City of Ellsworth, Maine
1 City Hall Plaza, Ellsworth, ME 04605



CHAPTER 40

CODE OF ETHICS AND CONDUCT

CITY OF ELLSWORTH, MAINE

Public-trust and liability notice. The conduct of elected and appointed City Officials can create significant financial, operational, reputational, and legal liability for the City and its taxpayers. City Officials therefore must comply with the City Charter, this Chapter, applicable City policies, and federal and state law, and must maintain high standards of integrity, judgment, confidentiality, professionalism, and respect.

SECTION 1. DECLARATION OF POLICY

The purpose of City government is to serve the public interest. City Officials hold positions of public trust and shall conduct themselves in a manner that promotes integrity, accountability, transparency, fairness, professionalism, and respect for the citizens of Ellsworth.

The City Council finds that:

A. Public office is a public trust.

B. Decisions and policy shall be made through the lawful processes established by the City Charter, ordinances, and applicable law.

C. City Officials shall avoid actual impropriety and, whenever practicable, the appearance of impropriety.

D. The powers and resources of the City shall be used for the benefit of the public and not for personal, political, or financial gain.

E. Employees of the City are entitled to a workplace free from harassment, intimidation, retaliation, improper influence, and interference by elected and appointed officials.

F. City Officials shall conduct themselves in a manner that promotes public confidence in the integrity of City government.

G. Compliance with this Chapter is an essential duty of office. Violations may expose the City and its taxpayers to financial loss, litigation, regulatory action, impaired labor relations, loss of public confidence, and disruption of City operations.

SECTION 2. APPLICABILITY AND DEFINITIONS

A. This Code applies to all City Officials, including:

1. City Councilors;
2. Members of boards and commissions;
3. Committee members; and
4. Appointed officials, including the City Manager.

B. This Code applies whenever a City Official is conducting City business, participating in meetings, communicating in an official capacity, representing the City, using information or access obtained by virtue of office, or otherwise acting or reasonably appearing to act under the authority of a City position.

C. For purposes of this Chapter:

1. **City Official** means any elected or appointed person described in subsection A.
2. **Confidential information** means information that is confidential, privileged, protected from public inspection, or not authorized for release under federal or state law, the City Charter, ordinance, contract, court order, or lawful City policy.
3. **Immediate family member** means a spouse, domestic partner, parent, child, sibling, or other person residing in the Official's household, unless a controlling law requires a different definition.
4. **Personnel information** means records or information concerning an identifiable employee that is confidential under 30-A M.R.S. § 2702 or other applicable law, including information learned orally or through access to records.

ARTICLE I — ETHICAL STANDARDS

SECTION 3. GENERAL STANDARDS OF CONDUCT

City Officials shall:

A. Perform their duties honestly, impartially, diligently, and in good faith.

B. Treat members of the public, City employees, and fellow officials with professionalism, civility, dignity, and respect.

C. Treat fellow officials with the same respect and courtesy they would expect to receive in return.

D. Base decisions upon the merits and substance of the matter under consideration.

E. Prepare for meetings and participate in an informed and constructive manner.

F. Support orderly and respectful public meetings.

G. Uphold federal, state, and local laws.

H. Act in the best interests of the City and its residents.

I. Respond in a timely and appropriate manner to staff requests for information reasonably necessary to address legislative, legal, administrative, or compliance matters involving the City.

SECTION 4. ATTENDANCE

Attendance is expected at all meetings, workshops, budget sessions, committee meetings, trainings, and other official functions associated with the Official's duties. Officials who are unable to attend shall provide advance notice whenever practicable.

SECTION 5. CONFLICTS OF INTEREST

A. A City Official shall not participate in deliberation, recommendation, or voting on a matter when participation is prohibited by law or when the Official or an immediate family member has:

1. A direct or indirect financial interest;
2. A special interest not shared by the public generally; or
3. A personal, business, or organizational relationship that would create an actual conflict or a reasonable appearance of bias or impropriety.

B. The Official shall disclose the conflict or potential conflict on the record before participating and shall abstain when required by law or when abstention is reasonably necessary to protect the integrity of the decision-making process.

C. This section shall be interpreted consistently with 30-A M.R.S. § 2605 and other applicable law. When uncertain, an Official should seek advice from the City Attorney before participating.

SECTION 6. DISCLOSURE OF INTERESTS AND BOARD SERVICE

A. Before discussion begins, a City Official with a potential conflict shall publicly disclose on the record the nature and extent of the interest. The disclosure shall be recorded in the official minutes.

B. After each election and seating of a newly constituted City Council, each Councilor shall submit a written disclosure identifying every for-profit or nonprofit board of directors, governing board, advisory board, or substantially similar body on which the Councilor then serves. For each position, the disclosure shall state:

1. The organization's name and whether it is for-profit or nonprofit;
2. The Councilor's title or role;
3. Whether the Councilor receives any salary, stipend, fee, honorarium, reimbursement beyond actual expenses, or other financial compensation or benefit for the service; and
4. If compensation or financial benefit is received, its nature, consistent with any form approved by the City Attorney.

C. A Councilor shall update the disclosure within 30 days after joining or leaving a covered board or after a material change in compensation.

D. Board service or a disclosed association does not, by itself, disqualify a Councilor from deliberating or voting on the municipal budget or on an appropriation or funding request involving the organization. The Councilor must nevertheless comply with Section 5, 30-A M.R.S. § 2605, and any other applicable conflict-of-interest rule, and shall abstain when required.

E. Disclosure statements shall be filed with the City Clerk and maintained as public records to the extent required by law.

SECTION 7. GIFTS AND FAVORS

No City Official shall:

A. Accept a gift, favor, service, loan, entertainment, discount, or thing of value that could reasonably be expected to influence, or appear to influence, the performance of official duties;

B. Solicit gifts or favors from persons or entities doing business with or seeking action from the City; or

C. Grant special favors or treatment in exchange for any benefit.

SECTION 8. USE OF OFFICE AND CITY RESOURCES

City Officials shall not:

A. Use their office for personal, political, or financial gain;

B. Use City property, equipment, facilities, staff time, or resources for non-City purposes, except for incidental uses permitted by City policy;

C. Use their title or position to obtain preferential treatment; or

D. Use the City name, logo, letterhead, or seal except for authorized City business.

SECTION 9. CONFIDENTIALITY, PROCUREMENT, AND RECORDS

A. City Officials shall not disclose, confirm, summarize, characterize, transmit, or use confidential information obtained through their position except as authorized by law or by an authorized City process. Confidential matters shall not be discussed outside authorized City proceedings merely because the listener is another Official, employee, constituent, family member, member of the press, or member of the public.

B. Confidential information includes, without limitation:

1. Information received or discussed in executive session;
2. Confidential personnel records and protected employee information, including performance reviews and evaluations; complaints, charges, or accusations; employee responses; investigative information; medical information; personal history; and other information protected by 30-A M.R.S. § 2702 or other law;
3. Oral or written discussions with members of the public about the individual performance, competence, character, discipline, evaluation, complaint history, or investigation status of a City employee or appointed official, when that information is confidential by law;
4. Attorney-client communications, attorney work product, litigation strategy, and privileged legal advice;
5. Investigative materials and information concerning pending complaints;
6. Information protected from disclosure by statute, court order, contract, privilege, or lawful City policy;

7. Nonpublic information concerning ongoing labor, employment, real estate, settlement, or other contract negotiations when disclosure could prejudice the City's legal, competitive, or bargaining position; and
8. Nonpublic information concerning an active procurement, including evaluations, rankings, negotiation positions, internal recommendations, and proposal information not yet determined to be a public record.

C. A City Official shall not disclose information concerning an ongoing contract negotiation or procurement unless the information has been reviewed and determined by authorized City staff or the City Attorney to be a public record available for release, or disclosure is otherwise required by law. A determination that a record is public does not authorize an individual Official to disregard established procedures for responding to records requests or issuing City communications.

D. Each Councilor shall read the City's current procurement policy upon taking office and annually thereafter and shall sign an acknowledgment that the Councilor has read, understands, and agrees to comply with it.

E. Confidential information shall not be used for personal, political, or financial gain or to advantage or disadvantage any person or entity.

F. Nothing in this section authorizes withholding a public record, prohibits a disclosure required by law, limits lawful whistleblower activity, or prevents an Official from consulting the City Attorney or another authority legally entitled to receive the information.

SECTION 10. POLITICAL ACTIVITY

No City Official shall use official authority, City resources, City facilities, City staff, or City property to influence the outcome of an election or political campaign, except as permitted by law. Nothing in this section prohibits lawful political activity conducted in an individual's personal capacity.

SECTION 11. DISCLOSURE STATEMENTS

City Officials shall file disclosure statements required by this Chapter, applicable law, and policies lawfully adopted by the City Council. Required disclosures shall be complete, timely, and updated when materially inaccurate.

ARTICLE II — RELATIONSHIP WITH CITY ADMINISTRATION AND EMPLOYEES

SECTION 12. CHARTER COMPLIANCE

The City Charter establishes the City Manager as the Chief Administrative Officer of the City. All City Officials shall respect the separation between policymaking authority and administrative authority established by the Charter.

SECTION 13. AUTHORITY OF INDIVIDUAL OFFICIALS

A. City Officials shall remember that, as individuals, they possess no authority except when acting through official action of the governing body or as otherwise authorized by the Charter or law.

B. No individual City Official shall represent a personal opinion as official City policy unless authorized to do so.

C. Requests for staff work shall be made through the City Manager or another channel authorized by the City Manager or the Council acting as a body.

SECTION 14. INTERFERENCE WITH ADMINISTRATION PROHIBITED

A. No Councilor may dictate or interfere in the appointment, hiring, promotion, discipline, evaluation, assignment, suspension, removal, or termination of an employee whom the City Manager is empowered to appoint or hire.

B. No individual Councilor may publicly or privately give an order, command, directive, instruction, assignment, deadline, or demand to an employee subject to the direction and supervision of the City Manager. Prohibited orders include attempts to:

1. Direct how or when an employee performs assigned work;
2. Require an employee to prepare research, reports, correspondence, records compilations, or other work outside an authorized process;
3. Direct enforcement, inspection, permitting, purchasing, personnel, legal, public-safety, or operational decisions;
4. Instruct an employee to take, delay, cease, alter, or prioritize an administrative action; or
5. Circumvent the City Manager by framing a directive as a request when the circumstances would reasonably cause an employee to view compliance as required because of the Councilor's office.

C. Nothing in this section prevents a Councilor from asking ordinary informational questions, submitting a constituent service request through established channels, communicating respectfully with employees, or expressing views to the City Manager. A Councilor shall not pressure an employee who refers the matter to a supervisor or to the City Manager.

D. No individual Councilor may use, direct, request, or attempt to enlist Police Department or Fire Department personnel, databases, communications systems, investigative capabilities, emergency-response records, or other public-safety resources to investigate, monitor, identify, obtain information about, or take action concerning a City employee or any other person, except through the same lawful public reporting, service-request, or public-record process available to an ordinary citizen.

E. An individual Councilor has no special right, by virtue of office alone, to confidential or restricted Police Department or Fire Department information. This subsection does not limit information lawfully provided to the City Council acting as a body, information necessary for a Councilor to perform an authorized Council duty, or access otherwise expressly required by law; any such access shall be coordinated through the City Manager, department head, records custodian, or City Attorney.

SECTION 15. IMPROPER INVESTIGATIONS AND REFERRAL OF ALLEGATIONS

A. No individual City Official shall conduct, initiate, direct, assist, or participate in an independent investigation of a City employee outside an authorized City process. Prohibited conduct includes:

1. Photographing employees or their property for investigative purposes;
2. Recording employees for investigative purposes without authorization or lawful justification;
3. Following, surveilling, monitoring, locating, or tracking employees;
4. Collecting or soliciting information regarding employee conduct outside authorized administrative procedures;
5. Confronting employees regarding alleged misconduct;
6. Interviewing witnesses or engaging in fact-finding concerning personnel matters; or
7. Using City office, access, influence, personnel, systems, or resources to obtain information for an unauthorized investigation.

B. When a resident provides information suggesting inappropriate or unlawful conduct by a City employee, the City Official shall receive the concern respectfully, avoid promising a particular outcome or confidentiality beyond what the law permits, preserve any information voluntarily provided, and make the following referral:

1. If the information reasonably suggests criminal conduct or an immediate threat to safety, direct the person to report it to the appropriate law-enforcement agency or emergency service. The Official may also promptly transmit the information to that agency when lawful and appropriate.
2. If the information reasonably suggests a violation of the City's personnel ordinance, personnel policies, workplace rules, or standards of conduct, direct or transmit the concern to the City Manager, Human Resources Director, or City Attorney.
3. If the concern may involve the City Manager, Human Resources Director, or City Attorney, direct or transmit the matter to the Council Chair and the City Attorney if not implicated. When those channels are implicated or reasonably unavailable, direct the complainant to the Maine Attorney General's Office or another appropriate outside law-enforcement, regulatory, or oversight agency. The Council Chair, after consultation with unconflicted counsel, may arrange review by independent counsel or an independent investigator.

C. A personnel matter may eventually require lawful action by the City Council under the Charter, ordinance, contract, or disciplinary process. That possibility does not authorize an individual Councilor to investigate. Councilors shall preserve impartiality, refer the matter through authorized channels, and await any properly noticed proceeding and record developed through the authorized process.

D. Nothing in this section prohibits a City Official from reporting suspected unlawful conduct to a governmental agency authorized to receive it, complying with a subpoena or legal duty, or participating as a witness in an authorized investigation.

SECTION 16. COMPLAINTS REGARDING EMPLOYEES AND PERSONNEL CONFIDENTIALITY

A. City Officials shall listen respectfully to concerns raised by residents regarding City services and operations. Complaints concerning employee conduct or performance shall be referred under Section 15 and reviewed through established administrative procedures.

B. Except as otherwise required by law, complaints, charges or accusations of employee misconduct; employee replies; investigatory materials; performance evaluations; and other materials that may result in discipline are confidential under 30-A M.R.S. § 2702.

C. If disciplinary action is imposed or upheld, the final written decision is subject to public inspection to the extent provided by 30-A M.R.S. § 2702. No City Official shall disclose additional confidential personnel information, including allegations, evidence, witness information, deliberations, draft findings, or the status or details of an internal investigation, beyond the authorized release of a final written disciplinary decision or other disclosure required by law.

D. If no discipline is imposed or upheld, the complaint and related personnel and investigative information shall remain confidential to the extent required by law.

SECTION 17. PUBLIC CRITICISM AND DISCUSSION OF EMPLOYEES

A. City Officials shall not publicly criticize, disparage, ridicule, shame, accuse, target, or attack an individual City employee concerning job performance, conduct, competence, motives, or character.

B. The prohibition applies equally to conversations with members of the public in which an Official discloses, confirms, repeats, or discusses private personnel information about a City employee that is confidential under state law.

C. Concerns regarding employee performance, conduct, or competence shall be directed through the channels established in Sections 15 and 16.

D. This prohibition applies to Council meetings, public hearings, workshops, conversations with members of the public, email, text messages, press statements, social media, public forums, and other oral, written, or electronic communications.

E. Nothing in this section prohibits good-faith discussion of policy, budgets, departmental operations, organizational performance, public records, or matters of public concern, provided the Official does not disclose information made confidential by law or unlawfully interfere with employee rights. This section shall be applied consistently with applicable constitutional and statutory rights.

SECTION 18. RELATIONSHIPS WITH FELLOW OFFICIALS

City Officials shall not harass, intimidate, threaten, ridicule, or make personal attacks against fellow City Officials. Concerns regarding another Official's conduct should be addressed through the procedures established by this Chapter.

SECTION 19. HARASSMENT, BULLYING, AND INTIMIDATION

A. City Officials shall not engage in conduct that a reasonable person would consider harassing, threatening, intimidating, bullying, hostile, abusive, or retaliatory.

B. City Officials shall not create or contribute to a workplace environment in which employees reasonably fear retaliation, public humiliation, social-media targeting, surveillance, or adverse treatment for performing their duties, reporting concerns, or participating in an authorized process.

C. This section supplements and does not replace protections provided by federal or state law or City employment policies.

SECTION 20. RETALIATION PROHIBITED

A. No City Official shall retaliate, attempt to retaliate, or encourage another person to retaliate against any person for:

1. Reporting misconduct or a suspected violation;
2. Filing or supporting a complaint;
3. Participating or declining to participate in an investigation when legally entitled to do so;
4. Providing information during an investigation;
5. Exercising rights under City policy or law; or
6. Refusing an improper order or request.

B. Retaliation constitutes an independent violation of this Code, regardless of whether the underlying allegation is substantiated.

SECTION 21. SOCIAL MEDIA, ELECTRONIC COMMUNICATIONS, AND FOAA

A. City Officials shall conduct themselves on social media and through electronic communications consistently with this Code.

B. Officials shall not:

1. Use social media or electronic communications to target, harass, intimidate, retaliate against, or unlawfully disparage employees or others;
2. Publish, forward, quote, paraphrase, screenshot, or otherwise disclose confidential information;
3. Use electronic communications to circumvent lawful administrative, procurement, personnel, records-retention, or complaint processes; or
4. Delete, conceal, transfer, or fail to preserve public records contrary to law or City policy.

C. A communication made or received in connection with City business may be a public record regardless of whether it was created, sent, received, or stored on a City account or device or on a personal email account, personal telephone, messaging application, or social-media account. Personal email, text messaging, disappearing-message functions, or other non-City systems shall not be used to evade public-access, retention, discovery, or disclosure requirements.

D. Use of a personal account does not convert confidential information into a public record authorized for release and does not excuse unauthorized disclosure.

E. Councilors shall complete Freedom of Access Act training required by 1 M.R.S. § 412 within the statutory period after assuming office and shall complete City-designated FOAA refresher training annually. Completion shall be documented in writing or electronically and filed as directed by the City Clerk.

SECTION 22. RESPECT FOR COUNCIL DECISIONS

A. City Officials shall respect lawful decisions made by majority vote and shall not obstruct their implementation through unauthorized direction of staff or misuse of City resources.

B. Nothing in this section requires an Official to express agreement with a decision or limits lawful speech, advocacy, reconsideration, dissent, or rights guaranteed by the United States Constitution, the Maine Constitution, or applicable law.

ARTICLE III — COMPLAINTS, INVESTIGATIONS, AND ENFORCEMENT

SECTION 23. COMPLAINTS

A. A complaint alleging a violation of this Code may be submitted by any City employee, City Official, board or committee member, resident, or other person with relevant information.

B. Complaints should be submitted in writing whenever practicable to one or more of the following:

1. Human Resources Director — **hr@ellsworthmaine.gov**;
2. City Council Chair — **councilchair@ellsworthmaine.gov**;
3. City Attorney — **cityattorney@ellsworthmaine.gov**; or
4. City Manager — **citymanager@ellsworthmaine.gov**.

C. A complaint should include as much information as possible, including the complainant's contact information; the identity of the Official involved; dates, places, witnesses, and a description of the conduct; relevant documents, photographs, recordings, or communications; and any immediate safety, retaliation, preservation, or conflict concern. Anonymous complaints may be reviewed, but anonymity may limit the City's ability to investigate or act.

D. A recipient shall promptly preserve the complaint and refer it to the City Attorney for conflict screening and preliminary review. If the City Attorney is implicated or has a conflict, the matter shall be referred to unconflicted outside counsel selected through a lawful process.

SECTION 24. PRELIMINARY REVIEW, SCREENING, AND CONFIDENTIALITY

A. The City Attorney, in coordination with the Council Chair and, when unconflicted and appropriate, the City Manager and Human Resources Director, shall conduct or arrange a prompt preliminary review to determine:

1. Whether the allegations, if true, would violate this Code or another applicable requirement;

2. Whether the matter concerns an employee issue that should proceed under personnel policies rather than this Chapter;
3. Whether immediate protective, preservation, reporting, recusal, or conflict-management measures are needed;
4. Whether the matter may be resolved informally;
5. Whether a formal independent investigation is warranted; and
6. Whether referral to law enforcement, the Maine Human Rights Commission, the Maine Attorney General's Office, another agency, an insurer, or outside counsel is required or appropriate.

B. During preliminary review and any investigation, participants shall protect confidential personnel information, privileged communications, third-party privacy, and the integrity of the process. No Councilor or other City Official shall make a public statement confirming the existence of a complaint, identifying a complainant or witness, characterizing allegations or evidence, predicting an outcome, or commenting on the merits or status, unless the City Attorney determines that the statement is required by law or authorizes a limited statement consistent with law.

C. Subsection B is modeled on the confidentiality and third-party privacy protections used in the Maine Human Rights Commission process. It shall not be construed to make confidential a record that is public under law, to restrict a complainant's lawful rights, or to prohibit disclosures to counsel, an authorized investigator, law enforcement, a regulator, an insurer, or another person legally entitled to receive the information.

D. When a complaint involves City employees as complainants, witnesses, or sources of information and the potential disposition is less than removal of the accused Official from office, their identities and personnel information shall be protected to the fullest extent permitted by law. They shall not be publicly criticized, confronted, or subjected to retaliation before their concerns can be heard through an authorized process, including executive session when permitted by 1 M.R.S. § 405.

SECTION 25. INFORMAL RESOLUTION

A. A matter may be resolved through education, clarification of expectations, counseling, mediation, apology, corrective commitments, communication protocols, recusal, or additional training when the City Attorney, after consultation with the Council Chair, determines that:

1. The alleged conduct, if substantiated, would not reasonably warrant formal censure, removal from an assignment or appointed position, or a more serious sanction;
2. Material facts are not substantially disputed or the parties voluntarily agree to an appropriate process;
3. Informal resolution can protect employees, complainants, witnesses, the public interest, and the integrity of City operations; and
4. Informal resolution is consistent with law and does not interfere with a required personnel, criminal, civil-rights, or regulatory process.

B. Participation in mediation or a negotiated resolution shall be voluntary unless training, counseling, or another corrective measure is lawfully imposed as a sanction.

SECTION 26. FORMAL INDEPENDENT INVESTIGATION

A. After preliminary review, the City Attorney, in coordination with the Council Chair, may direct or recommend a formal independent investigation when one or more of the following is present:

1. The allegations, if substantiated, could warrant formal public censure, removal from a committee or appointment, a Charter-authorized proceeding, referral to an outside agency, or another material sanction;
2. The complaint alleges harassment, discrimination, retaliation, intimidation, misuse of law-enforcement or City resources, unauthorized investigation, disclosure of confidential information, corruption, fraud, violence, a pattern of misconduct, or other serious breach of public trust;
3. Material facts are disputed and cannot be fairly resolved through preliminary review;
4. Independence is reasonably necessary because of an actual or apparent conflict of interest, involvement of senior officials, risk to employee rights, or public confidence; or
5. Applicable law, an insurer, outside counsel, or another competent authority recommends or requires investigation.

B. The City Attorney may take or recommend interim measures reasonably necessary to protect safety, prevent retaliation or interference, preserve evidence, maintain City operations, and protect the integrity of the investigation. Interim measures are non-disciplinary unless expressly imposed as a sanction following due process.

C. When practicable, the subject Official shall receive notice that a formal investigation has begun and a general description of the alleged Code provisions involved. Notice may be delayed when the City Attorney reasonably determines that prompt notice could create a risk of retaliation, witness intimidation, evidence destruction, coordination of testimony, misuse of City authority, or other interference. Any delay shall be no broader and no longer than reasonably necessary.

D. The investigator shall be impartial and free from material conflicts. The investigator shall be given a written scope and access to relevant, lawfully obtainable information. City Officials shall cooperate, preserve records, avoid interference, and comply with lawful confidentiality instructions.

E. Until the investigation and any authorized review are concluded, the complaint, evidence, interviews, draft findings, deliberations, and status information shall remain nonpublic to the extent permitted or required by law. No person subject to this Code shall intentionally disclose investigative information to create publicity, influence witnesses or decision-makers, retaliate, or gain political or personal advantage.

F. The investigator shall provide findings to the City Attorney. The City Attorney shall advise the Council Chair and the Council concerning process, legal standards, confidentiality, and any action within the Council's lawful authority.

SECTION 27. DUE PROCESS, EXECUTIVE SESSION, AND PUBLIC PROCEEDINGS

A. No sanction shall be imposed until the subject Official has received fair notice of the alleged violation and a reasonable opportunity to respond before an impartial decision-maker. The process shall be proportionate to the seriousness of the potential sanction.

B. For a formal matter, the subject Official shall ordinarily receive:

1. Written notice of the allegations and Code provisions at issue, with sufficient factual detail to permit a meaningful response;
2. A reasonable opportunity to identify relevant evidence and witnesses and to submit a written or oral response;
3. Access to nonprivileged information reasonably necessary to respond, subject to redaction and protections required for confidential personnel information, complainants, witnesses, third parties, attorney work product, and other protected material;
4. Notice of the proposed findings or grounds for sanction and a reasonable opportunity to address them before final action; and
5. The opportunity to be represented by counsel at the Official's expense.

C. Discussions, investigations, or hearings may occur in executive session only when permitted by 1 M.R.S. § 405 and after the required public vote and motion. A person charged or investigated and a person bringing charges, complaints, or allegations shall receive the participation rights provided by Maine law. If the subject Official makes a legally effective written request for an open investigation or hearing, the City shall honor that request as required by law.

D. If a matter proceeds publicly, including at the request of the subject Official, the Council, City Attorney, presiding officer, and participants shall protect confidential employee personnel information and third-party privacy to the greatest extent permitted by law. Protective measures may include redaction, limiting exhibits or testimony to relevant nonconfidential information, using initials or role descriptions, obtaining legal rulings before disclosure, and separating public action from confidential supporting materials.

E. If no violation is substantiated or no sanction is imposed, confidential personnel, complainant, witness, and investigative information shall not be publicly released except as required by law. The City may issue a limited process statement approved by the City Attorney without identifying protected persons or disclosing confidential information.

F. Final action shall be taken in public when required by Maine law. Public disclosure before final action does not itself make otherwise confidential personnel or investigative information public, and unauthorized prior disclosure may constitute a separate violation of this Code.

SECTION 28. SANCTIONS

A. Subject to the City Charter, applicable law, and the due-process requirements of this Chapter, the City Council or other body with lawful authority may impose one or more of the following:

1. No action;
2. Informal counseling or written guidance;
3. Required training;
4. Mediation or facilitated resolution;
5. Communication, access, or contact protocols reasonably related to preventing recurrence and consistent with the Official's legal duties;
6. Oral reprimand;

7. Written reprimand;
8. Formal public censure;
9. Removal from committees, boards, liaison assignments, leadership roles, or appointments when permitted by law;
10. Referral to an appropriate law-enforcement, regulatory, civil-rights, licensing, or oversight agency;
11. Proceedings authorized by the City Charter or applicable law; or
12. Other lawful corrective action proportionate to the violation.

B. Sanctions shall be based on the nature, severity, frequency, intent, and impact of the conduct; actual or potential harm to employees, the public, City operations, or public trust; misuse of office or resources; cooperation; retaliation or interference; prior notice or violations; acceptance of responsibility; and corrective action.

C. Refusal, without lawful justification, to complete required training, provide a required acknowledgment, or sign the annual Code certification required by Section 31 constitutes a separate violation and may be treated as a dereliction of the duties of office.

SECTION 29. VACANCY, REMOVAL, AND EXPULSION

Nothing in this Chapter expands, limits, or alters authority granted by the City Charter or applicable law concerning removal, expulsion, forfeiture or determination of vacancy. No sanction may be used to accomplish indirectly what the Charter or law prohibits directly.

SECTION 30. ANTI-RETALIATION AND PROCESS-INTEGRITY PROTECTIONS

A. The City shall take reasonable steps to protect complainants, witnesses, employees, investigators, and participants from retaliation, intimidation, harassment, public targeting, interference, and unnecessary disclosure.

B. Retaliation or interference related to a complaint, preliminary review, investigation, hearing, or sanction constitutes a separate violation of this Code.

C. A knowingly false statement is not protected misconduct. However, an allegation that is unsubstantiated, mistaken, or made without complete information is not, by that fact alone, knowingly false or sanctionable.

SECTION 31. ANNUAL TRAINING, ACKNOWLEDGMENTS, AND CERTIFICATION

A. All City Officials shall complete annual training designated by the City concerning:

1. Ethics and conflicts of interest;
2. Confidentiality and personnel-record protections;
3. Freedom of Access Act duties, public records, electronic communications, and records retention;
4. Procurement integrity and the City's procurement policy;
5. Appropriate interactions with employees;
6. Harassment, discrimination, retaliation, and complaint reporting;

7. Roles and responsibilities under the City Charter; and
8. This Code of Ethics and Conduct.

B. At the beginning of each term and annually thereafter, each City Official shall:

1. Receive or be provided access to the current Code;
2. Review the Code and required policies;
3. Reaffirm the oath or certification prescribed by the City that the Official has read, understands, and will abide by the Code; and
4. Sign and file the acknowledgment and certification with the City Clerk or Human Resources Director.

C. Refusal, without lawful justification, to sign the annual acknowledgment and certification is itself a violation of this Code, constitutes a dereliction of the duties of office, and may result in sanctions authorized by Section 28, the Charter, and applicable law. A signature acknowledges the duty to comply and is not a waiver of any constitutional, statutory, or procedural right.

SECTION 32. CONSTRUCTION AND SEVERABILITY

A. This Chapter shall be interpreted consistently with the United States Constitution, the Maine Constitution, the Maine Freedom of Access Act, municipal personnel-record laws, whistleblower protections, collective-bargaining agreements, the City Charter, and other applicable law.

B. Nothing in this Chapter shall prohibit a disclosure required by law, a good-faith report to an authority legally entitled to receive it, consultation with legal counsel, or lawful participation in an investigation or proceeding.

C. If any provision or application of this Chapter is held invalid, the remaining provisions and applications shall remain in full force to the greatest extent permitted by law.

SECTION 33. EFFECTIVE DATE

This Chapter shall become effective upon adoption by the City Council and shall supersede any prior Code of Ethics or Code of Conduct adopted by the City Council, except that conduct occurring before the effective date shall be governed by the standards and procedures legally applicable when it occurred unless application of this Chapter is lawfully agreed or required.

ACKNOWLEDGMENT AND ANNUAL CERTIFICATION

I acknowledge that I have received or been provided access to the City of Ellsworth Code of Ethics and Conduct and the City's current procurement policy. I certify that I have read and understand them, have completed or will timely complete all required training, and will comply with their requirements. I understand that violations may subject me to sanctions within the City's lawful authority and may expose the City and its taxpayers to financial, legal, operational, and reputational harm. I understand that this certification does not waive any right provided by the United States Constitution, the Maine Constitution, the City Charter, or applicable law.

Printed name: _____

Office or position: _____

Signature: _____

Date: _____