



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

## City Council Rules Committee

**Monday, March 28, 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

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1. Call to Order
2. Approval of February 28 and March 7, 2022 draft minutes
  - a. Both draft minutes attached.
3. Review draft Code of Ethics
  - a. Draft Code of Ethics and Portland, Oregon Code of Ethics, attached.
4. Public Comment on Council Code of Ethics
5. Adjournment



## City Council Rules Committee

**Monday, February 28, 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 February 28, 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. Members of the public Portland Regional Chamber, Ian Paleologopoulos, and John P., attended.

Councilor Zarro convened the meeting and asked for a motion to accept the minutes of the February 7, 2022 meeting. Councilor Dion moved and Mayor Snyder seconded his motion to approve, which was approved by a roll call vote of 4-0.

Councilor Zarro began the meeting with the review of redlined changes attached to the agenda, beginning with Rule 19, Reconsideration. A revision from the word "majority" to "the prevailing side" was agreed to, to be repeated in the second paragraph of Rule 19.

During discussion of Rule 20, Failure to Pass, Acting Corporation Counsel Jen Thompson said that when a motion fails, this rule provides a method for the Council to make a clear decision to reject the item by voting to postpone it indefinitely. Mayor Snyder said it was best to leave the rule in place. Councilor Dion asked if the time frame should be specified, requiring this motion at the time of the failed motion, but it was decided that this suggestion could be added in the future.

Discussion of the redline change to Rule 32 allowing questions to be directed at individual councilors determined that this could prove disruptive. Jen Thompson said comment was better addressed to the City Council as a whole. Mayor Snyder said this change would be against the spirit of the other rules, and Councilor Zarro agreed it was not advisable.

In discussion of Rule 32, Section 5, Councilor Dion said it was important for people giving public comment to state where they are from. Mayor Snyder said identifying the town is enough, without the person's specific address. Councilor Dion said the commenter should provide a first and last name.

Chair Zarro said he did not want to cause discomfort or embarrassment to the unhoused who may not have an address to share and stated that having speakers identify themselves by name and town was acceptable. Mayor Snyder summarized the change as requiring first and last name, city of residence, and/or district and/or organization represented.

Jen Thompson's revision of Rule 32 with the language, "abusive or disrespectful" in place of the term "scurrilous" was approved by the committee.

A move or change of time of non-agenda item public comment was set for discussion at the next meeting, to be scheduled following adjournment, as well as any further discussion of Rules 32 and 38. Additional changes to the workshop rule language requested by Councilor Ali will also be discussed at that time.

Acting Corporation Counsel Thompson asked that the committee members send her any suggested changes soon in order to include them in a document for the next meeting.

Councilor Zarro asked if there were any public comment and seeing no hands raised, closed public comment.

Mayor Snyder moved and Councilor Dion seconded the motion to adjourn, which passed by a roll call vote of 4-0. The meeting adjourned at 9:11 a.m.



## City Council Rules Committee

**Monday, March 7, 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 8:02 a.m. on March 7, 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. Members of the public Sarah Michniewicz and John P. attended.

Councilor Zarro began the meeting with the review of redlined changes attached to the agenda, beginning with Rule 19, Reconsideration. Acting Corporation Counsel Jen Thompson said the redline changes began with the substitution of the words "Prevailing side" for the word "majority." In Rule 32, subsection 5, and Rule 36 the changes concerned how members of the public identify themselves. In Rule 32, "abusive or disrespectful" was proposed in place of the term "scurrilous."

Mayor Snyder said the revisions looked good except that Rule 32, subsection 4, concerning the time of the non-agenda item public comment period, which could be, as it is in the School Board agenda, set at the end of the meeting.

The change of time of non-agenda item public comment was discussed at length, with Mayor Snyder and Councilor Dion stating why the end of the meeting was best – since it would prioritize the items on the agenda already vetted by committee, with staff members ready to answer questions. Chair Zarro and Councilor Ali stated their preference for this public comment to be scheduled at the beginning of the meeting, which would make it certain when it would occur. Although scheduled for 6:00 p.m., it often comes later, after the council finishes deliberating on an item on the agenda started before the 6:00 p.m. hour. Chair Zarro said putting this comment at the end of the agenda would mean fewer people would participate.

Given the split in support between the beginning and the end of the meeting for non-agenda item comment, Mayor Snyder suggested the other changes could go forward with unanimous approval from the Rules Committee while the time of the non-agenda item period would be left to the full council for a decision.

Further discussion concerned changes proposed by Councilor Ali to allow public comment by Council-invited participants at workshops. Jen Thompson said workshops are now limited to councilors and city staff. If workshops were opened up to comment by Council- guests, the workshop would likely become a public forum and likely necessitate that all public comment be permitted, which might impede the unique aims of workshops. However, if comment by members of the public is desired at a workshop, the Council's existing rules would permit public comment by a vote to waive the usual rule.

Discussion of process followed. Councilor Dion said workshops were for educating the city councilors following the work on items in committee, where public comment is invited, and before the public hearing that is required once the item is being considered for a vote before the full City Council.

Mayor Snyder said outside experts are best enlisted while a committee is reviewing an item. Chair Zarro said if more information is needed at the workshop, an item should return to committee for additional review.

Councilor Ali agreed that the exploratory process in committee was a good process and that he would let this proposal go.

Chair Zarro opened the meeting for public comment and attendee Sarah Michniewicz asked what would happen if a member of the public declined to give a last name. She also said it can be frustrating to wait all night to speak, and that no mention had been made of the behavior of councilors during the non-agenda item public comment period.

Chair Zarro closed the public comment period and asked for a motion to approve the revisions in the rules attachment. Mayor Snyder moved to approve, and Councilor Dion seconded that motion. The vote was 4-0 in favor.

Mayor Snyder moved and Councilor Dion seconded approval of moving the non-agenda item public comment period to either the beginning or the end of a council meeting, which passed by a vote of 4-0.

Councilors and the Mayor noted that the minutes of the last meeting had been left off the agenda, and their approval was scheduled for the next Rules Committee meeting, that date to be set following this meeting.

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 9:13 a.m.

CITY OF PORTLAND  
CODE OF ETHICS

ARTICLE I

**General Provisions**

**§ 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 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 City Councilors and members and associate members of the all City boards and commissions now existing or hereafter created.

**§ 1.1. Nonpartisanship.**

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 Portland, City Councilors and their appointees are expected to maintain the nonpartisan structure and intent of Portland'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 Portland 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.

**§ 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 Portland City Council, including, without limitation, the following:

- A. Portland Development Corporation Board of Directors.
- B. Zoning Board of Appeals.
- C. Board of Assessment Review.
- D. Planning Board.
- E. Historic Preservation Board
- F. Portland Fish Exchange,
- G. Fish Pier Authority,

- H. Creative Portland
- I. Rent Board
- J. Rental Housing Advisory Committee
- K. Community development block grant allocation committee
- L. Police Citizen Review Subcommittee

**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 Portland 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 Portland and any of the committees or subcommittees thereof.

**CITY COUNCILOR** — A member of the Portland City Council.

**COMMISSION** — All committees, commissions or other public bodies now existing or hereafter created by virtue of any ordinance, order or resolve adopted by the Portland City Council, including, without limitation, the following

- A. Parks Commission
- B. Land Bank Commission
- C. Pesticide Advisory Commission

**COMMISSION MEMBER** — Any person appointed to membership or associate membership on a City commission or committee by or under the authority of the Portland 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 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 Councilor, board member or commission member.

**PERSONAL INTEREST** — Any interest of a City Councilor, board member or commission member acting in his/her/their private capacity as a resident, landowner, taxpayer, citizen, or member of the general public.

**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.

### **§ 3. Violations and penalties.**

Violations of this code shall be punishable by civil fine as provided in Chapter 1, of the City of Portland Code of Ordinances, § 1-15. 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 Portland City Council shall conduct such proceedings.

## **ARTICLE II**

### **Standards of Conduct**

#### **§ 4. Purpose.**

The purpose of this Code is to establish ethical standards of conduct for all 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 Portland.

#### **§ 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 Councilors, board members and commission members of the City of Portland 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.

### **§ 5.1. Unbiased conduct.**

- A. The purpose of this provision is to clearly establish the expectation of unbiased, fair, impartial, and equitable treatment of all persons.

City Councilors, 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.

- B. 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.

### **§ 6. Contracts, purchases and employment.**

- A. No 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/her/their 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/ her/their immediate family;
- (2) A business in which that individual or a member of his/her/their 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/her/their 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/her/their immediate family is in business.

### **§ 7. Confidential information**

No 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/her/their 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 Councilor, board member or commission member only because of his/her/their position with the City and is not a matter of public record. Information received and discussed during an executive session of the Portland 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.

#### **§ 7.1. Use of social media.**

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.

- A. 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.
- B. 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.
- C. 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 Portland."

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.

### **§ 8. Use of City property.**

No 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.

**§ 8.1. Solicitations by City officials and employees.** The following provisions apply to solicitations by City of Portland officials 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/her/their 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 Portland 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.

### **§ 9. Representing third party interest before City agencies.**

- A. 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/her/their duties as a representative of the electorate, or any Councilor, on behalf of his/her/their personal interest, from appearing before a City agency.
- B. 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/her/their 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.

**§ 10. 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 decision-making process, on any agenda item before his/her/their collective body in which he or she or a member of his/her/their 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/her/their immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his/her/their collective body shall disclose the nature and extent of such interest, and the City Clerk or his/her/their 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'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/her/their collective body shall disclose the nature and extent of such interest, and the City Clerk or his/her/their 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.
- 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/her/their 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.
- E. Personal interest. Nothing herein shall be construed to prohibit any City Councilor, board member or commission member from representing his/her/their own personal interest by appearing before his/her/their collective body on any such agenda item.
- F. Municipal budget.
- (1) Notwithstanding the provisions of §§ 11, 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.

### **§ 11. Abstention; exercising the right to abstain.**

Any City Councilor, board member or commission member who believes that he or she or a member of his/her/their immediate family has a special or financial interest, other than an interest held by the public generally, in any agenda item before his/her/their collective body may, after disclosure of the nature and extent of such interest, publicly state his/her/their intent to abstain from participation in the deliberation or vote, or otherwise taking part in the decision making 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.

### **§ 12. Political activities.**

No 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/her/their official functions and duties for the City. In conjunction therewith, City Councilor, board member or commission member may use his/her/their 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 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.

#### **§ 12.1. Use of titles and disclaimers**

- A. Background. Portland 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 § 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 Portland'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 Portland." The most important aspect of any disclaimer is to remove ambiguity. Section 12.1B(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;

### **§ 13. Incompatible employment or office.**

No 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/her/their 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

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

- D. Where the occupancy of both offices is prohibited by the City Charter or by other provisions of law.

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# Code of Ethics

## Explanations and Examples

For Elected Officials, City Employees,  
Appointees to Boards and Commissions,  
and City Volunteers



City of Portland



# Introduction

December 2009

To: Elected Officials  
City Employees  
Appointees to Boards and Commissions  
City Volunteers

In 1994, City Auditor Barbara Clark proposed that Council adopt a new chapter to the City Code, consisting of a code of ethics. Auditor Clark involved other elected officials, bureau managers, union representatives, City employees, attorneys, and members of the public to develop that code.

The Code of Ethics continues to provide an important set of standards, conveying the principles of the City organization to officials, employees, volunteers, and the public. For the Office of City Auditor, the Code of Ethics has served as a significant tool for emphasizing positive and reasonable expectations for well over a decade.

The attached report is a guide for the reader, with explanations and examples that may help in navigating through some situations. A good source for additional information and guidance about ethics is the City Auditor's Office of the Ombudsman - (503) 823-0144.



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## City Code Chapter 1.03

### CODE OF ETHICS

#### Sections:

- 1.03.010 Definitions
- 1.03.020 Trust
- 1.03.030 Objectivity
- 1.03.040 Accountability
- 1.03.050 Leadership

#### **1.03.010 Definitions.**

1. “City official” means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.
2. “Ethics” means positive principles of conduct. Some ethical requirements are enforced by federal, state, or local law. Others rely on training, or on individuals’ desire to do the right thing. The provisions of this Chapter which are not elsewhere enforced by law shall be considered advisory only.

**1.03.020 Trust.** The purpose of City government is to serve the public. City officials treat their office as a public trust.

1. The City’s powers and resources are used for the benefit of the public rather than any official’s personal benefit.
2. City officials ensure public respect by avoiding even the appearance of impropriety.
3. Policymakers place long-term benefit to the public as a whole above all other considerations, including important individuals and special interests. However, the public interest includes protecting the rights of under-represented minorities.
4. Administrators implement policies in good faith, as equitably and economically as possible, regardless of their personal views.
5. Whistle-blowing is appropriate on unlawful or improper actions.

6. Citizens have a fair and equal opportunity to express their views to City officials.
7. City officials do not give the appearance of impropriety or personal gain by accepting personal gifts.
8. City officials devote City resources, including paid time, working supplies, and capital assets, to benefit the public.
9. Political campaigns are not conducted on City time or property.

**1.03.030 Objectivity.** City officials' decisions are based on the merits of the issues. Judgment is independent and objective.

1. City officials avoid financial conflict of interest and do not accept benefits from people requesting to affect decisions.
2. If an individual official's financial or personal interests will be specifically affected by a decision, the official is to withdraw from participating in the decision.
3. City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.
4. Intervention on behalf of constituents or friends is limited to assuring fairness of procedures, clarifying policies or improving service for citizens.

**1.03.040 Accountability.** Open government allows citizens to make informed judgments and to hold officials accountable.

1. City officials exercise their authority with open meetings and public records.
2. Officials who delegate responsibilities also follow up to make sure the work is carried out efficiently and ethically.
3. Campaigns for election should allow the voters to make an informed choice on appropriate criteria.
4. Each City employee is encouraged to improve City systems by identifying problems and proposing improvements.

5. City government systems are self-monitoring, with procedures in place to promote appropriate actions.

**1.03.050 Leadership.**

1. City officials obey all laws and regulations.
2. City officials do not exploit loopholes.
3. Leadership facilitates, rather than blocks, open discussion.
4. Officials avoid discreditable personal conduct and are personally honest.
5. All City bureaus and work teams are encouraged to develop detailed ethical standards, training, and enforcement.
6. The City Auditor will publish a pamphlet containing explanations and examples of ethical principles.

## **Explanations and Examples**

### **1.03.010 Definitions.**

***1. “City official” means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.***

The Code of Ethics is intended to apply to everyone. However, specific groups such as employees or elected officials may be mentioned in some examples.

***2. “Ethics” means positive principles of conduct. Some ethical requirements are enforced by federal, state, or local law. Others rely on training, or on individuals’ desire to do the right thing. The provisions of this chapter which are not elsewhere enforced by law shall be considered advisory only.***

The Code of Ethics is not intended to legislate morality, but rather to convey general expectations of appropriate conduct. It is included in City Code to make it easy to find, and to emphasize the seriousness of Council’s intent.

Just because an action is legal does not necessarily mean it is right or good. Similarly, not every action that is wrong needs to be punished under the law. The role of ethics is particularly to question those actions which are neither prohibited nor required by law.

In this pamphlet, the applicable laws are summarized in the boxes adjacent to the explanatory text. If no law is

indicated for a numbered subsection, its provisions are only advisory.

**1.03.020 Trust. *The purpose of City government is to serve the public. City officials treat their office as a public trust.***

City officials have special powers, along with a special obligation to act only on behalf of the public.

ORS Chapter 244 declares public office a public trust, prohibits certain actions, and provides penalties. An explanatory guide is available from the Oregon Government Ethics Commission.

**1. *The City's powers and resources are used for the benefit of the public rather than any official's personal benefit.***

To function effectively, the City needs the public's respect and confidence that its power will be used on behalf of the community as a whole. In this context, improper acts are doubly wrong: a selfish decision is not only wrong in itself, but also wrong because it violates the public's trust in government.

**2. *City officials ensure public respect by avoiding even the appearance of impropriety.***

Public service requires a continual effort to overcome cynical attitudes and suspicions about the people in government. For example, conduct which could appear dishonest to a reasonable observer will undermine the public trust even if the conduct is not illegal.

***3. Policymakers place long-term benefit to the public as a whole above all other considerations, including important individuals and special interests. However, the public interest includes protecting the rights of under-represented minorities.***

Public service involves a complex network of competing loyalties -- to country, state, community, employer, mentors, colleagues, subordinates, family and self. Often constituent interests can be satisfied without violating the public interest, but policy formulation requires evaluating information objectively and deciding what is best for the public as a whole.

There is no formula for the most difficult decisions. The long-term public interest demands that the will of the majority be tempered by a commitment to consider the rights and interests of minority groups, especially those who are not sufficiently represented in the normal decision-making process.

Elected officials have a duty to engage in dialogue with the public, to hear their concerns and to increase their awareness of long-term efforts for the community as a whole.

***4. Administrators implement policies in good faith, as equitably and economically as possible, regardless of their personal views.***

City managers and service providers are supposed to implement the policies and laws enacted by City Council. Not every aspect of every situation will be specifically covered in the law, so virtually every employee will have

opportunities to make decisions. These decisions should be guided by an honest effort to understand and carry out the policymakers' instructions.

Elected officials sometimes become frustrated dealing with a large, unresponsive bureaucracy. Civil servants can become equally frustrated by the passage of laws which have not sufficiently drawn on the expertise of administrators and are impractical, contradictory, ambiguous, underfunded, or ineffective. To keep these frustrations from paralyzing the organization, two-way dialogue is essential.

City workers at all levels generally have personal convictions which affect the way they interpret and implement policies. This is proper so long as their values and attitudes do not impede or nullify instructions from policy-makers.

City workers who find their personal convictions are irreconcilably incompatible with lawful policies should openly state their conflict. In some cases such workers may request reassignment, or even resign. It is not ethical to express personal convictions covertly by blocking or ignoring lawful policies.

*City Code Section 1.01.140 provides a general penalty for violating or failing to comply with City Code of a fine up to \$500 or imprisonment up to 6 months, or both.*

***5. Whistle-blowing is appropriate on unlawful or improper actions.***

Anyone who observes significant unlawful or improper actions by a city official is expected to report them. Customarily, the actions are reported to the official's supervisor. If the supervisor appears to be involved in the improper actions, the report can be made to a higher level, to the City Auditor, or to the Oregon Government Ethics Commission. This decision is not to be made lightly, as whistleblowing may result in estrangement and workplace discord.

“Whistleblowing” differs from “leaking” because leakers act covertly and are essentially unaccountable for the consequences of their actions.

Conscientious City workers protect the public from improper governmental activities, illegal secret policies and arrogant decision-making. Therefore, it is unlawful to harass or punish City workers who seek to hold government accountable through whistle-blowing.

*Employer retaliation is prohibited by ORS 659A.230 and civil and criminal penalties are provided. BHR 11.03 also prohibits retaliation.*

***6. Citizens have a fair and equal opportunity to express their views to City officials.***

Often it is impossible for an official to talk personally with every concerned member of the public, but obtaining an appointment should not appear to depend on the ability of the person making the request to provide personal benefits or campaign contributions.

***7. City officials do not give the appearance of impropriety or personal gain by accepting personal gifts.***

In general, personal gifts should be refused or returned with a friendly but firm message that City officials are not allowed to receive gifts. A personal gift, lunch, or entertainment gift under \$50 in value may be legal, but no amount is too small to be ethically questionable.

The official should think about the decisions and activities before him/her and exercise conservative judgment. The key question for an individual City official is, "Would I receive this gift/meal/entertainment if I did not hold a City position?" City officials should not obtain personal gain from the performance of their duties, except for official compensation and the satisfaction of a job well done.

*ORS 244.020 (6) defines "gift."  
ORS 244.025 (1) prohibits soliciting or accepting gifts with a cumulative value over \$50 in a calendar year from a single source that could reasonably be known to have a legislative or administrative interest.  
ORS 244.350 (1) provides civil penalties up to \$5000.*

Members of the public can best show their appreciation to a City official with a letter of commendation. Even small promotional gifts such as imprinted pens or t-shirts from business or nonprofit entities should not be used on the job, because the use of such items can create the impression that the vendor is regarded with particular favor by the City official.

City officials as representatives of the City, or while conducting official business on behalf of the City may

accept gifts for the City, and may be guests at official meals or entertainment activities. For example, gifts presented as part of the Sister Cities program should be graciously accepted, and become the property of the City of Portland.

Certain gifts for employee or retirement awards, prizes or promotional items are allowed under BHR-4.07. Gifts exchanged between co-workers for occasions such as birthdays and holidays are not prohibited. Donations to City programs are also allowed.

***8. City officials devote City resources, including paid time, working supplies, and capital assets, to benefit the public.***

Time paid for by the City is intended for City business. Personal errands and calls should be confined to break periods or official time off.

*City Charter  
Section 2-610  
requires time  
on the job to be  
devoted to City  
Business.*

Supervisors should not ask subordinates to perform personal services.

Office supplies are for City use only. Some work groups allow personal photocopies and toll calls to be made during break periods and reimbursed to the City.

Some work groups permit after-hours personal tasks on City computers, in the belief that the public will benefit from the employee's additional practice. Other groups prohibit any personal use even if the cost to the public would be too small to measure. If public benefit is the guiding criterion, either decision is ethically defensible.

City workers should not use their position to acquire personal benefits such as surplus City equipment, tickets to events, or special treatment. City workers should not use official letterhead or refer to their public position when requesting personal benefits or resolving personal disputes.

***9. Political campaigns are not conducted on City time or property.***

State law requires posting a notice stating, “No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of public employees to express personal political views. It is therefore the policy of the state and of your public employer that you may engage in political activity except to the extent prohibited by state law when on the job during working hours.”

*ORS 260.432 prohibits solicitation of, or campaigning by public employees during working hours, with an exception for elected officials.*

For example, a City employee while on City property during a lunch break can express personal political views to co-workers but not distribute flyers for a campaign.

As a further example, for an election such as a tax limitation or bond measure, Council may declare an official position

for the City. City officials are permitted to provide information on the measure's impact, but not to use public resources to promote a specific vote.

*State law does not prohibit campaigning on public property, but does require such property to be equally available to both sides of a campaign.*

It may be difficult to distinguish official duties from campaign activities in cases such as speeches or articles communicating an elected official's opinion. In such cases, the participation of public employees is justified so long as a substantial public purpose is served.

**1.03.030 Objectivity. *City officials' decisions are based on the merits of the issues. Judgment is independent and objective.***

Financial disclosure regulations are designed to prevent bribery and extortion yet protect individuals' freedom of expression and association. The theory is that an informed public will decide on the propriety of financial links and hold the officials accountable.

*ORS 244.050 requires statements of economic interest, and ORS Chapter 260 requires disclosure of campaign contributions.*

It is ethical for officials not only to scrupulously comply with the law, but also to personally examine each transaction in order to avoid any conflict of interest.

**1. *City officials avoid financial conflict of interest and do not accept benefits from people requesting to affect decisions.***

Many people seek to influence government actions. Some do so by offering benefits such as personal favors, entertainment, gifts, loans, and special investment opportunities. City officials are to refuse and to educate the public that such offers are not allowed. If the attempt to unduly influence is clear, the matter should be reported to law enforcement authorities.

*Bribery is a crime under ORS 162.015 and 162.025. City Charter Section 2-609 prohibits any favoring of bidders, enforced by removal from office.*

***2. If an individual official's financial or personal interests will be specifically affected by a decision, the official is to withdraw from participating in the decision.***

Recusal and disqualification involves a statement such as, "My brother-in-law is part owner of the property under discussion. Therefore, I will not be speaking or voting on this matter."

State law distinguishes between **actual** conflict of interest, which definitely would affect the official, and **potential** conflict, where the effect is not certain. In the case of a potential conflict, the official must disclose the conflict but may participate in the decision.

*ORS Chapter 244 defines conflict of interest, limits participation, and provides for civil penalties. An explanatory guide is available from the Oregon Government Ethics Commission.*

The law also makes an exception where the official's financial interests are included with a whole class of people, such as property taxpayers. For a non-specific

link, an informational disclosure is appropriate, such as, “We will be voting on the Albina Neighborhood Plan. I live in Albina, but the plan does not specifically refer to my property.”

State law focuses on elected officials and appointees to boards and commissions, but the ethical principle extends to all officials. For example, a building inspector would not inspect his or her own residence. City workers also undermine objectivity when they award a contract, then leave to become an employee of the contractor.

### ***3. City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.***

When selecting a committee or task force, it is desirable to provide as much diversity as the size of the group will allow.

*Official City policy (Res. 35162) requires that all cultures be recognized, honored, and mutually respected.*

### ***4. Intervention on behalf of constituents or friends is limited to assuring fairness of procedures, clarifying policies or improving service for citizens.***

City officials should avoid giving the public any reason to believe they would receive better or different services if they had a personal connection with the official.

Elected officials, in particular, should be clear about discussing information rather than pressuring administrators toward a particular decision.

**1.03.040 Accountability.** *Open government allows citizens to make informed judgments and to hold officials accountable.*

**1. City officials exercise their authority with open meetings and public records.**

The laws of open government balance the public's right to know against the need for confidentiality in matters such as medical records and employee discipline.

*Public records and open meetings are covered by ORS Chapter 192.*

**2. Officials who delegate responsibilities also follow up to make sure the work is carried out efficiently and ethically.**

Managers are to make sure routines are developed that support appropriate follow-up, and should sponsor staff training to handle delegated responsibilities.

**3. Campaigns for election should allow the voters to make an informed choice on appropriate criteria.**

Elections offer the ultimate accountability for City officials. Therefore, candidates should strive for respectful and accurate discourse on important issues.

To protect freedom of speech and of the press, Oregon law does not prohibit ethically questionable actions such as untrue statements, unkept promises, or deliberate deception. Nevertheless, such actions are unethical. It is also not ethical to focus a campaign on trivial matters or on the kind of negative exchanges that could discourage civic participation.

***4. Each City employee is encouraged to improve City systems by identifying problems and proposing improvements.***

City workers who believe a law or policy is not achieving its stated purpose, is creating unintended harm, or is inefficient, should express such concerns to their supervisors and suggest possible improvements.

City managers should share “big picture” information with their subordinates and reward suggestions for improvement.

***5. City government systems are self-monitoring, with procedures in place to promote appropriate actions.***

City workers are often in the best position to observe fraud, waste, or abuse of public power, and their refusal to participate is a necessary part of protecting the public. City managers should support a workplace atmosphere that encourages employees’ pride in their work, and should constructively address problems that are called to their attention.

City managers should make sure their practices for purchasing, contracting, and hiring include routines that elicit fair choices and assure protection of City assets. Such routines include checklists, separation of duties, bank account reconciliations, and reports to management.

*BHR - 3.10 prohibits nepotism, and City Code 5.33.070 states that City employees may not also be City vendors without specific Authorization from City Council.*

Safeguards should be as simple as possible, so the cost of protection will be reasonable for

the situation. Often mere record-keeping is sufficient: for example, an administrator could record and periodically report all contacts from elected officials on behalf of specific constituents.

### **1.03.050 Leadership.**

Ethical leadership sets a good example and treats all citizens with respect.

#### ***1. City officials obey all laws and regulations.***

Law-abiding behavior by City officials sets a good example for the public to respect the law. Laws governing their public duties are especially important, but even actions in private life carry a public message.

*Knowingly violating a statute applicable to one's office is official misconduct, a crime under ORS 162.405.*

In rare cases, an official may invoke this country's long tradition of civil disobedience, which is the open refusal to abide by an unjust law, as a matter of conscience and an impetus to change. Such actions must be subject to legal consequences.

Because of their knowledge of the law, public officials may be aware of ambiguities or incomplete enforcement, but they should nevertheless comply with the laws' spirit and purpose.

#### ***2. City officials do not exploit loopholes.***

***3. Leadership facilitates, rather than blocks, open discussion.***

Any official who controls a parliamentary process has an ethical obligation to avoid behavior such as strained interpretation of the rules, refusal to recognize a person, or arbitrarily delaying a decision.

***4. Officials avoid discreditable personal conduct and are personally honest.***

***5. All City bureaus and work teams are encouraged to develop detailed ethical standards, training, and enforcement.***

This Code of Ethics covers the relationship of the City as a whole to the public. Organizations within the City should develop additional standards as needed.

Also, ethical standards require training and enforcement, which may lead to refinement of the standards. Even the City-wide Code should be reviewed periodically.

***6. The City Auditor will publish a pamphlet containing explanations and examples of ethical principles.***

For comments about this pamphlet, or for additional copies, contact:

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