council is politically oppositional to mayoral administration. Not to put too fine a point on it, in a Council-Manager system it is in no one's political self interest to expose occurrences of corruption, waste, fraud, abuse, and mismanagement as it ultimately reflects back. Finally, and not for nothing, it just so happens that many of the largest city governments with the most employees—including New York, Chicago, Los Angeles, and Philadelphia—which, by virtue of their size are more likely to have *someone* convicted of corruption, also happen to have Executive Mayor systems. All this led me to believe that a flawed methodology was being used to support a specious finding. The kicker is that the study was sponsored by the International City Manager's Association known as ICMA (although ICKY is more like it in this case).

Nevertheless, it seemed worthwhile that ethical standards be enshrined in the City Charter, to ensure good government, and assuage the fears of those opposing an elected Mayor.

Current System

In drafting the ordinance we started with what the City of Portland had already in place in terms of ethical standards, codes, and training. What we found was almost negligible and nothing beyond the state statutes. Currently the ethical process centers around conflicts of interest, where a Councilor or Board Member will bring up potential conflict *during a meeting*, a corporation counsel will scratch their chin and say "yay," "nay," or sometimes "maybe."

Our Approach to the Ordinance

Since Portland did not have much of a codified set of ethics and even less in terms of training and enforcement; we set about to form a robust system of ethical oversight.

A code of ethics, for our purposes here, stands against actions and behavior that are legal but nevertheless wrong. Coming to work drunk is an example. Posting screeds against your colleagues on social media is another. Other examples include buying lunch for a reporter, not disclosing information, and

maladministration (more on that later). The purpose is to provide guidance and ensure proper behavior on matters of right and wrong that are outside of legal purview but are nevertheless violations of the public trust.

To review, the most common breaches of ethical standards of elected officials include improper sharing of information, improper gifts, and indecent treatment of colleagues. For instance, if an elected official makes posts on social-media which some of their colleagues find inappropriate, there is no legal recourse, save perhaps for a private civil suit, because it is not strictly a legal matter. Other examples of violations of the public trust, including waste, fraud, abuse, favoritism, cronyism, maladministration, abuse of process, slow-footing/fast-tracking, arguing in bad faith, improper sharing/withholding of information (as well as turning a blind eye to all of the above).

We believed that the best way to achieve this was to make the Ethics Commission as independent as possible but ultimately answerable to the City Council, to which it would render its opinions in an advisory capacity.

We further granted the Ethics Commission the authority to request funds for the purposes of trainings and investigations.

The Charter also calls for the creation of an Accountability Officer whose duties shall be advisory and shall include serving as the:

- Ombudsman, who is responsible for resolving disputes involving city officials (including employee grievances that go beyond personnel, conflicts between officials, complaints from the public).
 - **The ombudsman's role in personnel matters is to try to resolve the conflict after all other administrative processes are exhausted but *before* the city gets sued. Saving one lawsuit a year would likely pay for the position.
- Staff person for the ethics commission to advise and administer the Commission business *including accepting complaints*.
- Person to train city officials (including elected, appointed, and staff) in ethical behavior
- A resource to help streamline administrative procedures that may be overly bureaucratic and counter to the public interest.

In order to assure independence and impartiality, the City Charter stipulates that the City Council hire the Accountability Officer. (More on the Accountability Officer below.)

II. Role and Purpose of the Accountability Officer

The role of the Accountability Officer is to resolve disputes, help streamline bureaucratic procedures, and provide training for city officials. The charter language on the Accountability Officer reads as follows:

The ethics commission may recommend that the city council appoint an accountability officer and fund that position. The accountability officer shall: serve as an ombudsperson to members of the public; provide City information to the public and officials to educate them about government accountability, integrity, and transparency; provide training for public officials on ethical matters; and undertake such other duties as may be requested by the ethics commission and authorized by the city council. The accountability officer may provide administrative support for the civilian police review board. The accountability officer also shall receive complaints from the public about alleged

government waste, favoritism, mismanagement, and violations of the public trust; the accountability officer will refer matters that are within the scope of the ethics commission's duties to the ethics commission, and vice versa.

** Please see the chart in Appendix A for example of duties of the Accountability Officer.

Sometimes there is a gray area between the Ethics Commission, Accountability Officer, Legal, and personnel but the EC does not have any bearing on collective bargaining agreements. For instance, let's say that there is a department where employees are operating equipment while drunk or leaving at lunch and having their co-workers clock them out at the end of the day; this is obviously a personnel matter; the ethical piece comes in as to why the supervisor, or supervisor's supervisor did not know or did not act on this abuse if they were aware of it.

III. Constructing a Code of Ethics

The Ethics Commission and the Code of Ethics (CoE) are both to ensure that complaints against violations of the public trust are addressed in a fair, just, standardized, and, most importantly, ethical manner. In drafting the Code of Ethics (CoE) I think a review and adaptation of existing codes from other municipalities would be the most efficient method. The Charter stipulates that the CoE include:

1. Standards of Conduct;
2. Conflicts of Interest;
3. Confidential Information; and
4. Disclosure Forms for elected and appointed city officials to complete and file with the city clerk and update as appropriate.

Of particular concern is protection of whistle blowers, as the Charter stipulates:

The ethics commission ordinance and complaint process shall protect the identity and rights of complainants, whistleblowers, and persons complained against in accordance with and as required by all State and federal laws, regulations, codes, municipal ordinances, and policies, including but not limited to the Maine Freedom of Access Act, the Maine Whistleblowers' Act, and the City of Portland's personnel policies. The ethics commission shall refer any complaint alleging corruption, fraud, or abuse of a criminal nature to the appropriate law enforcement agency.

Additionally, the CoE should make specific mention and define clear parameters to protect against maladministration (e.g., slow-footing, fast-tracking, improper withholding/disclosing of information, and turning a blind eye to waste, fraud, abuse, corruption, and incompetency).

To elaborate. The code of ethics should provide guidance and safeguards against conflicts of interest and various types of maladministration.

For instances:

- An unintentional misstep has the same consequences as an intentional one. Therefore it is unethical to let a consequential error go unreported to one's supervisor (e.g., the Council) lest

the mistake would be materially the same as if it were intentional. Not owning up to a mistake is an ethical breach.

- Attorneys who are hired by the city or represent clients before the city should not be allowed to serve on city boards or commissions relevant to their practice, lest they may be wielding undue influence.
- Likewise, attorneys who serve on the boards and commissions should not be hired to write legislation that affects their positions with the city; nor should they leverage their position to attract, advise, or represent clients.
- An attorney or consultant who serves on a the council or city board should not represent clients who bring business before that board *even if the attorney recuses themselves* because it may put their colleagues in an uncomfortable position if there is an expectation (stated or otherwise) of "collegiality" or quid pro quo.
- Slow footing or fast tracking an item, such as the enactment of legislation, without a valid reason is unethical. This includes creating a false sense of urgency (fast tracking) or yielding to political opposition from an interest group (slow footing).

Finally, many issues come down to improper training and supervision, and the monitoring thereof. High ranking city officials (including councilors, board members, constitutional officers, and senior staff) need to be trained not only as to what is legal, but also on the differences between right and wrong.

Appendix A:

Ethics Commission Introduction and Summary from the Charter Commission Report

Introduction:

Ethics boards, ordinances and charter amendments can be found in municipalities across the State of Maine and across the country. They provide guidelines for city officials to execute their duties in an ethical and forthright manner. This Amendment brings Portland up to speed with other municipalities across the state that have similar provisions.

What does this Amendment do?

- Requires the Portland City Council to Form an Ethics Commission (EC)
- Requires the City Council to adopt of Code of Ethical Conduct recommended by the EC
- Instills discretionary power of the EC to render advisory opinions on a number of matters of City business.
- Requires the EC to provide training to City officials on standards of conduct.
- Allows the EC to hire an Accountability Officer to provide education and guidance and to serve as an independent ombudsperson in resolution of disputes in an advisory capacity
The Accountability Officer may also look at administrative processes ("red tape"), resolve

personnel conflicts before going to court; and supervise trainings on ethical conduct. (See chart below on the differences between the Accountability Officer and the Ethics Commission)

Why is this Amendment needed?

Currently, Portland does not have an ethics board, a written code of ethics, nor requirements of written disclosures of conflicts. While the existence of such instruments may not in and of themselves prevent a bad actor from seeking pecuniary gain or to otherwise use or abuse their power or position; it does provide standards and a process for which such matters may be addressed. Additionally, while incidences of waste, fraud, abuse, and corruption are relatively rare in most municipal governments; the most common breaches of ethical standards include improper sharing of information, improper gifts, and indecent treatment of colleagues. (*Siewert & Udani*). Finally, a Code of Ethics serves no purpose if it just sits in a drawer, it should be a living document. The existence of the Ethics Commission and the Accountability Officer will ensure the utility of the Code and supervise training of City officials to make certain that the standards are understood.

The current City of Portland ordinance does not apply to elected officials and is non-specific in terms of standards of conduct, deferring mainly to State statute on matters of personal gain:

“In addition to adhering to general standards of conduct for employees of any organization, public employees are expected to treat everyone they serve with complete impartiality and are prohibited from using their official position for personal profit or the profit of friends and family. Employees must comply with the conflict of interest standards of State law 30-A M.R.S.A. Sec. 2605.”

This Amendment is not intended to imply that City officials currently act unethically. Rather, it is a provision that ensures our city maintains a code of ethical conduct for officials that will build public trust and ensure Portland has high ethical standards. This Amendment is a product of public comment, campaign discussions and research by Commission members.

Other Purposes:

- Encourage proper use of office
- Compliance with advisory opinions
- Mitigate instances of personal gain, political favors, political solicitation, and favoritism.
- Protect against the “revolving door” of City officials, consultants, and contractors.

General Reasoning for an Ethics Commission:

- Protect whistleblowers.
- Fight and discourage corruption, waste, fraud, abuse, and favoritism from both elected and unelected individuals.
- Increase transparency and accountability in municipal government.
- Be a safe, independent place to send complaints and concerns regarding ethical conduct.
- Creates an ethics mission and code for the City of Portland.
- Cost effective, productive ethical conduct oversight that has proven to work elsewhere in Maine.

- To bring more voices to the table and the community oriented decisions on what ethical conduct is, rather than one individual.
- Build public trust in municipal government

Differences Roles of Ethics Commission & Accountability officer

While the Ethics Commission considers actions and behaviors of officials that may not rise to the level of illegality but are still wrong (such as being visibly drunk at a public meeting); the role of the Accountability Officer is to resolve disputes, help streamline bureaucratic procedures, and provide training for city officials.

<p align="center">Ethics Commission</p> <p align="center">Gives advisory opinions on behaviors that may be wrong but not illegal</p>	<p align="center">Accountability Officer</p> <p align="center">Resolves disputes & cuts red tape</p>
Sharing of information that should not be shared.	Help to resolve personnel disputes and avoid lawsuits.
Gifts (large and small)	Complaints against city staff from members of the public/red tape and overly-rigid adherence to administrative procedures concerning trivial matters. Make recommendations to staff when a process has gone off the rails.
Disrespectful behavior toward colleagues	Supervise training for public officials on ethical matters.
Putting forth bad faith arguments in favor of a policy.	2nd opinions on legal matters/avoid lawsuits
<p>“Bad faith” gathering of public input, for example scheduling meetings at the least convenient time for most stakeholders, and deliberately poorly advertising opportunities for public input.</p> <p>Withholding information critical to the deliberation of a policy.</p>	Recognize when regulatory requirements are poorly communicated, improve public understanding of why regulations are in force Address situations when regulations are being poorly or selectively enforced, either by calling on policy makers to update the regulations or by updating administrative procedures for more judicious enforcement
Quid pro quo deals that do not rise to the level of actual bribes, but confer some kind of private benefit to the official or allies. These are distinct from the normal legislative deal making process.	<p>Implementation of policy that is not being implemented</p> <p>Help standardize procedures against unyielding bureaucratic norms</p>

Charter Language

Section 1-A. Ethics Commission and Code of Ethics Ethics Commission and Code of Ethics Ordinance. The city council shall enact and maintain an ordinance that establishes an ethics commission and, with input from the ethics commission, shall enact a code of ethics ordinance to be administered by the ethics commission. Upon the effective date of the code of ethics ordinance, the existing code of ethics resolution adopted by the city council shall be repealed. The ethics commission shall provide impartial oversight and render decisions and advisory opinions to ensure that standards of ethical conduct are observed by elected and appointed City officials and City employees.

(a) Ethics Commission Ordinance. The city council shall enact an ordinance directing it to create an ethics commission, appointed by the city council and consisting of seven (7) members who are residents of the City, serving for three (3) year terms, to undertake the following duties:

1. Prepare and recommend a code of ethics ordinance to the city council for enactment as provided in subsection (b) below;
2. Review the ethics commission and code of ethics ordinances not less than once every three (3) years and make recommendations for any amendments to the city council; {P2036921.8}
3. Hear complaints and render written decisions with findings of fact regarding alleged violations of the City's code of ethics ordinance, provided that complaints regarding City employees' ongoing or prior alleged violations or misconduct shall be referred to the City for appropriate action under its personnel policies;
4. Hear and render advisory opinions regarding questions of prospective application of the City's code of ethics ordinance;
5. Hear and render advisory opinions regarding questions of compliance with the City charter;
6. Hear and render advisory opinions regarding adherence to council and board rules and procedures;
7. On receipt of requests from a majority of the city council or of any board or committee, procure a second legal opinion from outside legal counsel; and
8. Design and oversee program evaluations. Elected City officials, candidates for any City elected office, and their immediate family members are not eligible to be appointed as members of the ethics commission. The ethics commission shall meet as needed, but no less than annually. The ethics commission ordinance shall establish the process for filing, hearing and deciding complaints and for soliciting advisory opinions. Complaints may be filed by any official, employee, or resident of the city, by the accountability officer, or may be initiated by the ethics commission, in accordance with that process. Requests for advisory opinions may be filed by any official or employee of the city, in accordance with that process. Receipt of a complaint or request shall be acknowledged by the ethics commission. If the ethics commission finds any complaint filed with it to have been based upon allegations it determines to be frivolous, scurrilous, libelous, unsubstantiated, unfounded, of nuisance, or with malice, it may so determine and may dismiss the complaint without deciding the merits of the complaint. The ethics commission ordinance and complaint process shall protect the identity and rights of complainants, whistleblowers, and persons complained against in accordance with and as required by all State and federal laws, regulations, codes, municipal ordinances, and

policies, including but not limited to the Maine Freedom of Access Act, the Maine Whistleblowers' Act, and the City of Portland's personnel policies. The ethics commission shall refer any complaint alleging corruption, fraud, or abuse of a criminal nature to the appropriate law enforcement agency. The ethics commission shall be an independent body, free from interference from any City elected and appointed officials and employees. The ethics commission may request funding from the city council for independent investigations, legal services, staffing, or other demands pertinent to its mission.

(b) Code of Ethics. The city council shall, with the recommendation of the ethics commission, enact and maintain a code of ethics ordinance defining the code of ethical conduct for elected and appointed 80 Portland Charter Commission – Final Report {P2036921.8} City officials and City employees. At a minimum, such code of ethics ordinance shall include and address:

1. Standards of Conduct;
2. Conflicts of Interest;
3. Confidential Information; and
4. Disclosure Forms for City elected and appointed officials to complete and file with the city clerk and update as appropriate.

(c) Appointment of Accountability Officer. The ethics commission may recommend that the city council appoint an accountability officer and fund that position. The accountability officer shall: serve as an ombudsperson to members of the public; provide City information to the public and officials to educate them about government accountability, integrity, and transparency; provide training for public officials on ethical matters; and undertake such other duties as may be requested by the ethics commission and authorized by the city council. The accountability officer may provide administrative support for the civilian police review board. The accountability officer also shall receive complaints from the public about alleged government waste, favoritism, mismanagement, and violations of the public trust; the accountability officer will refer matters that are within the scope of the ethics commission's duties to the ethics commission, and vice versa.

(d) Violations of the Code of Ethics. Violations of the code of ethics ordinance shall be addressed as set out in that ordinance, provided, however, that any city councilor or mayor found by the ethics commission to be in violation of or to have violated the ethics code may be reprimanded or censured by the city council.

--
207-838-6120
917-696-5649
ZacharyBarowitz.com



ATTENTION:

The information in this electronic mail message is private and confidential, and only intended for the addressee. Should you receive this message by mistake, you are hereby notified that any disclosure, reproduction, distribution or use of this message is strictly prohibited. Please inform the sender by reply transmission and delete the message without copying or opening it.

Notes on the Ethics Commission.pdf
194K

Great Meeting! Some Thoughts

10 messages

Joey Brunelle <joey.brunelle@gmail.com>

Wed, Oct 1, 2025 at 9:40 PM

To: ethics@portlandmaine.gov

Hi Ethics Commission Members! I just watched the replay of your meeting the other night. Great work! I had a few suggestions and a few ideas, I hope this helps:

(1) Meet In Person

I am Vice Chair of the Portland Police Citizen Review Subcommittee, and we've met exclusively on zoom since the pandemic. However after noticing that the quality of our discussions had declined, we have decided to start moving some meetings back to in-person. We had our first in-person meeting a couple weeks ago, and I cannot fully express in words how much *better* it was to deliberate face-to-face. We are all pleased by the improvement in the quality of our engagement with each other, and our work as a board. We are going to do one in-person meeting per quarter, and the rest virtual, so we can allow the public to contribute in both ways, and for ease of attending for board members.

(2) Invite Commissioners from Elsewhere

You can read codes from other cities, like Bangor or Minneapolis, but you don't really know *how they came to be*. You could invite current or former members of those cities' Ethics Commissions to come speak and answer questions. They might have insights on where to focus (and not focus) your energy, and also common pitfalls or recommendations. You could invite folks for a public discussion at one of your regular meetings, to introduce their own work and do a little Q&A.

(3) Regarding Disclosures, Look At California

Did you know: the State of California Fair Political Practices Commission requires that every elected official and public employee "who makes or influences governmental decisions" file a Form 700 disclosure form every year. These forms are publicly available, searchable on state and city websites.

Form 700 [pdf] requires elected officials and public employees to disclose Stocks, Bonds, Investments, Income, Loans, Property Interests, Other Interests, and a number of other things.

Is it a lot? You bet it is, in a particularly *California* kind of way! But you know what's great about it? You never need to *wonder* whether someone has a conflict of interest - you can just look up these forms and see for yourself, with a fair degree of accuracy.

These forms have become a deeply ingrained, totally normal part of the culture there. (Source: I lived in California for many years.) It does present a burden to elected officials and some public employees, so maybe we don't need to go *quite* this deep with it, but this kind of proactive disclosure (instead of reactive, waiting until there's a possible issue, and relying on the person with the conflict to self-police) helps *a lot* with public trust in government.

I'll give you an example of when this could be useful: a few years ago the City Council voted to establish a huge new historic preservation district, and one of the councilors worked for a construction company that specialized in renovations of historic homes in Portland. If this employment had been disclosed in advance, it would have probably clarified whether that councilor should have recused themselves (or not) in a way that would have been proactive and enhanced the public's trust. Instead it didn't come up until just before the vote itself, and it became a point of some contention among residents who gave last-minute public comment and the councilors themselves. (On the advice of Corporation Counsel given shortly before the meeting, the Councilor did not recuse.)

(4) Ethics Are Not Just Law

Lastly, keep in mind that **not all unethical behavior is also illegal**. I understand that the background of many commissioners is law, but please try to expand your minds beyond law and conflicts of interest, and into the broader issue of ethics. There are potentially unethical-but-legal things like favoritism, slow-walking, fast-tracking, lying, ordering employees to lie or commit unethical behavior, and the deliberate concealment of information which do happen from time to time.

This might not be something that's written into many other codes, but it's something the Charter Commissioners felt it was important to include in their report. I know from personal experience that some of these issues have come up in the ten years that I've been following city government, and I sure wish we had had a code that called these out as problematic behavior.

(5) Whistleblower Protections

Lastly, one thing that I've heard from multiple people that they hope you include is some kind of whistleblower protection for city employees who wish to report unethical behavior.

- When the City of Portland was seeking to close the India Street Clinic in the mid 2010s, staff at the clinic were ordered by the City Manager to lie to City Councilors and the public about the reasons for the proposed closure. They feared for their jobs, so they did as they were told and this never came out.
- The City's first JDEI Director claims he was fired from his position in what he believed was an unethical way, but the City Manager insisted that he resigned. He did not have anyone safe to report the behavior he saw, and was told instead to stay quiet out of self protection.
- This is hearsay so take it with a grain of salt, but I heard of a city employee whose coworker would frequently show up to work drunk and drive a city vehicle, and they didn't know where to go to safely report that behavior without fear of retribution.
- A personal friend who worked at a major local hotel told me that he was instructed by his employer to contact the City Parking Department if his hotel guests got parking tickets, and the City would void them. He claimed he did this dozens of times, but it didn't seem right to him, but he didn't say anything because he wanted to keep his job. This off-the-books policy may have benefited from some kind of whistleblower process to shine some light on it.

Please consider building a process for whistleblowers to safely report issues to the Commission, and for those issues to be handled appropriately and safely, with all necessary confidentiality respected.

Thanks for reading - this turned out to be WAY longer than I wanted! Sorry! :-)

- Joey