



Councilor Andrew Zarro, District 4, Chair  
Kate Snyder, Mayor  
Councilor Pious Ali, At-Large  
Councilor Mark Dion, District 5

## City Council Rules Committee

**Monday, February 7, 2022**  
**8:00 a.m. Remote via ZOOM**

### AGENDA

#### **Zoom Information:**

This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Portland City Council and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment, 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.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84551161533?pwd=KzRlbHJqTkZYc0phVVFMOG4rSUsvdz09>

Passcode: 068419

Or One tap mobile :

US: +13017158592,,84551161533#,,,,\*068419# or  
+13126266799,,84551161533#,,,,\*068419#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1  
346 248 7799 or +1 669 900 6833

Webinar ID: 845 5116 1533

Passcode: 068419

International numbers available: <https://us02web.zoom.us/j/84551161533>

1. Call to Order
  
2. Approval of the Draft January 31, 2022 Rules Committee Meeting Minutes
  - a. Attached.
  
3. Overview Memo and examples of Codes of Ethics - discuss a Code of Ethics for the Portland City Council
  - a. Overview of Codes of Ethics Memo from Acting Corporation Counsel Jen Thompson
  - b. City of Bangor Code of Ethics attached.
  - c. Kennebunk Select Board Code of Ethics, attached.
  
4. Public Comment on Codes of Ethics
  
5. Adjournment



## City Council Rules Committee

**Monday, January 31, 2022, 8:00 AM**  
**Remote Meeting Minutes**

Rules Committee Members:

Councilor Andrew Zarro, Chair

Mayor Kate Snyder

Councilor Pious Ali

Councilor Mark Dion

The meeting, held by ZOOM technology, convened at 8:00 a.m. on January 31, 2022.

Attendees: Committee members Councilor Andrew Zarro, Chair, Mayor Kate Snyder, Councilor Pious Ali and Councilor Mark Dion, and Acting Corporation Counsel Jen Thompson, and assistant Nancy English. Three members of the public, Eamonn Dundon, Sarah Michniewicz and John (no last name), attended.

///

Councilor Zarro opened the meeting with a request that the committee meet weekly for the following two weeks in order to have revisions to the Council Rules of Procedure ready for full City Council review at the end of February. Committee members agreed.

Councilor Zarro proceeded with a review of the Council Rules of Procedure he proposed be considered for changes, starting with Rule 19, Reconsideration. Acting Corporation Counsel Jen Thompson advised the committee that the term "prevailing side" would be better than the rule's term "majority," in the event that votes other than a simple majority were involved. Committee members concurred. This change will be before the committee at its next meeting, February 7, 2022, for consideration.

Chair Zarro brought up Rule 20, Failure to Pass, that may be revised in order to deal with confusion, shorten the time period, or otherwise simplify it, although Mayor Snyder said the rule was appropriate in the case of a tie vote. Acting Corporation Counsel Jen Thompson advised the committee that other towns did not have this rule and it was not required; she offered to find examples of its appropriate use.

In a discussion of Rule 22, Manner of Speaking, Councilor Ali asked that the requirement to stand be amended. The following discussion brought up the issues connected to remote meetings, including when the councilors' camera should be on or off. Attorney Thompson

said she would research the issue of how the City Council could best maintain decorum in its proceedings. Chair Zarro suggested a separate rule for remote meeting issues.

Councilor Zarro suggested that the City Council adopt a Code of Ethics and Mayor Snyder agreed. The Code of Ethics used by the City of Bangor, Maine, will be considered, especially in the matter of conflicts of interest. Councilor Dion clarified that a Code of Ethics concerns integrity and a violation of such a code would cause a need to review.

Councilor Dion introduced a constituent's request that the rule governing public comment, Rule 32, Procedure for Addressing the Council, be changed to allow questions for individual councilors. He stated that he was not stating his own opinion of the proposal but only adding it to the discussion on behalf of his constituent.

Chair Zarro summarized the rules that would be under discussion at the next meeting of the committee as Rules 19, 20, 22 and 32. The committee will also consider a Code of Ethics.

Councilor Zarro asked if there were any public comment and seeing none, closed the public comment period.

Mayor Snyder moved and Councilor Zarro seconded the motion to adjourn, which passed by a roll call vote of 4-0. The meeting adjourned at 9:07 a.m.

**Office of Corporation Counsel**

Jen Thompson, *Acting Corporation Counsel*

Michael Goldman, *Associate Corporation Counsel*



---

To: City Council Rules Committee

From: Jen Thompson, Acting Corporation Counsel

Subject: Overview of Codes of Ethics

Date: 2/03/2022

As the Committee begins its work and considers whether it will recommend that the Council adopt a Code of Ethics, I hope the following will help to frame the issues and the options.

First, because the concept of “ethics” can seem amorphous without clear context or efforts to define terms, I thought it might be helpful to clearly set forth both the foundational importance of ethics when it comes to municipal governance, generally, and the legal frameworks that help define and govern ethical conduct in that setting. Maine Municipal Association frames the issue of “ethics” in municipal government this way:

Local government officials must be free of the potential for entangling interests that will erode public trust in government actions. . . . The plenary scope of this ‘legal trust’ concept as applicable to the holding of public office is clarified in *Lesieur v. Inhabitants of Rumford* where the court noted as follows, “It is well established as a general rule that one acting in a fiduciary relation to others is required to exercise perfect fidelity to his trust, and the law, to prevent the neglect of such fidelity, and to guard against any temptation to serve his own interests to the prejudice of his principal’s” (*Lesieur v. Inhabitants of Rumford*, 113 Me. 317, 320 (1915)). The court went on to observe that the “law requires of ...[public officers]... perfect fidelity in the exercise of that power, and whatever has a tendency to prevent their exercise of such fidelity is contrary to the policy of the law, and should not be recognized as lawful and enforceable through the administration of the law.” (113 Me. p. 321).

Understanding then that ethical rules are foundational to public trust in government as well as to ensuring the sanctity of due process and other rights, it can be of no surprise that questions about ethics (e.g. the existence, identity and scope of clear rules, where the rules live,

how they apply, etc.) tend to recur across all aspects of local government with relative frequency. As well they should.

In Portland, the answers to these recurring questions have been relatively consistent for a number of years - due to the fact that there are a number of existing statutes and local laws that have long been in place to guide and govern the work of the Council, other City boards and commissions, as well as City staff.

Existing state statutes contain a number of provisions aimed at ensuring the integrity of government action at the local level. They do so by prohibiting or limiting situations in which municipal officials might be motivated by competing or conflicting interests. For example, 30-A M.R.S. § 2605 prohibits municipal officers from participating in matters when they have a “conflict of interest.” *See e.g. 30-A M.R.S. 2605.*<sup>1</sup> State statutes also prohibit municipal officials from simultaneously serving in incompatible offices.

In addition to these broadly applicable state laws, Portland has adopted its own specific rules governing the conduct of municipal officials. The City’s Charter and its code of ordinances contain provisions prohibiting various actions or conduct that would erode public trust in government. For example, Art. VIII, Section 1 of the Charter provides:

No member of the city council or school board or board or commission thereof and no officer or employee of the city or school department shall:

(a) Have a substantial financial interest, direct or indirect, in any contract entered into by or on behalf of the City of Portland or the school board, except his or her employment contract, or in the sale to or by the city or school department of any land, materials, supplies or services when such officer, employee or member exercises on behalf of the city or school department any function or responsibility with respect to such contract or sale. All contracts or sales made in violation hereof are void, and the city treasurer is expressly forbidden to pay any money out of the city treasury on account of any such transaction.

(b) Purchase or accept anything from the city or school department, other than those items or services which are offered to the public generally, and then only upon the same terms and under the same procedures offered to and used for the general public. This shall not include those items or services which are received as compensation, or as a part of such person's employment contract, or which are necessary for the performance of such person's duties.

(c) Accept or receive from any person, firm, or corporation acting under a franchise, contract, or license from the city or school department, any frank, free pass, free ticket, or free service, or accept, directly or indirectly, from any such

---

<sup>1</sup> There are three broad categories of conduct where a municipal official will be presumed to be self-interested under the state statute: Where they have a business interest, a personal financial interest, or where there is or is likely to be an appearance of impropriety.

person, firm, or corporation any service upon terms more favorable than those granted to the public generally.

Portland Charter, Article VIII, Sec. 1.

Although many of the most obvious areas of concern when it comes to municipal governance are addressed through existing provisions in state statute and decisional law or through existing provisions in the City's Charter and Code of Ordinances, there are other issues that can come up occasionally or recur with some frequency that are not directly addressed in existing ethical provisions. Though not required to do so, municipal officers are permitted under state law to adopt codes of ethics in order to address some of the more nuanced or granular issues that may arise outside of strict "conflicts of interest" in an effort to further protect the integrity of the municipality's work. *See* 30-A M.R.S. 2605(7).

Communities in Maine that have adopted Codes of Ethics have done so in a number of different ways. Some have done so through ordinances that govern not just the City Council but all City Boards, Commissions, and staff. Others have adopted more discrete policies that apply only to the City Council/municipal officers. In those communities, other boards or commissions are then free to set their own policies and adopt their own rules based on the issues facing that particular board. Similarly, City administrators in those towns are free to create rules governing staff through personnel policies and workforce management. And, in between those two ends of the spectrum, there communities that have adopted approaches falling somewhere in the middle.

I've attached some examples of codes and rules of ethics adopted by other communities in Maine in the hopes that they might be a helpful point of reference as you begin your discussion. I look forward to your discussion and to helping you however I'm able.

**Chapter 33**  
**CODE OF ETHICS**



ARTICLE I  
**General Provisions**

**§ 33-1. Declaration of policy.**

The proper operation of democratic government requires that City Councilors and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the City's governmental structure; that public office not be used for personal gain; and that City employees, City councilors and City appointees maintain a standard of conduct that will inspire public confidence in the integrity of the City's government. In recognition of these goals, a Code of Ethics is hereby established for all City employees, City Councilors and members and associate members of the all City boards and commissions now existing or hereafter created.

**§ 33-1.1. Nonpartisanship. [Added 10-23-2017 by Ord. No. 17-362]**

To meet the purpose of this Code, the nonpartisanship of City Councilors and their appointees is important for the public confidence in their conduct in fulfilling their duties. In fulfilling their duties and obligations to the citizens of the City of Bangor, City Councilors and their appointees are expected to maintain the nonpartisan structure and intent of Bangor's form of local governance. To this end, City Councilors and their appointees shall conduct themselves in a nonpartisan manner, favoring no political party, and shall refrain from active participation in the election campaign of any particular candidate, whenever they are identified with, or closely associated with, their roles as Bangor public officials or appointees. In such circumstances, public officials and appointees should take care to identify themselves as private individuals, explicitly separating their statements and actions from their office or appointment.

**§ 33-2. Definitions.**

As used in this code, the following terms shall have the meanings indicated:

**BOARD** — All statutory and nonstatutory boards now existing or hereafter created under the City Charter or by virtue of any ordinance, order or resolve adopted by the Bangor City Council, including, without limitation, the following: **[Amended 1-13-1997 by Ord. No. 97-59]**

- A. Banair Corporation Board of Directors.
- B. Bangor Recreation District Board of Directors.
- C. Board of Appeals.
- D. Board of Assessment Review.
- E. Board of Ethics.
- F. Hersey Fund Board of Trustees.
- G. Planning Board.
- H. Sophia Kirstein Loan Fund Board of Trustees.

I. Superintending School Committee.

J. Tree Board. **[Added 10-25-2004 by Ord. No. 04-249]**

BOARD MEMBER — Any person elected to membership or associate membership on a City board or appointed to such a board by or under the authority of the Bangor City Council.

BUSINESS — Any corporation, partnership, individual, sole proprietorship, joint venture or any other legally recognized entity organized for the purposes of making a profit.

CITY COUNCIL — For purposes of this code, references to the City Council shall be construed to mean the City Council of the City of Bangor and any of the committees or subcommittees thereof.

CITY COUNCILOR — A member of the Bangor City Council.

CITY EMPLOYEE — Any individual working for, on a permanent or temporary basis, and drawing an hourly wage or salary from the City of Bangor. The term "City employee" shall not include outside consultants or professional personnel providing services to the City as independent contractors under a written professional services contract or other similar engagement.

COMMISSION — All committees, commissions or other public bodies now existing or hereafter created by virtue of any ordinance, order or resolve adopted by the Bangor City Council, including, without limitation, the following: **[Amended 2-13-2012 by Ord. No. 12-068; 2-13-2012 by Ord. No. 12-069]**

- A. Bangor Housing Authority Commission.
- B. Economic Development Advisory Commission.
- C. Firearms Discharge Committee.
- D. Historic Preservation Commission.
- E. Nursing Facility Advisory Committee.
- F. Parks and Recreation Advisory Committee.

COMMISSION MEMBER — Any person appointed to membership or associate membership on a City commission or committee by or under the authority of the Bangor City Council.

FINANCIAL INTEREST — A direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares of stock. A City employee, City Councilor, board member or commission member or any member of that person's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to assets held by the trust.

IMMEDIATE FAMILY — Spouse, children, parents, siblings, including step, half, and in-law relations, and domestic partner of a City employee, City Councilor, board member or commission member. **[Amended 6-11-2007 by Ord. No. 07-174]**

PERSONAL INTEREST — Any interest of a City employee acting in his or her

private capacity as a resident, landowner, taxpayer, citizen, or member of the general public.[Added 10-25-2004 by Ord. No. 04-249]

**SPECIAL INTEREST** — A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution or the approval or disapproval thereof by the City Council, board or commission and which interest is not shared by the general public.

**§ 33-3. Violations and penalties.**

Violations of this code shall be punishable by civil fine as provided in Chapter 9, City Council, Article III, Ordinances, § 9-26 of the Code of the City of Bangor. In addition to any other penalties or remedies as may be provided by law, violation of this code shall constitute cause for censure, after notice and hearing conducted by the City Council. A majority of the Bangor City Council shall conduct such proceedings. A violation of this Code by a City employee shall also constitute proper grounds for dismissal or other disciplinary action as provided in the City's published Personnel Rules and Regulations.



ARTICLE II  
Standards of Conduct

**§ 33-4. Purpose.**

The purpose of this Code is to establish ethical standards of conduct for all City employees, City Councilors and board and commission members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the City of Bangor.

**§ 33-5. Statutory standards.**

There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this code. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics and shall apply to all City employees, City Councilors, board members and commission members of the City of Bangor whenever applicable as if more fully set forth therein:

- A. 17 M.R.S.A. § 3104, Conflicts of interest; purchases by the state.
- B. 17-A M.R.S.A. § 456, Tampering with public records or information.
- C. 17-A M.R.S.A. § 602, Bribery in official and political matters.
- D. 17-A M.R.S.A. § 603, Improper influence.
- E. 17-A M.R.S.A. § 604, Improper compensation for past action.
- F. 17-A M.R.S.A. § 605, Improper gifts to public servants.
- G. 17-A M.R.S.A. § 606, Improper compensation for services.
- H. 17-A M.R.S.A. § 607, Purchase of public office.
- I. 17-A M.R.S.A. § 608, Official oppression.
- J. 17-A M.R.S.A. § 609, Misuse of information.
- K. 17-A M.R.S.A. § 903, Misuse of entrusted property.
- L. 21-A M.R.S.A. § 504, Persons ineligible to serve.
- M. 30-A M.R.S.A. § 2605, Conflicts of interest.
- N. 30-A M.R.S.A. § 5122, Interest of public officials, trustees or employees.

**§ 33-5.1. Unbiased conduct. [Added 10-23-2017 by Ord. No. 17-363]**

- A. The purpose of this provision is to clearly establish the expectation of unbiased, fair, impartial, and equitable treatment of all persons.
- B. City Councilors, City employees, board members, and commission members shall conduct themselves in a manner that does not discriminate unlawfully against any person because of race, color, religion, sex, national origin, age, physical or mental

disability, genetic information, gender, gender identity, sexual orientation, socioeconomic status, cultural group, or political status.

- C. All persons, irrespective of personal characteristics or other distinctions, to include, but not limited to, race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, cultural group, or political status, shall be treated in the same basic manner under the same or similar circumstances.

**§ 33-6. Contracts, purchases and employment.**

- A. No City employee, City Councilor, board member or commission member shall participate directly, by means of deliberation, approval or disapproval or recommendation, in the purchase of goods and services for the City and the award of any contracts with the City, except as permitted under the City's Purchasing Regulations and under the laws of the State of Maine, where to his or her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award held by:

- (1) That individual or a member of his or her immediate family;
- (2) A business in which that individual or a member of his or her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
- (3) Any other person or business with whom or with which that individual or a member of his or her immediate family is in business or is negotiating or has an arrangement concerning future employment.

- B. No City Councilor, board member or commission member shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for City employment or City employee where said applicant or employee is:

- (1) A member of the Councilor's, board member's or commission member's immediate family; or
- (2) A person with whom either the Councilor, board member, commission member or a member of his or her immediate family is in business.

- C. Employees.

- (1) Except as authorized under the City's published Personnel Rules and Regulations, no City employee shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for City employment or City employee where said applicant or employee is:

- (a) A member of the City employee's immediate family; or
- (b) A person with whom either the City employee or a member of his or her

immediate family is in business.

- (2) Action by a City employee shall be deemed authorized under this subsection when such action is permitted under the City's published Personnel Rules and Regulations or when the City Council has waived those rules so as to allow creation of a supervisory relationship that would otherwise violate the published rules.

**§ 33-7. Confidential information. [Amended 10-25-2004 by Ord. No. 04-249]**

No City employee, City Councilor, board member or commission member shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall he or she use such information to advance his or her financial, special, or personal interest or the financial, special, or personal interest of others. For purposes of this section, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such City employee, City Councilor, board member or commission member only because of his or her position with the City and is not a matter of public record. Information received and discussed during an executive session of the Bangor City Council or any City agency called pursuant to 1 M.R.S.A. § 405 et seq. shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

**§ 33-7.1. Use of social media. [Added 10-23-2017 by Ord. No. 17-364]**

- A. This provision provides parameters to be followed when using social media while working or during activities related to work for the public. Its purpose is to offer a means to distinguish between personal opinions or comments and opinions or comments in one's official capacity. Its intent is to respect protected speech and First Amendment rights.
- B. The use of online social networks can blur the lines between private opinions and comments and those that are made in one's official capacity. Any use of social media by a person associated with the City may be perceived as representing the City and City government. Hence, discretion and caution are needed.
- C. Social media refers to online communications tools, including but not limited to online social networks such as Facebook, professional networks such as LinkedIn®, microblogging tools such as Twitter and Tumblr, photograph and video sharing sites such as Pinterest and YouTube, and personal blogging and online forum sites.
- D. All those governed by the Code of Ethics must, on their personal social media accounts, include a qualifying statement that substantially adheres to the following form: "The views I express on this site are my own and do not reflect any official view or position of the City of Bangor."

Inappropriate uses of private social media include, but are not limited to:

- (1) Disclosure of confidential or proprietary information about or relating to the City, its customers, or its employees, private citizens, or private businesses;
- (2) Any statements or posted materials that could reasonably be considered to

represent the views or position of the City or one of its departments, unless an official position has been taken;

- (3) Posting or messaging in a manner that could reasonably give rise to an expectation that someone contacting the person would receive an official response.

### **§ 33-8. Gifts and favors.**

A. No City employee, City Councilor, board member or commission member shall accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City, nor shall any City employee, City Councilor, board member or commission member:

- (1) Accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties; or
- (2) Grant in the discharge of his or her official duties any improper favor, service or thing of value.

B. Nothing herein shall prohibit the acceptance of gifts or favors by City employees, City Councilors, board members or commission members from members of their immediate families. In determining whether a violation of this section has occurred, the Board of Ethics, in cases referred to it pursuant to § 33-21 of this code, shall consider the monetary or pecuniary value of the gift, favor or thing received; any special economic value the gift, favor or thing received may have to the recipient; the circumstances under which the gift, favor or thing concerned was received; and whether a public disclosure of the receipt was made by the recipient at the time.

### **§ 33-9. Use of City property.**

No City employee, City Councilor, board member or commission member shall use or permit the use of any City-owned property, including but not limited to motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit use of City buildings and equipment at rates and/or on terms as may be established. Nothing herein shall prohibit the use of City equipment or motor vehicles by City employees in accordance with written policies established by the City Council, City Manager or City department head concerned, nor shall this code be deemed to prohibit private use of surplus City property legally disposed of by the City or its departments in compliance with established procedures.

#### **§ 33-9.1. Solicitations by City officials and employees. [Added 1-11-1999 by Ord. No. 99-46]**

The following provisions apply to solicitations by City of Bangor officials and employees for the benefit of the City or for the support of City programs or activities.

A. City Council. No member of the City Council, during his or her term of office, shall solicit donations of money, property or items of value from any individual or business for the benefit of the City of Bangor or for the support of any City program

or activity. No City Council member may directly receive or accept any such donation, whether or not solicited by the Council member concerned. This subsection does not prohibit the following:

- (1) Solicitations of individuals related to the Councilor concerned by blood, marriage or adoption;
  - (2) Solicitations of businesses in which the Councilor concerned holds an equity interest as proprietor, partner or shareholder;
  - (3) General statements of support for particular fund-raising efforts, provided that the statements of support are directed at the public at large and not at any particular individual or business; and
  - (4) Solicitations expressly authorized by City Council ordinance or order.
- B. City Manager. The provisions of § 33-9.1A shall apply to the City Manager.
- C. City officials.
- (1) No City official with approval authority over any City-issued permit, license, benefit or contract shall solicit donations of money from any individual or business for the benefit of the City of Bangor or for the support of any City program or activity. **[Amended 10-25-2004 by Ord. No. 04-249]**
  - (2) Officials subject to the provisions of this subsection include the following:
    - (a) City Clerk.
    - (b) Planning Officer.
    - (c) Police Chief.
    - (d) Director, Community and Economic Development.
    - (e) Fire Chief.
    - (f) Code Enforcement Officer.
    - (g) City Code inspectors, building inspectors, fire inspectors and engineering inspectors.
    - (h) City Engineer.
    - (i) City Solicitor.
    - (j) Assistant City Solicitor.
    - (k) Parking Administrator.
    - (l) City Assessor.
    - (m) Purchasing Officer.
    - (n) Finance Director.

- (o) Housing Coordinator.
  - (p) Airport Director.
  - (q) Director of Health and Community Services. [**Amended 11-14-2007 by Ord. No. 07-319**]
  - (r) Director of Government Operations.
  - (s) Director of Public Services. [**Amended 2-14-2011 by Ord. No. 11-061**]
  - (t) Director of Business and Economic Development.
- (3) This subsection does not prohibit the following:
- (a) Solicitations of individuals related to the official concerned by blood, marriage or adoption;
  - (b) Solicitations of businesses in which the official concerned holds an equity interest as proprietor, partner or shareholder;
  - (c) General statements of support for particular fund-raising efforts, provided that the statements of support are directed at the public at large and not at any particular individual or business;
  - (d) Solicitations expressly authorized by City Council ordinance or order;
  - (e) Applications for funding or grants from an established public agency or charitable foundation; and
  - (f) Assessment and collection of franchise fees, taxes, fees for services, rent, development impact fees and other amounts owed to the City.
  - (g) Officials subject to this paragraph may solicit donations of property and items of value, other than money, for the benefit of the City or for the support of City programs or activities, if the solicitation has been authorized by the City Council Finance Committee and is reasonably within the normal scope of the official's duties.
- D. Nonschool City employees. City employees, other than School Department employees, shall not solicit donations of money, property or items of value from any individual or business, for the benefit of the City of Bangor or for the support of any City program or activity, without prior approval by the City Manager, City Council, or City Council Finance Committee. This subsection does not prohibit activities listed in § 33-9.1C(3)(a) through (f). All funds, property and items of value received as a result of such solicitations shall be processed and deposited in the manner prescribed by the City Finance Director.
- E. School Department employees. No employee of the Bangor School Department shall solicit donations of money, property or items of value for the benefit of the School Department, except in the manner prescribed by the Bangor School Committee or Superintendent.

**§ 33-10. Representing third party interest before City agencies.**

- A. No City employee shall appear on behalf of any third party interest before any City agency or represent a third party interest in any action, proceeding or litigation in which the City or one of its agencies is a party. Nothing herein shall prohibit any City employee from appearing as a witness when duly called by a party for the purpose of giving nonprivileged testimony before any City agency or in any such action, proceeding or litigation. Nothing herein shall prohibit any City employee, on behalf of his or her personal interest, from appearing before any City agency. **[Amended 10-25-2004 by Ord. No. 04-249]**
- B. No City Councilor shall either appear on behalf of any third party interest before any City agency or represent a third party interest in any action, proceeding or litigation in which the City or one of its agencies is a party. Nothing herein shall prohibit a Councilor, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any Councilor, on behalf of his or her personal interest, from appearing before a City agency.
- C. No board or commission shall appear on behalf of any third party interest before a City agency of which he or she is a current member. Nothing herein shall prohibit a board member or commission member, on behalf of his or her personal interest, from appearing before any City agency, including that of which he or she is a current member, but such board member or commission member shall not deliberate or vote on the item concerned.

#### **§ 33-11. Conflicts of interest.**

- A. Deliberation and vote prohibited. No City Councilor, board member or commission member shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decisionmaking process, on any agenda item before his or her collective body in which he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally.
- B. Disclosure of conflict. Any City Councilor, board member or commission member who believes that he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such interest, and the City Clerk or his or her designee shall make a record of such disclosure. Such disclosure shall be made no later than the date of the first meeting of the City Council, board, commission or committee thereof at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the City Councilor, board member or commission member is present. Additionally, any City Councilor, board member or commission member who believes that any fellow City Councilor, board member or commission member, or a member of such fellow City Councilor's, board member's or commission member's immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such interest, and the City Clerk or his or her designee shall make a record of such disclosure.
- C. Determination of conflict. Once the issue of conflict has been raised relative to an individual City Councilor, committee member, board member or commission member and disclosure has been made as provided above, such individual's fellow

City Councilors, committee members, board members or commission members shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each City Councilor, committee member, board member or commission member present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Councilor's, committee member's, board member's or commission member's alleged conflict of interest.

- (1) All votes of conflict of interest questions shall be recorded. A majority vote shall determine the question, but a vote by committee may later be reviewed by the full City Council upon the City Council's consideration of the same agenda item.
  - (2) Upon determination that a conflict of interest in fact exists, the City Councilor, committee member, board member or commission member concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.
  - (3) In lieu of the vote required by this subsection, the City Council, upon motion and by majority vote, may refer the conflict of interest question to the City Board of Ethics in accordance with § 33-21 of this code or may table its consideration of the relevant agenda item. In the event that a majority of the City Council, board or commission concerned, or committee thereof, shall require disclosure of further information not immediately available or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.
- D. Avoidance of appearance of conflict. To avoid the appearance of a violation of this section, once any individual City Councilor, board member or commission member is determined to have a conflict of interest in respect to any agenda item and once all conflict of interest questions relating to the agenda item concerned have been determined as provided in Subsection C above, said individual shall immediately remove himself or herself from the meeting room. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. If the item has not been finally resolved when the conflict of interest is first determined, said individual shall not be present for any subsequent action on the agenda item. Nothing herein shall require an individual Councilor, board member or commission member to remove himself or herself for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by the other members and the right to abstain from voting on the item has been granted. **[Amended 10-13-2010 by Ord. No. 10-304]**
- E. Personal interest. Nothing herein shall be construed to prohibit any City Councilor, board member or commission member from representing his or her own personal interest by appearing before his or her collective body on any such agenda item.
- F. Municipal budget. **[Added 3-26-2018 by Ord. No. 18-136]**
- (1) Notwithstanding the provisions of §§ 33-11 and 33-11.1, no City Councilor shall abstain from or be prohibited from voting on the municipal budget when

it comes before the Council on a Council agenda for approval.

- (2) If during the Council discussion of the approval of the municipal budget the Council decides to deliberate upon a line item of the budget on which a councilor has been previously determined to have a conflict or has previously abstained, then the Councilor shall not participate in the deliberations on that particular line item. Upon the conclusion of any such deliberation, the Councilor shall continue to participate in other budget deliberations and vote on the municipal budget.
- (3) It is the intent of this provision that all Councilors shall participate in the deliberation and vote on the municipal budget when it is presented to the Council for approval, but that no Councilor shall participate in a deliberation on or vote on any specific provision in the municipal budget for which the Councilor has previously been determined to have a conflict or has previously abstained.

**§ 33-11.1. Abstention; exercising the right to abstain. [Added 10-23-2017 by Ord. No. 17-365]**

Any City Councilor, board member or commission member who believes that he or she or a member of his or her immediate family has a special or financial interest, other than an interest held by the public generally, in any agenda item before his or her collective body may, after disclosure of the nature and extent of such interest, publicly state his or her intent to abstain from participation in the deliberation or vote, or otherwise taking part in the decisionmaking process on the agenda item. However, the City Council, board, or commission may by motion and vote determine that there is no conflict and that the City Councilor, board member or commission member shall not be permitted to abstain from participating and voting on the agenda item.

**§ 33-12. Disclosure statement. [Amended 6-11-2007 by Ord. No. 07-174; 8-27-2012 by Ord. No. 12-266]**

Within 15 days after each annual municipal election every City Councilor and School Committee member shall file a completed disclosure form with the City Clerk. Within 30 days after his or her appointment, every board member and every commission member shall file a completed disclosure form with the City Clerk. Such disclosure forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

- A. The name of each person or entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 during the preceding calendar year from which such disclosing party, his or her spouse, or member of his or her immediate family actually residing in the household has received money or other thing of value in an amount in excess of \$1,000 during the preceding calendar year, including but not limited to campaign contributions, where applicable.
- B. The name of each entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 for the preceding calendar year in which such disclosing party, his or her spouse, or member of his or her immediate family actually residing in the household has a financial interest in an amount in excess of

\$1,000, including but not limited to the ownership of shares of stock.

- C. The name of each nonprofit and/or for-profit entity, whether incorporated or not, for which such disclosing party, his or her spouse, or member of his or her immediate family actually residing in the household holds a position of officer or member of any board.
- (1) For each such entity, such disclosing party shall provide the following information:
    - (a) A brief description of the purpose of each board and/or office;
    - (b) A short summary of such disclosing party's or family member's duties relative to any such board and/or office;
    - (c) The term of service on each such board and/or office; and
    - (d) Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.
  - (2) For purposes of this subsection, "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services and any other thing of value.
- D. Every City Councilor, board member and commission member shall amend his or her annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each such amendment shall be made within 15 days following the occurrence which requires the amendment.
- E. The City Clerk shall deliver a copy of each completed disclosure statement to every fellow member of the City Council, board or commission of each disclosing party within 30 days after the expiration of the filing period.
- F. For purposes of this code, a list prepared by the Finance Director of those persons or entities doing business with the City in an amount in excess of \$1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance and deposits in accounts from commercial or savings banks, savings and loan associations or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

### **§ 33-13. Political activities.**

No City employee, City Councilor, board member or commission member shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the City. In conjunction therewith, no City employee, City Councilor, board member or commission member may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from City employees for political purposes. No City Councilor, board member or commission member may

distribute pamphlets or handbills while he or she is performing official functions and duties with the City. Nothing herein shall be construed to prohibit any City employee, City Councilor, board member or commission member from participating in the political process in their private capacity as candidates for elected office or as private citizens.

**§ 33-13.1. Use of titles and disclaimers [Added 10-13-2021 by Ord. No. 21-335]**

- A. Background. Bangor public officials, whether elected or appointed, retain their full, constitutionally guaranteed, First Amendment rights as private individuals. The Code of Ethics respects and protects these rights. One of the responsibilities of elected or appointed officials is to separate protected personal discourse from matters of governance. This section of the Code of Ethics addresses this responsibility. For the general duties of a public official to exercise fairness and impartiality see § 33-1.
- B. Use of titles. In making written or oral statements, elected or appointed City officials may use their titles upon, and only upon, the following circumstances:
- (1) When so doing does not violate any other provision of this Code of Ethics or any provision of the Code of ordinances, state law, or federal law; and
  - (2) When:
    - (a) The City Council has specifically authorized the official to speak on behalf of the City; or
    - (b) The information conveyed:
      - [1] Is consistent with the official position of the City as that position was adopted by the Council or is consistent with the official decision of an applicable board, commission, or committee and the context of the communication only involves that applicable board, commission, or committee; and
      - [2] References the appropriate decision by or position of the City Council, or to the decision of the applicable board, commission, or committee; or
    - (c) When it is made clear and unambiguous that the official is speaking in their individual capacity and not on behalf of the entire City or a board, commission, or committee.
- C. Disclaimers. Disclaimers are only required when there could be ambiguity regarding the capacity in which an elected or appointed official is communicating. In a typical disclaimer, a speaker (or writer) might say (or write), "Speaking for myself;" or "Speaking as an individual;" or "Although I hold the office of \_\_\_\_\_, I am speaking tonight as a private individual. My remarks should not be interpreted as representing my office or the City of Bangor's official policy." A speaker (or writer) might also say (or write), "I make these remarks in my personal capacity, and not as \_\_\_\_\_. These remarks should not be interpreted as representing the City of Bangor." The most important aspect of any disclaimer is to remove ambiguity. Section 33-13.1B(2)(c) makes it the official's duty to ensure that

there is no ambiguity. In this regard, City officials should be cautious of the circumstances or conditions of any statement and be wary of concerted or group action, which increases the likelihood that such action will be perceived as an act or endorsement of the City itself.

- D. Other considerations. Other ordinances and laws relate to the use of titles, and each must be followed. Without limitation and before using their titles, City officials should consider the following provisions: the Freedom of Access Act (Title 1, Chapter 13, of the Maine Statutes);<sup>1</sup> Title 17-A, Section 608, of the Maine Revised Statutes; § 33-1.1 of the Code of Ordinances; § 33-7.1 of the Code of Ordinances; and § 33-13 of the Code of Ordinances.

#### **§ 33-14. Incompatible employment or office.**

No City employee, City Councilor, board member or commission member shall occupy any other office, elected or appointed, in any other governmental entity when the duties of such office are incompatible with the proper discharge of his or her official duties with the City. For purposes of this code, the occupancy of any office, elected or appointed, with any other governmental entity by any City Councilor, board member or commission member is hereby prohibited in the following circumstances:

- A. Where the duties of the other office make it a physical impossibility to discharge the duties of the City position;
- B. Where one office is subordinate to the other;
- C. Where one office carries the power of removal of the other; or
- D. Where the occupancy of both offices is prohibited by the City Charter or by other provisions of law.

#### **§ 33-15. Ethics in contracting.**

The provisions of this section shall apply to all persons doing business with the City of Bangor as vendors, suppliers or contractors, including potential vendors, suppliers and contractors submitting bids or proposals in response to a City solicitation or advertisement.

- A. Gratuities and kickbacks.
  - (1) Gratuities. It shall be a violation of this code for any person to offer, give or agree to give any City employee, City Councilor, board member or commission member a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or award pertaining to a City purchase order, contract, construction contract or professional services contract or with respect to any solicitation, advertisement, request for bids, request for proposals or any bid, proposal or other response thereto.
  - (2) Kickbacks. It shall be a violation of this code for any person to solicit, offer, give, accept or receive any undisclosed gratuity or offer of employment in

---

1. Editor's Note: See 1 M.R.S.A. § 400 et seq.

connection with the award or potential award of any subcontract or contract modification or change order under a City of Bangor prime contract for construction, procurement or professional services. To be valid, any disclosure under this subsection must be made in writing to the City of Bangor Purchasing Agent prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this code to solicit, offer, give, accept or receive any such gratuity or offer of employment in violation of applicable state or federal law.

- B. Prohibition against contingent fees. It shall be a violation of this code for a person to be retained, or to retain a person, to solicit or secure a City contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
- C. Prohibition against discriminatory conduct. It shall be a violation of this Code for any person to discriminate unlawfully against any person because of race, color, religion, sex, national origin, age, physical or mental disability, genetic information, gender, gender identity, sexual orientation, socioeconomic status, cultural group, or political status. All persons doing business with the City shall treat all persons in the same basic manner under the same or similar circumstances irrespective of personal characteristics or other distinctions, to include, but not limited to, race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, cultural group, or political status. **[Added 10-23-2017 by Ord. No. 17-366<sup>2</sup>]**
- D. Recovery of value transferred or received in breach of ethical standards; other penalties.
  - (1) General provisions. The value of anything transferred or received in breach of the ethical standards of this code by a City employee, City Councilor, board member or commission member or other person may be recovered from both the City employee, City Councilor, board member or commission member concerned and from the other person concerned.
  - (2) Recovery of kickbacks by the City. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification or change order and ultimately borne by the City, and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.
- E. Penalties and sanctions.
  - (1) In addition to the recoveries provided in Subsection C above, any violation of

---

2. Editor's Note: This ordinance also redesignated former Subsections C through E as Subsections D through F, respectively.

this section shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this section shall be fined not less than three times the value of any improper gift or kickback paid, solicited or received or \$500, whichever is greater. The penalties provided in this subsection shall be in addition to the penalties provided in § 33-3 of this code and shall be in addition to any penalties imposed under state or federal law.

(2) Sanctions.

(a) Upon conviction of a violation of this section or upon a finding of a violation by the City Purchasing Agent, Board of Ethics or the City Council following written notice and hearing, the City Council may impose one or more of the following sanctions on the person, firm or corporation convicted or found to be in violation:

[1] Written warnings or reprimands;

[2] Termination of contracts; or

[3] Debarment or suspension as provided in the City's published Purchasing Policy (Authority to Debar or Suspend).

(b) Termination of a contract under this subsection shall also terminate the contractor's right to receive further payment thereunder.

(c) The sanctions provided in this subsection shall be in addition to the penalties provided in Subsection D(1) above.

F. Incorporation in certain contracts. The provisions of this section shall be provided to all interested bidders or proposers and shall be incorporated by reference as agreed terms in any City of Bangor construction, procurement or professional services contract with a base bid price in excess of \$10,000. In the case of a professional services contract, the base bid price for this purpose shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

ARTICLE III  
**Board of Ethics**

**§ 33-16. Establishment; membership.**

There is hereby created and established a Board of Ethics consisting of five members and two associate members appointed by the City Council.

**§ 33-17. Terms of office; residency requirements.**

All members shall be appointed for terms of three years each. All associate members shall be appointed for terms of three years each. Each member and associate member shall serve until his or her successor is appointed and qualified. All members must be residents of the City of Bangor. No member shall serve more than two complete consecutive terms.

**§ 33-18. Holding other office or position. [Amended 5-12-2008 by Ord. No. 08-153]**

No member or associate member of the Board shall hold any other City office or position or be the member of any City agency to which the City Council shall have appointing authority, except that any person that works as a part-time employee for the City of Bangor less than 200 hours during any calendar year may serve on the Board.

**§ 33-19. Procedural rules and records.**

The Board shall establish such rules as it may determine to be necessary to govern its procedures. In addition, the Board shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings.

**§ 33-20. Powers and duties. [Amended 10-23-2017 by Ord. No. 17-367]**

The Board shall make findings of fact and render opinions to the City Council concerning application of the provisions of this code to any particular situation. In the performance of its duties, the Board shall limit its review and fact finding to those issues referred to it by the City Council. The Board shall also make annual recommendations for necessary revisions to this code and shall perform such other duties as may be prescribed from time to time by the City Council. In the event the Board has no recommendations for revisions to this code, the Chair of the Board shall issue a report to the City Council advising them of such.

**§ 33-21. Referrals.**

- A. Any City Councilor, board member or commission member seeking advice as to whether a particular situation constitutes an actual or potential violation of this code shall first submit a written statement in the form of a Council order describing the nature of the matter to the City Council. If the Council feels that an advisory opinion is necessary, it shall adopt the order, by majority vote, referring the matter to the Board. A tie vote on the order shall also cause the matter to be referred to the Board.

- (1) Upon referral of a question, the Board shall have the power to request voluntary statements from all persons concerned and to review all records on file with the City of Bangor or other public agencies. All Board hearings shall be conducted in accordance with rules of procedure to be adopted by the Board. The Board may conduct any fact finding and deliberations in executive session as provided in 1 M.R.S.A. § 405, Subsection 6A.
  - (2) Upon conclusion of its fact finding and deliberations, the Board of Ethics shall issue written findings with respect to each matter and question referred to it. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so advise the Council.
  - (3) It is the purpose and intent of this code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Bangor.
- B. Employee conflicts. Upon referral, the Board of Ethics may render advisory opinions with respect to potential or prospective conflicts of interest involving City employees. However, allegations of past or present misconduct involving alleged violations of this code by City employees shall not be reviewed by the Board but shall be referred for disposition in accordance with the City's established employee disciplinary procedures.

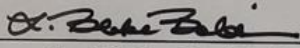


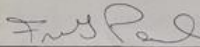
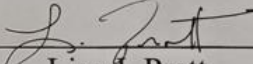

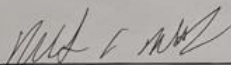
**§ 33-22. Orientation meeting; annual report.**

- A. All members shall attend an annual orientation meeting to be scheduled during the month of January of each calendar year.
- B. The Board shall meet at least quarterly and, prior to December 31 of each calendar year, shall prepare and submit to the City Council an annual report outlining its doings during the preceding twelve-month period.

**TOWN OF KENNEBUNK  
SELECT BOARD  
CODE OF ETHICS**

The members of the Town of Kennebunk Select Board are committed to making our community a safe, confident, prosperous, and enjoyable place to live, work, and visit. It is a great honor to serve the Town, and with that honor comes great responsibility and a duty to hold ourselves accountable to our fellow residents. To that end, we agree to abide by the following Code of Ethics:

1. We affirm our obligation to abide by the Town Charter and the Constitution and laws of the State of Maine, and agree to confine our actions as members of the Select Board to the authority granted by those documents.
2. We acknowledge that we are bound by the Town Charter to act as a body and have no individual authority to act outside of the meetings of the Board.
3. We agree that principled dissent among Board members is encouraged. However, because we act as a body, all members should respect and cooperate in the implementation of our Board decisions.
4. We agree to refrain from making disparaging remarks about the public or other members of the Board.
5. We agree that our collective responsibility is to ensure that the Town of Kennebunk is well-operated, leaving day-to-day administration of the Town to the Chief Administrative Officer (Town Manager).
6. We agree to solicit and listen to input from all of our residents, referring complaints to the Town Manager for proper administrative action.
7. We agree not to publicly criticize Town staff, referring any complaints to the Town Manager for proper administrative action.
8. We agree not to make commitments regarding how we will individually vote on any matter that comes before the Select Board.
9. We agree to keep matters legally discussed in Executive Sessions strictly confidential.
10. We agree to ensure the Town has adequate financial support within the capabilities of the community and the State of Maine.
11. We agree to avoid conflicts of interest as required by State law and the Town Charter. To that end, we agree to avoid situations where we might derive or appear to derive personal benefit from actions or decisions made in our official capacity.

 _____ L. Blake Baldwin	 _____ Sally A. Carpenter
 _____ Kortney E. Nedeau	 _____ Frank G. Paul
 _____ Lisa J. Pratt	 _____ Shiloh A. Schulte
 _____ William A. Ward, Jr.	<u>July 20, 2021</u> _____ Date

**ADOPTED: 2006-02-14**

**AMENDED: 2020-10-13** (new Board signatures 2021-07-20)