



City of Saco
Rules and Order of Business
[Procedures Manual for Council Members]

Table of Contents

I. Purpose of Saco's Procedures Manual	2
II. Overview of Basic City Documents	3
III. Saco City Council: General Powers and Responsibilities	4
IV. Support Provided to City Council.....	7
V. Financial Matters.....	9
VI. Communications.....	10
VII. Interaction with City Staff/Officials	12
VIII. City Council Meetings & Workshop	16
IX. Procedure Administration	28
X. Additional Training & Resource Materials	29
XI. Leaving Office.....	30
XII. Definitions	31
XIII. Appendices	32
A. Resolution Adopting City Council Rules of Conduct and Voting Procedures Chart.....	33
B. Boards and Commissions.....	36
C. Mayor's Ad Hoc Committees.....	44
D. Code of Ethics.....	47
E. Public Records and Proceedings – Freedom of Access Law – 2011	54
Legislative History	70

Approved: December 16, 2019
Edits approved January 9, 2023

“As a City Council member, you not only establish important and often critical governance policies for the community, but you are also a board member, and responsible for the fiscal health, of a public corporation having an annual budget of over \$50 million. The scope of services and issues addressed by the City organization go well beyond those frequently reported in the newspaper or discussed at City Council meetings.”

I. Purpose of Saco’s Procedures Manual

The City Council of Saco, Maine has prepared and adopted its own procedures manual to assist the City Council by documenting accepted practices and clarifying expectations. Through agreement of the City Council and staff to be bound by these practices, administration of City Council affairs is greatly enhanced. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide Council members in their actions governing the City of Saco. This procedures manual will aid Council in taking bold/responsible action, when necessary, to keep Saco on the growing edge of well run, well managed, innovative cities.

Council Vision: Our vision is a high quality of life for Saco citizens. Central to this vision is a sustainable economy that offers an opportunity for everyone to have rewarding employment and for business to prosper, now and in the future. The people of Saco bring this vision into reality by working together and building on our tradition of hard work, dedication, and ingenuity.

The following values should be maintained by the Council:

- High energy, open minded, achievement oriented,
- Have respect and care for each other,
- Be straightforward, no hidden agendas,
- Maintain humor,
- Traditions are respected, but not binding,
- Deliberate in many voices, but govern in one, and
- Collective rather than individual decisions.

Orientation of New Members: It is important that members of the Council gain an understanding of the full range of services and programs provided by the organization. As new members join the City Council, department heads are instructed to provide invitations for members to tour facilities and meet with key staff. At any time, if there are facilities or programs about which you would like more information, arrangements will be made to increase your awareness of these operations.

II. Overview of Basic City Documents

This procedures manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of a City Council. Many other laws, plans, and documents exist which bind the City Council to certain courses of action and practices. A summary of some of the most notable documents that establish City Council direction is provided below.

Saco Charter: The Charter defines the home rule authority of the Inhabitants of the City of Saco. It is like our Constitution. It was approved by the voters and can only be changed by them. The Charter governs the Code.

Saco Code: The City Code contains local laws and regulations adopted by ordinances. The administrative chapter of the code addresses the role of the City Council and Mayor. It also describes the organization of City Council meetings and responsibilities as well as the appointment of certain City staff positions and advisory commissions. In addition to these administrative matters, the City Code contains a variety of laws including, but not limited to, licensing, Floodplain Management, Harbor & Waterfront regulations, and Vehicles and Traffic.

Saco Policies: There are an array of policies that the Council has reviewed and approved over the years. Most recently, the Council has approved an Employee Handbook which was intended to address the overall expectations of all Saco employees and Saco as the Employer. These policies can be found under the Administration portion of the [website](#).

Maine Statutes: State Law contains many requirements for the operation of City government and administration of meetings of City Councils throughout the state. Saco is organized in accordance with provisions of the statutes and charter. Saco is a “Charter City” and has adopted local provisions to determine how the City is structured. Also described within the Charter is the City Council-Mayor-City Administrator form of government, which is practiced in Saco. This form of government prescribes that a City Council’s role is to establish policies and priorities, while the role of the Mayor is the chief executive officer. The City Administrator is the chief administrative officer.

Annual Budget: The fiscal year of the City shall begin on the first day of July and end on the last day of June of the ensuing year. The City’s annual budget provides a description of City services and the resources used to provide services. The document contains a broad overview of the budget as well as descriptions of programs offered within each division of the organization. At a City Council meeting in March of each year, the City Administrator and the Board of Education shall submit to the Council their respective sections of the budget.

The Council, by Charter is required to approve the budget at a special meeting the second week of May.

Comprehensive Plan: A state-mandated comprehensive plan adopted by the Council addresses future land development plans and policies. This is required to be reviewed and re-written every ten years.

Capital Plan: The City has developed an extensive capital plan for projects. The plan includes development fees, taxes, and other revenues dedicated to capital expenditures.

Annual Report: This document is a requirement of the Charter. It is provided to the Council within 45 days of the end of the fiscal year. It provides an overview of city departments, divisions, and programs as well as some performance metrics.

Comprehensive Annual Financial Report (CAFR): This set of U.S. government financial statements comprises the financial report of the City of Saco. It complies with the accounting requirements established by the Governmental Accounting Standards Board (GASB). GASB provides standards for the content of a CAFR in its annually updated publication Codification of Governmental Accounting and Financial Reporting Standards.

A CAFR is audited by an external firm hired by City Council. The document is composed of three sections: Introductory, Financial and Statistical. It combines the financial information of fund accounting and Enterprise Authorities accounting. Our accounting firm audits this document for Council acceptance in January each year.

III. Saco City Council: General Powers and Responsibilities

- A. City Council Generally:** The powers of a City Council in Maine to establish policy are quite broad. Essentially, Councils may undertake any action related to City affairs other than those forbidden or pre-empted by State or Federal law. Specifically, the Council shall have the power, in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which the Constitution and laws of the State of Maine do not specifically forbid.

It is important to note that the Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor has some additional ceremonial and administrative responsibilities as described below, in the establishment of policies, voting, and in other significant areas, all Council members are equal.

It is also important to note that policy is established by at least a majority vote of the Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the City to a course of action. In turn, it is staff's responsibility to ensure the policy of the Council is upheld. Actions of staff to pursue the policy direction established by a majority of Council do not reflect any bias against Council members who held a minority opinion on an issue.

Limitations are imposed on a Council member's ability to serve on advisory boards of the City. No member of the Council shall be appointed to or serve as a voting member of any City board, committee, or commission, whether composed of citizen volunteers, City employees, or a combination of both except special committees such as the Traffic Safety Committee. This is not construed as prohibiting members of the Council from serving on committees or subcommittees of the Council itself, or of agencies representing other levels of government.

In fact, Council members are encouraged to participate and provide leadership in regional, state, and national programs and meetings. Council members are strongly encouraged to report to the council on matters discussed at subcommittees and other regional, state, and national board/agency/group activities in which they have been involved.

Council members may choose to participate in community activities, committees, events, and task forces. When a Council member participates in these types of activities, the Council member is acting as an interested party rather than acting on behalf of the City Council.

- B. Role of the Mayor:** As reflected in the municipal Charter, the Mayor is to preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor has the power to veto the budget. As presiding officer of the Council, the Mayor is to faithfully communicate the will of the Council majority in matters of policy. The Mayor is also recognized as the official head of the City for all ceremonial purposes.

Traditionally, the Mayor has also been assigned by the City Council to consult and coordinate with the City Administrator in the development of agendas for meetings of the City Council. The scope of such review focuses on the timing of business items and the volume of business that can be considered at anyone meeting. Such review does not allow for a unilateral unlimited delay of items to be considered by the Council. Should any significant disagreement arise regarding the scheduling of items, these matters are to be resolved by the full City Council

C. Deputy Mayor: Elected by the council at its first organized meeting following election of the City Council. The Deputy Mayor shall perform the duties of the Mayor during the Mayor's absence or disability. The Deputy Mayor shall serve in this capacity at the pleasure of the City Council. In the event of a vacancy in the office of Mayor, the Deputy Mayor shall assume the office of Mayor with all the duties and obligations of that office in accordance with the provisions of the Charter section 2.06(c)(1). The Mayor has the same rights in a debate as any member of the Council, but the impartiality required by the Mayor precludes exercising those rights while they are presiding. On certain city council occasions, the Mayor may believe a critical factor relating to an item before the council has been overlooked and that it is their obligation as a member to call attention to the point and outweighs the Mayors' duty to preside at that time. To participate in debate, the Mayor must relinquish the chair and, in such case, shall turn the chair over to the Deputy Mayor. The Mayor, who relinquished the chair to participate in the debate, after calling attention to the point, shall return to the chair (Roberts Rules of Order, 10th Ed. Pg.382).

In case of vacancies, the Deputy Mayor, in accordance with the provisions of the Charter section 2.05, shall fill a vacancy in the office of Mayor, occurring less than twelve (12) months prior to the next regular municipal election. In case of a vacancy in the office of Mayor created more than twelve (12) months prior to the next regular municipal election, the vacancy shall be filled for the unexpired term by a special election to be held within sixty (60) days from the day the vacancy is created.

D. Appointment of City Administrator: The City Council appoints one position within the City organization: The City Administrator who serves at the will of the City Council.

1. The City Administrator is an employee of the City and may have an employment agreement that specifies some terms of employment including an annual evaluation by the City Council.
2. The appointment shall be for a term of up to three (3) years.
3. The City Administrator is responsible for all other personnel appointments within the City.

E. Appointment of Advisory Bodies: The City has several standing commissions. In addition, extensive special-purpose citizen committees and task forces are encouraged and are often appointed by the City Council to address issues of interest. Several committees will consist of two (2) Council members who in some cases have voting privileges. The members who are residents of Saco are nominated by the Mayor and confirmed by the full Council. The following procedures reflect the policy of the City Council regarding the appointment of volunteer citizens to the various advisory bodies of the City.

1. The establishment of these procedures ensures that well-qualified, responsible and willing citizens are given the opportunity to serve the City and participate in the governing of their community. These procedures apply to all appointments and reappointments to standing advisory bodies.
2. Qualifications: A member must be knowledgeable in the areas of interest of the board/commission on which they wish to serve. All members must be residents of the City of Saco during the term of appointment.
3. Names to be considered for appointment will be submitted to the Mayor. The applicant must be at least 18 years of age at the time of appointment unless it is specified that a youth member is desired. While seated commission members may request that the Mayor seek certain qualifications from new appointees; only the Mayor appoints, and the City Council confirms the appointment.

4. Terms: Unless otherwise stated by the Code, the term of office on most boards/commissions is three (3) or five (5) years for regular members. The term of office for alternate members varies.
5. No person should serve on more than one board/commission at a time. However, individuals with special qualifications may be asked to serve on an additional board/commission or task force, and some commissions may require representation from other bodies.

F. Council Role in Disaster (Emergency Management): It is the intent and purpose of this article to establish an office that will ensure the complete and efficient utilization of all Saco facilities to prepare for and respond to disasters; natural, fabricated enemy attack, or others. The Office of Emergency Management will be the coordinating agency for all activity in connection with emergency planning. This article will not adversely affect the work of any volunteer agency organized for relief in disaster emergencies. It will be the instrument through which the community officials may exercise the authority and discharge the responsibilities vested in them in Title 37-B, M.R.S.A. §781-834. The council's role is described in the Emergency Management Regulations.

IV. Support Provided to City Council

- A. **Staff/Clerical Support:** General staff and administrative support to members of the City Council is provided through the City Administrator's Office. Support services including scheduling of appointments, receipt of telephone messages, and word processing are available as needed.
- B. **Interference with Administration:** Except for the purposes of inquiries, the Mayor, the City Council, or any of its members shall deal with City officers and employees who are subject to the direction and supervision of the City Administrator solely through the City Administrator. The Mayor, the City Council, or any of its members shall not give orders to any such officers or employees either publicly or privately. Sensitivity to the workload of support staff members in the City Administrator's Office is appreciated. Please note that the individual may have other work assigned with high priority. Should requested tasks require significant time commitments, prior consultation with the City Administrator is requested.
- C. **E-mail & Computer Access:** Each council member is provided with a City of Saco email account for corresponding to constituents, other members of council, and other city related contacts. Please use the City's e-mail system for the conduct of official business, and not for personal or political reasons.

All email correspondence, both in and out of city issued email accounts are public records under the "Right to Know Law". This means that they open for public viewing in the event of any legal discovery including inquires under the Maine Freedom of Access Act (FOAA). Emails are retained via backup procedures for these purposes, this include emails deleted from your mailbox.

Access to email is currently provided to council in two forms. Office365 Exchange is the browser-based webmail system provided by the IT department for use by City employees and elected officials. Office 365 is operating system agnostic and can be used on any computer. The second method is the use of an iPad or approved tablet device, which will be outlined later in the document.

Distribution of email accounts and email access is given after the council is inaugurated.

The appropriation of email accounts are as follows:

- Mayor and all Councilors are given a City email address;
- In December following an election, the Mayor and Council receive @sacomaine.org addresses;
- Information on how to access the email system is provided after inauguration.
- Automatic message forwarding is prohibited.
- The Communications Department will provide a signature template.

Individual Email Accounts:

- Mayor bdoyle@sacomaine.org
- Ward 1 Councilor marcher@sacomaine.org
- Ward 2 Councilor ipurdy@sacomaine.org
- Ward 3 Councilor jgunn@sacomaine.org
- Ward 4 Councilor mburman@sacomaine.org
- Ward 5 Councilor phatch@sacomaine.org
- Ward 6 Councilor jmacphail@sacomaine.org
- Ward 7 Councilor njohnston@sacomaine.org

6. Group Address: Council@sacomaine.org – Recipients include Mayor, Councilors, City Administrator, Executive Assistant to the City Administrator, Communication Director, and City Clerk

Brief overview of accessing the secure email system.

- Navigate one's favorite web browser to <https://login.microsoftonline.com/>
- Members will be able to log in using their assigned email address and password.
- Once inside the program – email, calendar, and contacts will be accessible.

- D. **Meeting Rooms:** A conference room is available on the first floor of City Hall for shared use by staff and members of the City Council. Auditorium space can also be reserved for use of City Council members by the City Administrator's Office staff. To reserve these rooms, please contact the Executive Assistant in the City Administrator's office (207) 282-4191.
- E. **Mail, Deliveries:** Members of the City Council do receive mail and other materials from the public, private interests, and staff at City Hall. A mailbox is maintained in the City Administrators Office at City Hall. In addition, the police department will deliver time-sensitive materials to the homes of Council members. Meeting agendas and packets are sent electronically on Thursday afternoons prior to a scheduled council meeting.
- F. **iPads:** The City of Saco will make available to City Council members an Apple iPad during their term in office. After their term, the iPad becomes the property of the Councilor. The City will purchase and install all software required to use the iPad for City business. Councilors are free to purchase and install any additional applications at their own expense. Information Technology will only provide iPad support as it relates to City needs and applications while the Councilor is in office.

V. Financial Matters

A. Mayor & Council Compensation: The City Charter provides compensation to members of the City Council. The Mayor and City Council shall receive an annual salary, payable quarterly. The Mayor shall receive a salary of \$3,600 and the City Councilors shall each receive a salary of \$1,200. A seated City Council may not increase its own salary. The Council may, by ordinance, change the annual salary of the Mayor and/or the City Councilors, but no ordinance changing such salary shall become effective until approved by the voters of Saco in a referendum question in the next regularly scheduled municipal election, either primary or general. The Mayor and Councilors shall receive their actual and necessary expenses incurred in the performance of their duties of the office.

B. Expenditure Allowance: The annual City budget includes an expenditure allowance for expenses necessary for members to undertake official City business. Eligible expenses include membership in professional associations, attendance at conferences or educational seminars, and the purchase of publications and annual subscriptions. In addition, travel expenses, including meals (City policy does not allow reimbursement for alcohol) for Council members and mileage reimbursement are made for City business. The Legislative Budget annual appropriation for line item expenses is \$9,575. Donations to organizations are not eligible nor are meals for individuals other than Council members.

It is very important to note that any expense must be related to City affairs. Public property and funds may not be used for any private or personal purpose. Courts have ruled that this prohibition includes personal political purposes. For example, reimbursement could not be allowed to pay for meals at a meeting designed to discuss political or campaign strategies. It would also be generally inappropriate for City funds to pay for a meal or other expenses of a private citizen attending a meeting. Any disagreements with the City Administrator will be referred to the full Council.

C. City budgetary practices and accounting controls apply to expenditures within the City Council budget: Council members should plan expenditures that will allow them to remain within the annual allocation. When exceptional circumstances require that additional amounts be allocated, the request must be made to the City Administrator, and City Council action may be necessary. Reimbursement requests should be made through the City Administrator's Office monthly with receipts. Expenditure records are public information.

VI. Communications

A. Overview: Perhaps the most fundamental role of the Council as a group is communication – communication with the public to assess community opinions and needs – communication with staff to provide policy direction and to gain an understanding of the implications of various policy alternatives. Because the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking for the Council. Equally important, when members are expressing personal views and not those of the Council, the public should be so advised.

B. Correspondence from Council Members: Members of the City Council could be called upon to write letters to citizens, businesses, or other public agencies. Typically, the Mayor will be charged with transmitting the City's official position on policy matters to outside agencies on behalf of the City Council. Individual members of Council could be asked to prepare letters for constituents in response to inquiries or to provide requested information. City Council letterhead is available for this purpose, and staff can assist in the preparation of such correspondence.

1. On occasion, members may wish to transmit correspondence on an issue upon which the Council has yet to take a position or about an issue for which the Council has no position. In these circumstances, members should clearly indicate within letters that they are not speaking for the City Council as a whole, but for themselves as one member of Council. City letterhead and office support may be utilized in these circumstances.
2. After the City Council has taken a position on an issue, official correspondence should reflect this position. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.
3. Council members could be asked to prepare letters of recommendation for students and others seeking appointment. It is appropriate for individual Council members to utilize City letterhead and their Council titles for such letters. The letterheads must adhere to the City of Saco Brand Style Guide. No review by the full Council is required.
4. Speaking for "the City" – Similar to written correspondence, when members are requested to speak to groups or are asked the Council's position on an issue, the response should reflect the position of the Council as a whole. Of course, a member may clarify their vote on a matter by stating, "While I voted against X, the City Council voted in support of it." When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council's position as well as that of the individual member.
 - a. Official City Council Positions: The primary use of City letterhead is to communicate official Council positions on matters of public concern. It is the role of the Mayor to communicate these positions. No other Council member shall communicate official City Council positions utilizing City letterhead or the City logo or any approximation of either in their correspondence.
 - b. Individual Councilmembers Concerning City Matters: Individual Councilmembers may use City Letterhead or the City Logo in correspondence on all matters concerning official City business including a Councilmember's independent opinion on any official matter. However, when using City Letterhead or the City Logo, it must be made clear that any opinion expressed by an individual Councilmember is that member's opinion only and not the official opinion of the City or the Council as a whole.

Ward-Specific Materials

- a. City Councilors may want to generate communication materials for distribution among their individual wards. When doing this, please clearly identify that these are materials specific to a ward, and not representative of the whole Council.
- b. All materials must adhere to local, state, and federal record retention requirements.
- c. Whenever possible, please share official City announcements, newsletters, and materials published on the website.

C. Social Media

1. City Council Members, Commission and/or Board Members may choose to post and/or comment on various social media sites using their personal accounts. In these instances, it is recommended that the content and tenor of online comments and information posts should model the same decorum displayed during City Council, Commission, Board and community meetings. Please refer to the City of Saco's Social Media Policy to review the policy and practices in greater detail.
2. Public Records and Retention: All information posted, and other activity conducted on social media sites is subject to the Public Records Act and record retention guidelines.
3. All information and content on a City social media site that is required to be retained under state and local retention policies and guidelines shall be maintained for the required retention period in a format that preserves the metadata of the original record. Prior approval of the retention format and procedures for each City social media tool being used shall be received from the Communication Department.
4. All laws governing copyright and fair use or fair dealing of copyrighted material owned by others, including City of Saco's own copyrights and brands shall be followed on social media sites.

D. Press Conference: Prior to holding a press conference, the Mayor should, as a courtesy, inform member of the Council and the City Administrator. Similarly, prior to holding a press conference, a Council member should, as a courtesy, inform the Mayor, the other members of the Council and the City Administrator. Statements representing community positions on any issue requires a prior affirmative Council vote endorsing the stated position.

E. Role of Commission Liaison: Members of the Council are assigned to serve in a liaison capacity with one or more City boards or commissions. The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council's familiarity with the membership, programs, and issues of the advisory body. In fulfilling their liaison assignment, members may elect to attend commission meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission chair on a regular basis.

1. In interacting with commissions, Council members are to reflect the views of the Council as a body. Typically, assignments to commission liaison positions are made at the beginning of a Council term. The Mayor will request liaison assignments which are desired by each member and will submit recommendations to the full Council of the various committees, boards, and commissions which City Council members will represent as a liaison. A vote of the Council will be taken to confirm all appointments.
2. Local Ballot Measures (Initiative & Referendums) - At times measures that affect City Council policy may be placed on the ballot. There are restrictions regarding what actions a City Council or individual members may take on ballot measures.

F. Committees and Boards: See Appendix F – Boards and Commissions

VII. Interaction with City Staff/Officials

- A. Overview:** City Council policy is implemented through professional staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so policies and programs may be implemented successfully. The City of Saco has a long tradition of positive relationships between members of the City Council and staff. To maintain these effective relationships, it is important that roles be clearly recognized.
- B. Mayor-Council-City Administrator Form of Government:** Saco has adopted a Mayor - City Council - City Administrator form of government. This structure reflects that it is the City Council's role to establish City policy and priorities. The Council appoints a City Administrator to implement this policy and undertake the administration of the organization. The City Council is to work through the City Administrator in dealing with City staff. Indeed, the charter requires Council members to work through the City Administrator.

The City Administrator is appointed by the City Council to enforce its laws, to direct the daily operations of City government, to prepare and monitor the budget, and to implement the policies and programs initiated by the City Council. The City Administrator is responsible to the Mayor and City Council rather than to individual Council members, and directs and coordinates the various departments.

- C. Council/Administrator Relationship:** The employment relationship between the City Council and City Administrator honors the fact that the City Administrator is the chief administrative officer of the City. Council and the City Administrator are a participatory team and the City Council should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. Regular communication between the City Council and City Administrator is important in maintaining open communications. All dealings with the City Administrator, whether in public or private, should respect the responsibilities of the City Administrator in administrative matters. Disagreements should be expressed in policy terms, rather than in terms that question satisfaction with or support of the City Administrator.
- D. Evaluation:** The City Council is to evaluate the City Administrator on a regular basis to ensure that both the City Council and City Administrator are in agreement about performance and goals based on mutual trust and common objectives. Saco City Councils have utilized the following areas of performance when evaluating the City Administrator: leadership, judgment and problem solving, communications, interpersonal/ community relations, and ability to accomplish goals and objectives.
- E. Communication:** As in any professional relationship, it is important that the City Administrator keep the City Council informed. The City Administrator respects and is sensitive to the political responsibility of the City Council and acknowledges that the final responsibility for establishing the policy direction of the City is held by the City Council. The City Administrator communicates with City Council in various ways. In addition to the formal Council meetings, the Administrator sends email communication to the Council to keep them informed on topics. Communication must be undertaken in such a way that all Council members are treated similarly and kept equally informed. It is equally important that the council provide ongoing feedback, information, and perceptions to the City Administrator including some response to written communication requesting feedback.
- F. City Administrator's Code of Ethics:** The City Administrator is subject to a professional code of ethics from the professional association (ICMA). These standards appear in the appendix of this manual. It should be noted that this code binds the City Administrator to certain practices that are designed to ensure actions are in support of the City's best interests. Violations of such standards can result in censure by the professional association.

- G. City Council/City Solicitor Relationship:** The City Solicitor is the chief legal advisor for the Council, City Administrator, and all City departments, boards, agencies, committees, and commissions. The City Solicitor shall serve at the will of both the Mayor and the City Council. The City Council shall have the right to employ or retain special attorneys, if it deems it to be in the best interests of the City. The general legal responsibilities of the City Solicitor are to:
1. Provide legal assistance necessary for formulation and implementation of legislative policies and projects;
 2. represent the City's interest, as determined by the City Administrator, in litigation, administrative hearings, negotiations, and similar proceedings;
 3. assist preparation of ordinances, resolutions, contracts, and other legal documents to best reflect and implement the purposes for which they are prepared; and
 4. to keep City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the City Solicitor does not represent individual members of Council, but the City Council as a whole.

H. Roles and Information Flow

1. **Objectives:** It is the intent of staff to ensure Council member's free access to information from the City and to ensure that such information is communicated completely and with candor to those making the request. To carry out this responsibility, however, Council members must avoid intrusion into those areas that are the responsibility of staff. Individual Council members may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, and executing department priorities without the prior knowledge and approval of the City Council as a whole. This is necessary to protect staff from undue influence and pressure from individual Council members, and to allow staff to execute priorities given by management and the Council as a whole without fear of reprisal.
2. **Council roles:** The City Council by ordinance, may create, change, and abolish offices, departments, and agencies, other than the offices, departments, and agencies established by the Charter. The City Council, by ordinance, may assign additional functions or duties to offices, departments, or agencies established by the Charter, but may neither discontinue nor assign to any other office, department, or agency any function or duty assigned by the Charter to a particular office, department, or agency.
 - Individual members of the City Council should not attempt to pressure or influence staff decisions, recommendations, workloads, schedules, and department priorities without the prior knowledge and approval of the Council as a whole. If a Council member wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of staff, that member must prevail upon the Council to do so as a matter of Council policy.
 - Should a Council member become dissatisfied about a department, they should always talk it over with the City Administrator, not the department head. Concerns about the department head must be taken to the City Administrator only. Individuals are responsible to initiate resolution of problems as soon as possible and not let them fester.
3. **Access to Information:** Individual Council members as well as the Council as a whole are permitted complete freedom of access to any information requested of staff and shall receive the full cooperation and candor of staff in being provided with any requested information. Appropriate personnel will pass critical information to all City Council members. The City Administrator or appropriate staff will always inform the council when a critical or unusual event occurs about which the public would be concerned.

4. **Public Records:** The law's definition of "public records," while broad, excludes records designated confidential by other laws (see 1 M.R.S.A. § 402(3)). Because such designations are widely scattered throughout both State and federal statutes, some commonly encountered exclusions are listed alphabetically below.
 - a. Ambulance and rescue records, including medical records, 1 M.R.S.A. § 402(3)(H).
 - b. Concealed weapons applications, 25 M.R.S.A. § 2006.
 - c. Criminal history and records information, 16 M.R.S.A. § 611 et seq. This law covers only certain records held by municipal police departments; you must read the definition section carefully to identify what is and is not confidential.
 - d. General assistance, 22 M.R.S.A. § 4306.
 - e. Identities of minors participating in municipal recreation programs, 1 M.R.S.A. § 402(3)(K).
 - f. Income tax information, 26 U.S.C. § 6103 et seq. MMA Legal Services routinely advises that tax- related information is not public under most circumstances. This includes FICA withholding and other deductions or withholdings.
 - g. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter, 1 M.R.S.A. § 402 (3) (I).
 - h. Nutrient Management Plan, 7 M.R.S.A. § 4202(1) submitted by a person who owns or operates a farm.
 - i. Personnel records, 30-A M.R.S.A. § 2702. This includes records pertaining to an identifiable employee and containing the following: medical information (physical and mental problems); performance evaluations and personal references: credit information, information about the personal history, general conduct or character of members of an employee's immediate family; complaints, charges and accusations of misconduct and replies to same, and other information which may result in disciplinary action. Resumes, applications, references, and other information submitted by a person seeking municipal employment, are confidential, but except for letters and notes of reference expressly submitted in confidence, the application, resume, and letters and notes of reference of a successful applicant become public records after that applicant is hired. (Unlisted telephone numbers remain protected.)
 - j. Poverty abatement applications, 36 M.R.S.A. § 841.
 - k. Protection from abuse, 19-A M.R.S.A. § 4008. This law authorizes the court to order the omission or deletion from publicly available records of the address of the plaintiff or minor child; when a municipal official receives a copy of such an order, they must maintain the confidentiality of that address.
 - l. Voter address, 21-A M.R.S.A. § 22(3). Where a voter submits to the registrar a signed statement that the voter has good reason to fear for the safety of the voter or the voter's family if the voter's address were public, the registrar shall treat that voter's address only as confidential, and not as a public record. Moreover, because new statutes regarding confidentiality are enacted almost annually, a thorough search of Maine statutes should be undertaken before granting a request for records. City Council members have a responsibility in this information flow as well. It is critical that they make extensive use of staff and commission reports and commission minutes. Council members should come to meetings prepared – having read item documents as well as any additional information or memoranda that includes an update on major projects or evolving issues. Additional information may be requested from staff, if necessary.
5. **Staff roles:** The Council recognizes the primary functions of staff as executing Council policy and actions taken by the Council and in keeping the Council informed. The Council expects the City Administrator to not cause or allow any practice, activity, decision, or circumstance, which is illegal, immoral, imprudent, or in violation of community accepted business and professional ethics. Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate management supervisors. Staff is directed to reject any attempts by individual members of the Council to unduly direct or otherwise pressure them into making, changing, or otherwise influencing recommendations. The City Administrator will make every effort to respond in a timely and professional manner to all requests made by individual Council members for information or assistance, provided that, the request is not of a magnitude, either in terms of workload or policy, which would require that it would be more appropriately assigned through the direction of the full City Council. If a request by an individual council member is determined by the City Administrator to take one hour or more of staff time to complete, that request may be included as a request submitted by Council on the formal Council agenda for full Council discussion.

6. **Magnitude of Information Request:** Any information, service-related needs, or policy positions perceived as necessary by individual Council members which cannot be fulfilled based on these guidelines should be scheduled for a City Council meeting. If so directed by action of the Council, the City Administrator will proceed to complete the work within a Council-established timeline.
7. **Staff Relationship with Advisory Bodies, Boards, and Commissions:** Staff support and assistance may be provided to commissions and task forces, but advisory bodies do not have supervisory authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately the City Administrator. The members of the commission/ board/committee are responsible for the functions of the advisory body, and the chairperson is responsible for committee compliance with its policies. Staff support includes preparation of a summary agenda, and preparation of reports providing a brief background of the issue, a list of alternatives, recommendations, and appropriate backup materials, if necessary. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. The assigned staff person may serve as secretary, taking minutes as needed. It is important that advisory bodies wishing to communicate recommendations to the City Council do so through adopted or approved Council agenda procedures. In addition, when a commission wishes to correspond with an outside agency, correspondence should be reviewed and approved by the City Council. Individuals who would like a commission to review a particular issue must also gain approval for such a request from the full City Council. Staff members are to assist the advisory body chair to ensure appropriate compliance with state and local laws and regulations. The City Council has determined that Council members should not lobby Advisory body board members for particular votes. However, Council members may request that board members consider certain issues during their deliberations.

VIII. City Council Meetings

IX. Council Meeting Schedule: Meeting times and dates are established annually by the City Council. (Consistent with Charter section 2.08(a), the Council shall meet regularly at least once in every month).

1. **Regular Council Meetings:** Regular meetings are held on Mondays (excluding any fifth Monday) in the City Hall Auditorium, 300 Main Street, Saco, Maine. The public sessions of meetings begin at 6:30 p.m. with executive sessions generally being at the conclusion of public business. Joint meetings and workshops will start at 6:30, before the start of regular meetings. There will be no new business after 9:30pm, unless Council votes to continue. In the event that a regular meeting of the Council falls on a legal holiday or the day prior to a holiday, the meeting is usually held the day following observance of the holiday. Council members should inform the Mayor or City Administrator as soon as possible if they intend to be out of town on a set meeting date.
2. **Council Workshops:** Workshops may be held one Monday per month, as needed, or by two members of the Council. Workshops are held in the City Hall Auditorium around a table with normal parliamentary procedures suspended and are open to the public. These meetings will enable the Council to discuss topics away from the more formal Council meetings.
3. **Special Council Meetings:** Special meetings may be called by the Mayor, City Administrator, or by four members of the City Council. Written notice must be given to the City Council and to the media 24 hours prior to a special meeting. No business other than that announced may be discussed. All meetings shall be public. Notice requirements of the Right to Know Law shall be complied with for all meetings; minutes of the meeting shall be taken by the City Clerk or designee and shall be available for public inspection.
4. **Other Locations:** The Council may, from time to time, elect to meet at other locations within the City and upon such election shall give public notice of the change of location in accordance with provisions of the Code.
5. **Location During Local Emergency:** If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the City Hall, the meetings may be held for the duration of the emergency at such other place as may be designated by the Mayor or, if the Mayor does not so designate, by the Deputy Mayor or City Administrator.
6. **Canceled Meetings:** In the event that a regular meeting of the Council falls on a legal holiday or the day prior to a holiday, the meeting is usually held the day following observance of the holiday. In months when there are more than four Mondays or at other times when the Council deems appropriate, one or more regular meetings may be canceled by a majority vote of the Council. The Council must meet regularly, however, at least once each month. The Mayor may cancel a Council meeting during a winter storm event.

X. Placing Items on the Agenda

1. **Mayor or City Council:** The Mayor or a Council member may request an item to be considered on a future agenda. Such request should be submitted to the City Administrator for review and action.
2. **Saco City Staff:** Many times, City Staff will have ideas, projects, or items which require council input or approval. Such items should be submitted to the City Administrator for review and action.
3. **Members of the Public:** A member of the public may request an item/and or petition to be placed on a future agenda through communication with Council members, Mayor, or City Administrator. City Administrator or Mayor will review and act upon the request. Some requests may not require Council action.

4. **Emergency Items and Items not on the Agenda:** Emergency items and items not on the agenda may be added to an agenda only in accordance with the Charter. Emergency items are only those matters affecting public health, life, property, or the public peace. The City Council may adopt one or more ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except as provided in the Charter. The ordinance shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that the emergency exists and describing it in clear and specific terms. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda is posted an item arises that the Council would like to act on. Items not on the agenda may be added to the agenda only if the Council makes findings that (1) the need to consider the item arose after the posting of the agenda and; (2) there is a need to take immediate action at this meeting of the City Council.
5. **Deadlines:** The agenda shall close seventy-two (72) hours before such meeting and shall be made public. All item commentaries and supporting documentation for council meetings must be turned in by 2:00 p.m. two Fridays before the scheduled meeting, so that the agenda and packets can be prepared and ready to go prior to 5:00 p.m. on Thursday. When commentaries are not turned in by the deadline, it then places the burden on the Executive Assistant who will then need to work after hours to get the packets done and this sometimes doesn't give enough time for officials and media to review them. Any agenda items receiving new information on the day of the meeting may be tabled until the next meeting.

C. Tips on the Dais

1. **Televised meetings:** As part of its franchise agreement with the City of Saco, Spectrum provides the City with a channel on the local cable television system as a means for providing municipal information to the citizens of Saco. The City Hall Auditorium is equipped with a public address system. The system provides microphones at the dais, and a podium. There are several issues related to the sound system which are important to keep in mind:
 - Council members should remember to lean forward and speak into the microphone which amplifies into council chambers and provides the audio for those viewing on television.
 - Use caution when discussing matters near a microphone before the meeting starts. During the cable television setup process, microphones are on and televising background sounds even before the meeting starts.
 - Speakers shall come forward to the podium. Do not allow people to speak from the audience, as those viewing on television cannot hear them.

D. Order of Business

The City Council establishes the general order of meetings through the adoption of a resolution. This section summarizes each meeting component (the format is also provided in Appendix C).

- i. **Call to Order:** Mayor's responsibility to start the meeting.
- ii. **Roll Call:** Recognition of members present, those absent, and those excused.
- iii. **Pledge of Allegiance:** Please stand and participate in the Pledge.
- iv. **General:** This section is usually for Awards, General Presentations, Proclamations, or Recognitions.
- v. **Committee Correspondence to Council:** This is a time for representatives from different committees, advisory boards, or commissions to speak to the Council. It is encouraged that members of these organizations inform the Mayor and City Administrator prior to their attendance so that they can plan accordingly.

- vi. **Public Comment:** The Public will be allowed to speak for a maximum of three (3) minutes during the public comment item on the agenda. Members of the public will sign up ahead of the start to the meeting and state their full name and address of residence. In addition, the public is allowed to speak at the Mayor's discretion and during public hearings on specific matters.
- vii. **Approval of Minutes:** Minutes of the City Council meetings are "Action Based" minutes, wherein little narrative is included, and only motions and votes are shown in the record. Such minutes shall be submitted to the Council for approval and/or correction in draft form at a subsequent meeting under new business. It is the policy of the City Council that only the Mayor, members of the Council, and the City Clerk has the authority to revise the minutes subject to a majority vote of the City Council. Council members having only typographical corrections to minutes are encouraged to provide such corrections to the City Clerk directly and need not wait to submit such corrections at a meeting. As a time saving measure, even full correction items should be written ahead and passed to the City Clerk before the meeting. Minutes are recorded in a book designated for Council Minutes only, and are accessible on the City website.
- viii. **Consent Items:** This section is for appointments to boards/committees/commissions, approval of bids, various resolutions approving agreements or routine city operations, and various licenses and permits. Those items on the Council agenda, which are considered to be of a routine nature by the City Administrator, are placed under "Consent Items". These items shall be approved, adopted, accepted, etc., by one motion of the Council. Councilors should be afforded the opportunity to remove an item from the Consent agenda before the vote is taken if they wish to have further conversation on an item. That/those items will become the first item on the Action Items section of the meeting.
- ix. **Action Items:** Items requiring Council vote that may require additional information. A Council member may ask questions on any item on the action item agenda. Council members are encouraged to seek clarifications prior to the meeting, if possible. A member may request an item be referred to the next Council meeting for further discussion. Example of action items include final reading and adoption of ordinances, various resolutions approving agreements, minor budgetary items, public hearings, status reports, and routine City operations. Action Items have previously been a part of new business and are ready for further Council action.
- x. **New Business:** This is a chance for discussion and presentation with the Council and is a part of the larger meeting. Items on new business may not require Council action, but if they do, the vote will be to move them to the Action Items section at a future meeting.
- xi. **Administrative Update:** An opportunity for the City Administrator to share with the Mayor, Council, and the General Public issues or concerns of staff, the community at large, or future items that the Council may need to take action on (not ready for new business discussion or debate, but topics that may already being discussed publicly).
- xii. **Council Discussion and Comment:** An opportunity for Councilors to share topics of interest to them, events taking place, requests for further information, or future agenda items for consideration.
- xiii. **Executive Session (closed to the public):** The ability of a City Council to conduct executive sessions is restricted by state law. A motion to go into executive session shall indicate the precise nature of the business of the executive session. Certain defined circumstances exist wherein a City Council may meet without the public in attendance. Such circumstances include:
 - 1. **Real Property:** The purchase, sale, exchange, or lease of real property with the City's negotiator must be announced in open session prior to the executive session.
 - 2. **Litigation:** Pending or a significant exposure to litigation, or the decision to initiate litigation. The litigation or title must be identified in open session prior to the executive session unless the Council

states that to do so would jeopardize its ability to conclude existing settlement negotiations or make service of process.

3. **Personnel:** An executive session is held to discuss the appointment, employment, evaluation of performance, or dismissal of a public employee, or to hear complaint against the employee unless the employee requests a public hearing.
4. **Labor:** Labor contracts, proposals, and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions.
5. **Poverty Property Tax Abatements:** Under 36 M.R.S.A §841, municipalities may abate (forgive) a property tax for “error or mistake” including illegality or irregularity, or for reason of “infirmity or poverty”.

In order to make this somewhat confusing process an understandable one for the individual(s) involved, a policy and application were drafted. It is critical to stress that there shall be no violation of closed session confidential information. Members of the Council, employees of the City, or anyone else present shall not disclose to any person, including effected/opposing parties, the press, or anyone else, the content or substance of any discussion, which takes place in a closed session without Council direction and concurrence. Typically, executive sessions are scheduled at the conclusion of the public portions of the meeting. This is done so public portions of the meeting are not interrupted by closed sessions. In addition, such sessions may require the attendance of special legal counsel and consultants. In an attempt to manage the costs of these professionals, it is beneficial to conduct closed sessions at a time certain and the Mayor and City Administrator will consult as to when the timing of an executive session will take place.

- xiv. **Report from Executive Session:** A motion to exit executive session shall be held as part of public record. After a motion, second and vote take place, further action should be considered, and a motion should be made. This would be the report from executive session. IF there is no report, that should be stated by a member of the Council.
- xv. **Adjournment:** A motion, a second, and a vote of the Council would be required to end a meeting.

E. General Procedures

By resolution, the City Council has adopted a modified version of Roberts Rules of Order. While utilizing all of Roberts Rules by reference until recently, this adoption of modified rules was undertaken to simplify procedures. Roberts Rules was developed for large-scale legislative bodies. A scaled-down and modified version is more appropriate for a Council having seven members. It is the policy of the Council not to become involved in the entanglements over a parliamentary procedure. Consistent with the City Charter, Code and any applicable City ordinance, statute or other legal requirement, any issue of procedure relating to the conduct of a meeting or hearing not otherwise provided for herein may be determined by the Mayor, subject to appeal to the full Council.

1. **Presiding Officer:** The Mayor is the Presiding Officer and acts as Chair at Council meetings. In the absence or incapacity of City of the Mayor, the Deputy Mayor serves as presiding officer. The Mayor shall have authority to preserve order at all Council meetings, to remove any person from any meeting of the Council for disorderly conduct and to enforce the rules of the Council.
2. **Seating Arrangement of the Council:** The City Administrator is seated immediately next to the Mayor. Ward (1-

- 7) seats are in consecutive order.
3. **Signing of City Documents:** The Mayor shall sign all Resolutions, and Special Entertainment permits, the City Administrator, shall sign all contracts, and other documents, which have been adopted by the City Council and require an official signature. The clerk shall sign all ordinances and other various licenses and permits as required by the Charter.
 4. **Quorum:** Four-sevenths of the Council members constitute a quorum for the transaction of business.
 5. **Discussion Rules:** To assist the City Council in the development of a structure for orderly discussion of items, rules have been prepared which represent accepted practices for the management of Council meetings. These rules are set in place at the first Council meeting in January. The Mayor shall be the facilitator of Council meetings. In the role as facilitator, the Mayor will assist the Council to focus on their agenda, discussions, and deliberations.
 6. **Obtaining the Floor:** A member of the City Council or staff shall first address the Mayor and gain recognition. Comments and questions should be limited to the issue before the Council.
 7. **Questions to Staff:** A Council member shall, after recognition by the Mayor, address questions to the department head or designated staff member. If a Council member has questions related to an item on the agenda, that member should contact the City Administrator prior to the meeting in order to allow staff time to research a response/answer for the meeting.
 8. **Comments for the Record:** If a Council Member desires for a comment to be included in the minutes, it is their responsibility to indicate that the statement is “for the record” before making the comments.
 9. **Interruptions:** Once recognized, a Council member is considered to have the floor, and other Council members may not interrupt the speaker except to make a point of order or point of personal privilege. In such a circumstance, the Council member holding the floor shall cease speaking until the point of order or privilege is resolved. Upon being recognized by the Mayor, members of the staff shall hold the floor until completion of their remarks or until the Mayor withdraws recognition.
 10. **Discussion limit:** A Council member should not speak more than once on a particular subject until every other Council member has had the opportunity to speak. Council members are encouraged to discuss items during the decision-making process and may ask staff to respond when appropriate. The Mayor should allow other members to speak first and then give their own views and summarize.
 11. **Tabling procedure:** Tabling an item immediately stops discussion and causes a vote to postpone a matter indefinitely or to a time and date certain.
 12. **Right of protest:** A Council member is encouraged but never required to state reasons for a dissenting vote.
 13. **Move the question:** The purpose of moving the question is to disallow further debate and put an issue to an immediate vote. A Council member may “move the question” on an item which is being considered. The motion requires a second, is not debatable, and must pass by a four-sevenths vote. If the motion carries, the item is no longer debatable, and the City Council must vote on the issue at hand in a separate vote.

14. **Abstention from Voting:** A conflict of interest shall be declared whenever appropriate and in compliance with state law. The affected Council member will not participate in the discussion or vote on the item and should remove themselves from the dais while the item is on the floor. If a Council member abstains because of a legal conflict, the member must briefly state on the record the nature of the conflict. The clerk will register an “Abstained” vote in the minutes.
15. **Conducting Business at a Late Hour:** After 9:30 p.m. a four-sevenths vote of the City Council is required to begin consideration of any further items on the agenda.
16. **Other Protocol:** Other guidelines have also been adopted to ensure meetings of the Council emphasize the importance of the business being conducted in a professional manner. Council members, staff, and the public shall:
 - Work to preserve appropriate order and decorum during all meetings,
 - Discourage side conversations, disruptions, interruptions, or delaying efforts,
 - Council members should inform the Mayor when departing from a meeting,
 - Limit disruptive behavior. The Mayor will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the Mayor may call a recess, request the removal of such person(s) from the Chambers, adjourn the meeting, or take such other appropriate action,
 - Recognize that only the City Council, staff, advisory body chairs, or designated representatives, and those authorized by the presiding officer shall be permitted to address the Council directly during new business,
 - Limit breaks of the City Council to 5-10 minutes. The Council has authorized the Mayor to resume the meeting if a quorum exists and other members have not returned from break within this time.
17. **Enforcement of Order:** Any Council member may request the presiding officer to enforce the rules of protocol. Upon motion and majority vote, the presiding officer shall be required to do so.
18. **Values of Respect:** The City Council has also recognized the importance of approaching the public’s business in an environment of personal respect and courtesy that places emphasis on the consideration of policy and avoids personalization of comments. Some general guidelines utilized by the City Council include:
 - Discussion should focus on policy matters,
 - Personal criticism of members is inappropriate,
 - Proper decorum should be displayed as other members express their views, and
 - Treat members of the public equally.

F. Voting Procedures: When present, all Council members are to vote, unless they exercise their right of abstention. Failure of a seated member to orally express a vote constitutes an affirmative vote. Voting shall be open roll call, and the Yeas and Nays shall be recorded in the minutes. No ordinance, resolution, or motion shall be passed or become effective without an affirmative vote. Council members may declare consensus at the discretion of the Mayor, if there are no negative votes or objections. Upon the request of any Council member, a roll call vote will be taken and recorded.

1. **Tie Vote:** The Mayor votes to break the tie.
2. **Courtesy Vote:** At times, a member will be absent from a meeting. Issues will arise that would pass if that member were present. Another Council member who is present, yet planning to vote against an item, may sometimes alter their vote to an affirmative vote in recognition that the measure would have passed if the absent member attended.

3. **Motions:** There are a number of types of motions, each of which must meet certain requirements before a vote can be taken. A reference guide to motions is provided in chart form in Appendix C of this manual. General Procedure:
 - Council Members wanting to make a motion should be recognized by the Mayor.
 - Before a motion can be considered or debated it must be seconded.
 - Once the motion has been properly made and seconded, the Mayor shall open the matter for discussion offering the first opportunity to the moving party and, thereafter, to any Council member properly recognized by the Mayor.
 - Once the matter has been fully discussed and the Mayor calls for a vote, no further discussion will be allowed, provided, however, before the call for the vote, Council members may be allowed to explain their vote. After the first vote is cast, explanations must wait until all votes are cast.
 - **Executive Session:** The Maine Freedom of Access Law, 1 MRSA 405, states that “Executive sessions may be called only by a public, recorded vote of 3/5 of the members present and voting. ... A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business.”

Accordingly, the following chart shall apply:

Members Present and Voting	3/5	Affirmative Votes Required
7	4.2	5
6	3.6	4
5	3.0	3
4	2.4	3

- G. **Amendments:** When a motion is on the floor, and an amendment is offered and seconded, the amendment should be acted upon prior to acting on the main motion.
- H. **Reconsideration:** The motion to reconsider enables the majority of the assembly to bring back for further consideration a motion that has been voted on during the course of a meeting. Only a member who voted with the prevailing side can make this motion. If approved, the item can then be taken up.
- I. **Notification and Advertising:** The City attempts to publicize matters of significant neighborhood or community public interest that appear on a City Council agenda, as well as all matters where advertising is required by law. Advertisements may include location maps, project descriptions and, in some instances posting of property, if required, written in plain English in order to fully inform all interested individuals. All advertising is to be accomplished in an economical manner.
- J. **Development of Agenda:** A long-range calendar that reflects an estimate of when items will be scheduled is submitted by the City Administrator to the Mayor on a regular basis (as determined by the parties). All agenda packets are delivered on Thursday. Given this agenda development schedule, it will usually require at least one week for the preparation of a report requested by the City Council. Complex reports, of course, will require more time to prepare, and an estimated time of completion can be provided to the City Council.
- K. **Public Hearings:**
 1. **General Procedure:** The Council procedure for the conduct of public hearings is generally as follows:
 - The Mayor takes a vote to open the hearing from the City Council
 - The Mayor opens the public hearing.
 - Staff presents its report.
 - Council members may ask questions of staff if they so desire.

- The applicant or appellant then has the opportunity to present comments, testimony, or arguments. In the case of an appeal when the appellant is different from the applicant, the appellant should be called up first to provide comments or testimony.
 - Members of the public are provided with the opportunity to present their comments, testimony, or argument.
 - The applicant or appellant is given an opportunity for rebuttal or concluding comments. In the case of an appeal when the appellant is different from the applicant, the appellant is given the opportunity for closing comments.
 - The public hearing is closed by vote of Council.
 - The Council deliberates on the issue.
 - If the Council raises new issues through deliberation and seeks to take additional public testimony (questions of the public, applicant, or appellant), the Public Hearing must be reopened. At the conclusion of the public testimony, the Public Hearing is again closed.
 - The Council deliberates and takes action.
 - The Mayor announces the final decision of the Council.
2. **Time for Consideration:** Matters noticed to be heard by the Council will commence at the time specified in the notice of hearing, or as soon thereafter, as is reasonably possible, and will continue until the matter has been completed or until other disposition of the matter has been made.
 3. **Continuance of Hearings:** Any hearing being held, noticed, or ordered to be held by the Council at any meeting of the Council may, be continued or re-continued to any subsequent meeting.
 4. **Public Discussion at Hearings:** When a matter for public hearing comes before the Council, the Mayor will open the public hearing. Upon opening the public hearing and before any motion is adopted related to the merits of the issue to be heard, the Mayor shall inquire if there are any persons present who desire to speak on the matter which is to be heard or to present evidence respecting the matter.
 5. **Public Member Request to Speak:** Any person desiring to speak or present evidence shall make their presence known to the Mayor and upon being recognized by the Mayor, the person may speak or present evidence relevant to the matter being heard. No person may speak without first being recognized by the Mayor.
 6. **Council Questions of Speakers:** Members of the Council who wish to ask questions of the speakers or each other must do so through the Mayor during the public hearing portion but only after first being recognized by the Mayor. Interaction with the speaker shall be limited to a question or questions, rather than an ongoing dialogue. Council members should avoid raising questions as a method to extend the allocated time for a speaker.
 7. **Due Process:** The Mayor shall conduct the meeting in such a manner as to afford due process.
 8. **Public Oral Presentations:** All Council rules pertaining to oral presentation by members of the public apply during public hearings.
 9. **Materials for Public Record:** All persons interested in the matter being heard by the Council shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented will be retained by the City Clerk as part of the Clerk's record of the hearing, unless otherwise directed.
 10. **Germane Comments:** No person will be permitted during the hearing to speak about matters or present evidence, which is not germane to the matter being considered. A determination of relevance shall be made by the Mayor, but may upon motion by a Councilor be appealed to the full Council.

11. **Communications and Petitions:** Written communications and petitions concerning the subject matter of the hearing will be noted, read aloud, or summarized by the Mayor. A reading in full shall take place if requested by any member of the Council.
12. **Admissible Evidence:** Hearings need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs.

L. Addressing the City Council:

1. **Staff Presentations:** Staff presentations will be limited to 10 minutes. The City Administrator must approve longer staff presentations prior to the Council Meeting.
2. **New Business Oral Presentations:** The Mayor may allow any member of the public wishing to address the Council orally on City Business matters appearing on the Council agenda to do so when that item is taken up by the Council, or as otherwise specified by the Council or its presiding officer.
3. **Time Limit:** Oral presentations may not exceed three minutes unless otherwise provided.
4. **Project Applicant or Appellant:** The project applicant, appellant, or other person or entity with a substantial direct property interest, or their representative shall have a total of 5 minutes for their presentations. The initial comments or presentation shall be limited to 3 minutes and the rebuttal or concluding comments shall be limited to 2 minutes.
5. **All Other Persons:** All other persons wishing to speak on the matter shall be limited to 3 minutes unless changed by City Council action. Speaker time limits are inclusive of oral and visual presentations and shall constitute the cumulative 5-minute time limit for each speaker for the meeting.
6. **The Mayor:** with the concurrence of the City Council, may alter any of the enumerated time allocations based on the complexity of the item and the number of persons wishing to speak on the item.
7. **Presentation Submitted in Writing:** Persons who anticipate oral presentations exceeding five minutes are encouraged to submit comments in writing at the earliest possible time for distribution to the Council and other interested parties. Comments should be submitted sufficiently in advance of the scheduled meeting date to insure distribution to the Council prior to the meeting.
8. **Oral Presentations & Public Communications Cumulative Time Limit:** Members of the public making oral presentations to the Council in connection with one or more agenda items at a single meeting shall be limited to a cumulative total of thirty (30) minutes, and three (3) minutes per person for oral presentations at such meeting unless otherwise provided.
9. **Comments in Writing Encouraged:** Members of the public may submit, and are encouraged to submit, comments in writing to the City Council relating to any items of City business, whether on the City Council agenda or otherwise. Such written comments will be distributed to members of the Council and considered and acted upon, or not acted upon, as the City Council in its judgment may deem appropriate.
10. **Repetitious or Dilatory Comments Prohibited:**
 - A speaker shall not present the same or substantially same items or arguments to the Council repeatedly or be repetitious or dilatory in presenting their oral comments. If a matter has been presented orally before the Council, whether the Council has taken action, or determined to take no action, the same person may not present the same or substantially same matter orally. Nothing in the foregoing precludes submission of comments to the City Council in writing for such action or non-action, as the Council, in its discretion, may deem appropriate.
 - In order to expedite matters and to avoid repetitious presentations, the designation of a spokesperson is encouraged. Whenever any group of persons wishes to address the Council on the same subject matter, those persons are encouraged to designate a spokesperson to address the City Council. With the consent of the City Council, the Mayor may extend the time allocation for a designated spokesperson.

M. Waiver of Rules: Any of the procedures herein may be waived by majority vote of the Council members present when it is deemed that there is good cause to do so based upon the particular facts and circumstances involved.

N. Non Exclusive Rules: The rules set forth are not exclusive and do not limit the inherent power and general legal authority of the Council, or of its presiding officer, to govern the conduct of City Council meetings as may be considered appropriate from time to time or in particular circumstances for purposes of orderly and effective conduct of the affairs of the City.

O. Open Meeting Laws: (Freedom of Access Law a/k/a “Right to Know Law”) Operations and procedures of the City and City Council incorporate requirements of the state’s right to know law. Because this law is such an important part of local government operations, some specific requirements of the law are highlighted below for your information and future reference.

1. **Applicability and Penalties:** The entire City organization conducts its business in compliance with the Freedom of Access Law. The intent of the Law is to ensure that deliberation and actions of local public agencies are conducted in open and summarized in this chapter.
2. **Applicability:** The Law applies to Council and all commissions, boards, and task forces that advise Council. Staff cannot promote actions that would violate the Law.
3. **Meetings:** All meetings shall be open and public. A City Council meeting takes place whenever a quorum (4 or more members) is present and information about the business of the body is received; discussions qualify as a meeting. Social functions (e.g., receptions, dinners) do not fall under the Act unless City business is discussed in public meetings. A presentation of the Law is provided to all Council members when assuming office (as required by law).
4. **Exceptions:** An emergency situation exists (determined by a majority of the Council). The need to take action arose subsequent to the agenda being posted and there is a need for immediate action (determined by 2/3 vote of the Council; or if less than 2/3 are present, by unanimous vote). The item was continued to another meeting.
5. **Public Input:** The public, by law, has an opportunity to address the Council, at the time the matter is heard as a public hearing on any item of interest within the jurisdiction of the Council. The Mayor has the right to establish a time limit on speakers and the total time allocated for a particular issue. Three minutes per speaker have been standard, but in extreme cases, shorter or longer time periods may be enacted. Speakers should state their name and residency for the record.
6. **Public Disruptions:** A portion or all of the public may be removed if willful disruption makes conducting the meeting “unfeasible”; the press may remain unless they participate in the disruption.
7. **Correspondence:** All writings distributed for discussion or considerations at a public meeting are public records except those listed in the right-to-know law.
8. **Public Hearings:** The item commentary is read. A motion is made to move and second the opening of the hearing. Anyone who has comments or concerns including council members can address the Council. A motion is made to move and second the closing of the hearing. The motion on the item is made. A council member vote is taken. The Mayor announces the final decision of the Council (see I above).
9. **Special Meetings:** The Mayor or a majority of the Council may call special meetings provided strict notification requirements for delivery to the media and Council 24 hours before the time of the meeting be met.

10. **Emergency Meetings:** Emergency meetings may be called without notification due to the disruption or threatened disruption of public facilities. Only work stoppages or crippling disasters that impair the public health and/or safety qualify for emergency meetings.
11. **Other Provisions:** The Law provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Law and nothing in this Chapter supersedes the provisions of the right to know law. Please check with the City Attorney and/or the City Clerk for more information.
12. **Serial Meetings:** Serial meetings are meetings that at any one time involve only a portion of the Council, but eventually involve a quorum. Serial meetings can yield a process which deprives the public the opportunity for a meaningful contribution to the decision-making process. Council members are encouraged to consider the implications of serial meetings when engaging in discussion with their colleagues on a matter within the jurisdiction on the City.
13. **Action Minutes:** The body of the minutes should contain a separate paragraph for each subject matter, giving, in the case of all-important motions, the name of the mover, the second, and should show:
 - the wording in which each motion was adopted or otherwise disposed of (with the facts as to whether the motion may have been debated or amended before disposition being mentioned only parenthetically); and the disposition of the motion, including – if it was temporarily disposed of – any primary and secondary amendments and all adhering secondary motions that were then pending;
 - secondary motions that were not lost or withdrawn. (Roberts Rules of Order, 10th Ed. pg. 452)

IX. Procedure Administration

- A. Annual Review of City Council Protocols:** The Council will review and revise the City Council Protocols as needed or every two years. -
- B. Adherence to Protocols:** During City Council discussions, deliberations, and proceedings, the Mayor is primarily responsible to ensure that the City Council, staff, and members of the public adhere to the Council's adopted procedures.
- C. City Administrator as Protocol Advisor:** The City Administrator assists the Mayor as a resource to confer with and an advisor for interpreting the City Council's adopted protocols.
- D. Adherence to Administrative Procedure and Process Procedures:** The Council has delegated the Mayor responsible to discuss, on behalf of the full Council, any perceived or inappropriate administrative action with a Council member. The Mayor will discuss with the Council member the action and suggest a more appropriate process or procedure to follow. After this discussion, if further inappropriate action continues, the Mayor will report the concern to the full Council.

X. Additional Training & Resource Materials

A. Maine Municipal Association (MMA): The MMA is an association of cities in Maine, of which the City of Saco is a member. It provides many levels of service including the production of educational conferences for local officials, publication of various newsletters, and a monthly magazine Maine Town & City (formerly The Maine Townsman). As well, MMA's members' services legal staff is available to respond to questions with regard to policy and legal questions. The MMA also has lobbyists on staff that represent the interest of cities before the state legislature and federal government. Committees having local officials as members are also organized around the interests of City departments (e.g. City Council, City Administrator, City Clerk, Fire, Police, Community Services, Community Development) to address issues as they arise. The MMA website is www.memun.org. MMA annually holds an Elected Officials seminar. New Council members are encouraged to attend.

B. International City Management Association (ICMA): ICMA is a professional association of local government chief executives, of which the City of Saco and its City Administrator is a member. The association has an extensive list of publications to assist local officials. The Association's Elected Officials Handbook series can be of great value to Council members. Publications have also been developed on every basic City service.

C. City Administration Office: The reference material listed below is available upon request to the City Administrator's Office:

- Roberts Rules of Order, Newly Revised
 - City Administrator Code of Ethics
 - Resolution Adopting City Council Rules or Order and Voting Procedures Chart
 - A Guide to the Freedom of Access Law a/k/a "Right to Know Law"
 - Map of City Council Member Ward Lines
 - Property Tax Abatement Policy
 - Travel and Training Policy
 - Other Reference Material on File – Other reference material that may be of interest is on file with the City Clerk
- Materials include:
- i. Elected Officials Handbook/Presentation
 - ii. City of Saco Charter and Municipal Code
 - iii. Maine Revised Statutes Annotated
 - iv. Current Operating and Capital Budget
 - v. Annual Audit and CAFR Document

XI. Leaving Office

- A. Return of Materials and Equipment:** Any item owned by the City that is currently in the possession of the elected official will be returned to the city.
- B. Lobbying Restrictions:** The City Charter restricts lobbying by former Council members for a period of one year after leaving office. The following policy has been established to maintain an environment where in every person has the opportunity to address the City's legislative bodies and have their opinion heard and considered. No former City official, for one year after leaving office or one year after termination of their employment with the City, shall, for compensation, act as agent or attorney for any other person by making any formal or informal appearance before the City Council if the purpose of the appearance or communication is to influence legislative or administrative action by the City.
1. **Definition of Official:** Official means a City Council member, Mayor, City Administrator, City Solicitor, and the heads of the City departments, including the Fire Chief, the Police Chief, the City Clerk, the Finance Director, the Building Inspector, the Tax Assessor, the Economic Development Director, the Director of Planning, the Director of Public Works, the Director of Water Resource Recovery, and the Director of Parks and Recreation.
 2. **Exemptions:** The following activities are not subject to the prohibition:
 - Appearance or communications by a former City official for the sole purpose of representing themselves or members of their immediate family in connection with any matter pending before the City;
 - If a City official becomes an officer or employee of another public agency, appearance or communication made on behalf of that other public agency in connection with matters pending before the City.
- C. Vacancies, Forfeiture of Office, Filling of Vacancies Summary:** In accordance with the Charter Section 2.06.
1. **Vacancies:** The office of Mayor or a City Councilor shall become vacant upon death, resignation, removal from office in the manner authorized by law, or forfeiture of office.
 2. **Forfeiture of Office:** The Mayor or a City Councilor shall forfeit the office if they:
 - Lacks at any time during the term of office any qualification for the office prescribed by the City Charter or by law.
 - Violates any express prohibition of the Charter.
 - Is convicted of a crime or offense involving moral turpitude.
 - Fails to attend three consecutive regular meetings of the City Council without being excused by the City Council.
 3. **Filling of Vacancies:** Deputy Mayor shall fill a vacancy in the office of Mayor, occurring less than twelve (12) months prior to the next regular municipal election. In case of a vacancy in the office of Mayor created more than twelve (12) months prior to the next regular municipal election, the vacancy shall be filled for the unexpired term by a special election to be held within sixty (60) days from the day the vacancy is created. The vacancy created in the City Council by the evaluation of the Deputy Mayor shall be filled in accordance with the provisions of the City Charter.

In the case of a vacancy created in the City Council less than twelve (12) months prior to the next regular municipal election, the remaining members of the City Council may appoint an eligible person to fill the unexpired term within thirty (30) days after the vacancy occurs. If the City Council fails to make such appointment within thirty (30) days, the Mayor shall appoint an eligible person to fill the unexpired term within one (1) days thereafter. In case of a vacancy created more than twelve (12) months prior to the next regular election, the

vacancy shall be filled for the unexpired term by a special election to be held within sixty (60) days from the day the vacancy is created. If at any time more than three vacancies in the office of City Councilor exist, a special primary and special election shall be held to fill such vacancies within sixty (60) days from the day the fourth vacancy is created. Elections to fill vacancies shall be called and held, and nominations made as in other elections.

XII. Definitions

- A. **CHARTER § 2.08:** “c. Voting. ...No ordinance and no appropriation order or resolve, other than an emergency action, shall be passed until it has been read on two separate days at least seven (7) days apart. d. Action. The City Council shall act only by ordinance, order or resolve. All ordinances, orders, and resolves, except those pertaining to appropriations, shall be confined to one subject who shall be clearly expressed in the title.”
- B. **Ordinance:** The term is used to designate the enactments of the City of Saco. It designates a local law of the City of Saco, duly enacted by the proper authorities, prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs or the government of its inhabitants of the municipality. Ordinances govern the administrative code, zoning, building, safety, etc., matters of the municipality.
- C. **Order:** A mandate; precept; command or direction authoritatively given; policy or procedure. The City Council can give instructions to the City Administrator in the form of an order. A motion adopts an order after one reading.
- D. **Resolution:** The term is usually employed to denote the subject matter of which would not properly constitute an ordinance, such as a mere expression of opinion; a vote of thanks or of censure, etc. Such is not law but merely a form in which the City Council expresses an opinion, will, or intent. A motion adopts a resolve after one reading.

The chief distinction between a “resolution” and an “order” is that the former is used whenever the City Council wishes merely to express an opinion as to some given matter or thing, while by an “order” it is intended to direct and control matters applying to persons or things in general.

Ordinance distinguished. “Resolution” denotes something less formal than “ordinance”; generally, it is mere expression of opinion or mind of City Council concerning some matter of administration, within its official cognizance.

- E. **Appropriation:** City Council authorization for the expenditure of monies and stipulating the amount, manner, and purpose of the item of expenditure. Adoption of the budget constitutes appropriations of the amounts specified therein.

XIII. Appendices

Appendix A: Resolution Adopting City Council Rules of Conduct and Voting Procedures Chart	33
Appendix B: Boards and Commissions.....	36
Appendix C: Mayor’s Ad Hoc Committees	44
Appendix D: Codes of Ethics	47
Appendix E: Public Records and Proceedings – Freedom of Access Law – 2011 ..	54

APPENDIX A

Resolution Adopting City Council Rules of Conduct and Voting Procedures Chart

Article II, Section 2.08 – Procedure, Subsection b of the Charter states: - “Rules and Journal. The City Council shall determine its own rules and order of business at the first meeting of each newly elected City Council. The City Council shall provide for the keeping of a journal of its proceedings. This journal shall be a public record and shall be kept in the office of the City Clerk.

Roberts Rules will be the parliamentary procedure for the Council. City Council meeting agenda:

SACO CITY COUNCIL MEETING (DATE AND TIME)
CITY HALL AUDITORIUM

CALL TO ORDER
RECOGNITION OF MEMBERS PRESENT PLEDGE OF ALLEGIANCE
GENERAL
COMMITTEE CORRESPONDENCE TO COUNCIL PUBLIC COMMENT
APPROVAL OF MINUTES CONSENT ITEMS
ACTION ITEMS
NEW BUSINESS
ADMINISTRATIVE UPDATE
COUNCIL DISCUSSION AND COMMENT
EXECUTIVE SESSION
REPORT FROM EXECUTIVE SESSION
ADJOURNMENT

(If there are no items under specific sections of the agenda, the sections **in bold** above will be removed from the agenda for that specific meeting)

ORDER OF PRECEDENCE OF MOTIONS.

The ordinary motions rank as follows, the lowest in rank being at the bottom and the highest at the top of the list. When any one of them is immediately pending the motions above it in the list are in order, and those below are out of order.

1	2	3	4	5	Motion
---	X	a	X	---	Fix the Time to Adjourn.
---	X	b	---	---	Adjourn.
---	X	c	X	---	Take a Recess.
---	X	---	---	---	Raise a Question of Privilege.
---	X	---	---	---	Call for the Orders of the Day.
---	---	---	---	---	Lay on the Table.
---	---	---	---	X	Previous Question.
---	---	---	---	X	Limit or Extend Limits of Debate.
X	---	---	X	---	Postpone to a Certain Time.
X	---	---	X	---	Commit or Refer.
X	---	---	X	---	Amend.
X	---	---	---	---	Postpone Indefinitely.
X	---	---	X	---	A Main Motion.

- 1 Debatable
- 2 Usually Privileged
- 3 Not always privileged:
 - a Privileged only when made while another question is pending, and in an assembly that has made no provision for another meeting on the same day or the next day.
 - b Loses its privileged character and is a main motion if any way qualified, or if its effect, if adopted, is to dissolve the assembly without any provision for its meeting again.
 - c Privileged only when made while other business is pending.
- 4 Can be amended
- 5 Require a 2/3 vote for adoption; the others require only a majority.

APPENDIX B
Boards and Committees

A. Biddeford – Saco Area Economic Development Corporation Board

The Board is an outside agency and is represented by 12 members from Saco. The Biddeford Saco Area Economic Development Corporation (BSAEDC) is a nonprofit partnership between the Cities of Biddeford and Saco and Biddeford Saco Chamber of Commerce & Industry. The purpose of the corporation is to lend money to expanding businesses in the Cities of Biddeford and Saco.

The Board meets on an “as needed” basis.

B. Board of Assessment Review

The Board shall consist of five members appointed by the Mayor and confirmed by the Council, for a 5-year term. Primarily the Board shall review tax appeals duly filed in writing by taxpayers regarding any tax assessment made by the Tax Assessor within 60 days from the date the appeal is filed.

The Board meets on an “as needed” basis

C. Coastal Waters Commission

The Commission is created by City Code – The Commission has seven members and a council appointed liaison who serves with no privilege beyond a member of the public. The commission exists for the general purpose of studying and evaluating public usage of and boating access to coastal waters under the jurisdiction of the City of Saco, planning for its future use, advising the Council on policy matters and proposing regulations concerning the Saco River and coastal waters.

Further duties. In addition, the Commission shall review and cooperate in maintenance and care of City – owned waterfront facilities with the Harbor Master and Public Works Department and harbor improvements in conjunction with the City, state and federal authorities. The Commission shall sit as a Board of Appeals to hear an appeal from any person aggrieved by any decision, act or failure to act of the Harbor Master. The Commission shall regularly inform the City Council and other boards, committees, commissions or official of the City, as is appropriate, of its activities.

Article VII Boards, Commissions and Committees §4-39: The term of office of a member shall be three years. Members may be appointed for a maximum of two consecutive three-year terms but may be appointed again after one year off the Commission. Each Commissioner shall be a resident of the City, shall be persons qualified to perform the duties of such office and shall serve without compensation. [Amended 9-16-2002; 5- 15-2007]

The Commission meets the first Tuesday of each month at 7:00 pm in the Transportation Center Conference Room.

D. Conservation Commission

The Commission currently consists of eleven members appointed by the Mayor and confirmed by the Council, for a term of three years. Primarily, the Commission shall: conduct research into local land area usage; make recommendations to preserve and enhance the natural resources of the City; and assist the Planning Board on development applications.

Article VII Boards, Commissions, and Committees §4-37: Membership of Commission; terms of office. The Commission shall be composed of 11 regular and four associate members, to be appointed by the Mayor and approved by the Council. All shall be residents of the City of Saco. There shall be no more than three regular members on the Commission who are residents of the same ward. No more than two members of a similar profession shall serve on the Commission at one time. No member shall hold any elective office or other appointive position in the City, county, state or federal government, except that member(s) may be appointed to ad hoc or other special committees for a specified period. Members shall be appointed for a term of three years, except that the new appointments of three members shall be for terms of one year and one member for a term of

two years. [Amended 9-16-2002; 5- 17-2004]

The Commission meets the first Monday of each month at 4:30 pm in the City Hall Conference room.

E. Eastern Trail Management District Board of Directors

ARTICLE 3 - Establishment of the Eastern trail management district

- 3.1 The members shall establish the Eastern Trail Management District and shall act in accordance with this Agreement in its governance.
- 3.2 The Eastern Trail Management District shall be governed by a Board of Directors composed of one (1) director from and representing each member municipality and three (3) directors from and representing the Eastern Trail Alliance.
- 3.2.1 Each member municipality, through its municipal officers, shall appoint one (1) director who shall have one vote. The Eastern Trail Alliance, through its Board of Trustees, shall appoint three (3) directors, each entitled to one vote. Each member municipality and the Eastern Trail Alliance may appoint an alternate or alternates for each director it appoints, which alternates may attend Board meetings and cast the director's vote for which they are an alternate, in the director's absence. The appointing member shall determine the terms of all directors and alternates.

ARTICLE 4 - Duties of the Board of Directors

- 1.1 The Board of Directors shall have all the duties and powers to accomplish the following:
 - a. communicate and evaluate municipal concerns and needs
 - b. update the municipalities on the trail status
 - c. make recommendations to the governing bodies of the members
 - d. create and implement policy
 - e. develop a long range work plan
 - f. develop an annual work plan based on the long range plan
 - g. develop an annual budget to consist of revenue, construction costs, maintenance, appurtenances, and staff support as deemed necessary and appropriate
 - h. set the annual membership fee in accordance with the financial needs identified by the annual and long term work plans
 - i. maintain, manage and operate the trail
 - j. hold and administer funds and report all income and expenses on an annual basis to the members
 - k. invoice members
 - l. authorize expenditures
 - m. negotiate and enter into contracts for technical, operating, maintenance, legal, management or other services necessary to fulfill the purposes of this Agreement
 - n. coordinate in-kind services
 - o. Pursue other funding opportunities (grants, donations, etc.)
 - p. hold meetings as deemed necessary
 - q. carry out any other responsibilities assumed pursuant to this Agreement
 - r. adopt by-laws governing the conduct of its affairs

ETMD meets monthly at Kennebunk Town Office on the 2nd Wed from 4:30 – 10:30 a.m.

F. Economic Development Commission

Purpose: §4-35 of the code states the Economic Development Commission shall encourage, promote, establish, solicit and provide for industrial and business park development, expansion and growth within the City of Saco, within the Saco Industrial Park and other City business parks, and on lands hereafter acquired by the City for industrial uses and purposes and on other lands within the City which may be privately owned but which are particularly adaptable to industrial and business uses; option and purchase lands within the City on behalf of the City and do all those things designed to promote and encourage the location and perpetuation of industry within

the City; encourage and promote the development and expansion of existing industrial and commercial uses within the City; gather, correlate and preserve statistics, surveys and other data relating to land classification and uses, buildings, labor statistics and other matters that will enable it to carry out its function and purposes; and perform such other functions as may be required for economic development and improvement. Additionally, it shall recommend improvements that require City Council action which support orderly and planned development consistent with the city's historic character, quality of life and natural environment, and encourage and foster industrial, retail, office, agricultural, housing, tourism, recreation, as well as downtown development.

Commission membership and terms of office. The Commission shall consist of seven voting members and the City Administrator or his/her appointed representative as an ex officio member. The Commission members shall be appointed by the Mayor, with Council confirmation, for terms of five years. Initial appointments shall be made as follows: two members for five years, two members for four years, one member for three years and one member for one year. Commission members shall be residents of the City of Saco and shall be persons qualified to perform the duties of such office.

The Board meets during the day at City Hall on an 'as needed' basis.

G. Fair Hearing Authority (FHA) for General Assistance

The Authority is an authority created by City Code and whose purpose is to determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for general assistance. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance. Municipal officers will appoint the FHA.

The FHA operates on an 'as needed' basis.

H. Historic Preservation Commission

The Commission consists of five members and five associate members, appointed by the Mayor and confirmed by the Council, for a term of 3 years. Some of the duties of the Commission are to: review applications for a certificate of appropriateness for 225 properties in the downtown historic preservation district, and advise and inform City officials and owners of historic buildings, structures or sites on physical and financial aspects of preservation, renovation, and rehabilitation

The Commission meets on a "as needed" basis.

I. Lucia Kimball Deering Trust

The City of Saco, by special election held on the second Monday of September 1917, as authorized by Chapter 95 of the Private and Special Laws of the State of Maine of the year 1917, having voted to accept the legacies and bequests of Lucia Kimball Deering as provided in the last will and testament of said Lucia Kimball Deering, dated November 19, 1915, said legacies and bequests, devises and gifts, which the City of Saco, Maine, is or may be authorized to accept, under the provisions of said Chapter 95 of the Private and Special Laws of the State of Maine of the year 1917, are hereby placed in the care, custody and under the administration of seven citizens of the City of Saco, who shall constitute a Board of Trustees for the care, custody and administration of these funds and the income thereof and to be designated as the "Board of Trustees for the care, custody and administration of the legacies and bequests provided for under the terms of the will of Lucia Kimball Deering" and all other legacies, bequests, devises or gifts to the said City of Saco for hospital purposes.

The board shall consist of seven members, all being citizens of the city of Saco. Members shall be appointed by the Mayor, with City Council confirmation, for a term of six years, beginning as each curry member in 2009, found on file with the City Clerk, concludes their lifetime term-initially with (2) two members being appointed for six years, (2) two members being appointed for four years, and (3) three members being appointed for two years.

The board shall hold meetings at such times and place, as the board shall determine.

J. City of Saco Trust Funds

The several trust funds known as the “Sweetser Provident Fund,” “Sweet Baxter Sabbath School Fund,” “Sweetser School Fund,” “Sweetser School Library Fund,” “Sweetser Missionary Fund”, and “Sweetser Park Fund” and all trusts funds for the benefit of Wardwell Home, now held by the City of Saco as trustee, together with all legacies, devises and gifts of funds or property which the City of Saco may hereafter receive into its custody as trustee, excepting such legacies, devises or gifts of funds or property which the City may receive for the benefit of the Lucia Kimball Deering Trust Hospital Fund, are hereby placed in the care, custody and administration of the citizens of the city, who shall constitute a Board of Trustees for the care and administration of these funds and other property and the income thereof and so be designated as the Board of Trustees for the care, custody and administration of trust funds held by the city of Saco as trustee.

The board of trustees shall consist of three members, all being citizens of the city of Saco. Members shall be appointed by the Mayor with City Council confirmation, for a term of six years, beginning initially with (1) one member being appointed for six years, (1) one member being appointed for four years, and (1) one member being appointed for two years.

The board holds regular meetings of the Board on a semi-annual basis or as needed.

K. MSAU – Saco School Board

The Mayor is to serve as ex official member of the school board.

L. Portland Area Comprehensive Transportation System (PACTS) –Executive Committee

PACTS is a “Metropolitan Planning Organization” established pursuant to Federal statute and rules. As such, PACTS is a collaborative effort of municipal, regional, state and federal representatives responding to the transportation related goals and objectives of the greater Portland region and its citizens. PACTS develops plans, programs and funding priorities that seek to improve the safety, mobility, productivity, environmental quality and energy conservation of our region’s transportation facilities, systems and services.

Participation by an individual as a representative of a municipality shall be established by correspondence to the Policy Committee Chairperson from the chief elected or administrative officer of that organization.

Membership of the executive committee shall be a representative of the Southern Subregion, which includes Saco for 2 years.

The PACTS Executive Committee meets once a month.

M. Maine Municipal Association – Legislative Policy Committee

MMA's legislative platforms, policies, and positions are developed by a 70-member Legislative Policy Committee (LPC), which is made up of two municipal officials from each of the state's 35 Senate Districts. The LPC representatives are elected to that position by the municipal officers within their Senate District. The roles and responsibilities of the LPC and its procedural guidelines are all detailed in the LPC Handbook located on the MMA website: www.memun.org/LegislativeAdvocacy/LegislativePolicyCommittee.aspx – mma.com.

N. Parks & Recreation Advisory Board

City Code establishes the Board with the purpose of planning a citywide parks and recreation program and to advise and assist the Parks & Recreation director in initiating and maintaining this program. The responsibilities of the Board include: a) overall responsibility to promote, enhance and protect recreational opportunities in Saco in order to maintain and further develop the quality of life; b) serving as an advisor to the Parks & Recreation Director and as a forum for the discussion of new and creative programs, including needs and requirements of present and future activities, programs, and projects. The Board consists of 11 members appointed by the Mayor and confirmed by Council.

Article VII Boards, Commissions and Committees §4-39: Membership and terms. The Parks and Recreation Advisory Board shall consist of 11 members, all being residents of the City of Saco. Members shall be appointed by the Mayor, with Council confirmation, for a term of three years beginning July 1 initially with four members being appointed for one year, four members appointed for two years and three members being appointed for three years. An appointment to fill a vacancy during an unexpired term shall be for the remainder of the unexpired term.

[Amended 5-16-2005]

The Board meets monthly on a date and place agreed on by the Board with all meetings open to the public.

O. Planning Board

The Board consists of seven members appointed by the Mayor and confirmed by the City Council for a 3- year term. Primarily, the Board reviews subdivisions and site plans, and several other land use permits. It is also responsible for preparation of the Comprehensive Plan. The Board is also authorized at its discretion to undertake studies and make recommendations on matters of land development, energy and water conservation, transportation, solid waste disposal, location of municipal and school facilities, affordable housing, urban beautification and design improvements, historic and scenic preservations and agricultural preservation.

Article VII Boards, Commissions and Committees §4-34: Terms of office; vacancies; procedure. The terms of membership shall be three years. An appointment to fill a vacancy during an unexpired term shall be for the remainder of the unexpired term. Board members serving as full members at the time of the effective date of this section shall be eligible for appointment for membership under this section; any alternate member appointed as a member shall be deemed to begin serving his/her first term upon appointment. In the event of an appointment for the remainder of an unexpired term, the partial term shall be considered a first term if the time to be served is two years or more, but shall not be considered a first term under this subsection if the portion of the term to be served is less than two years.

The Board meets on the first and third Tuesday of the month at 5:30 pm at Saco City Hall

P. Personnel Committee/Board

The Committee is created by the City Code and is comprised of 5 non-union employees and two (2) Councilors to review facts of a personnel investigation and to recommend appropriate corrective action to the Mayor and Council and represents the interest of the non-union workforce, and is usually tasked with specific issues assigned by the Council.

The Board meets during a workday at City Hall on an 'as needed' basis.

Q. Saco Museum/Dyer Library Board of Trustees

The non-profit Dyer Library provides a public library and a museum to the city. The board has up to 21 members charged with the purpose of operating and maintaining a public library, which shall ever be free to the citizens of Saco, and a regional museum. The Dyer Library/Saco Museum promotes life-long learning and appreciation of culture; preservation of the past; and state-of-the-art services and resources for all. One representative of the Saco City Council and the City Administrator or his/her designee serves on the board. *The board meets monthly at the Dyer Library.*

R. Saco River Corridor Commission (SRCC)

The Commission is an outside agency and 2 members represent Saco. The Commission administers the Saco River Corridor Act, which was established by the Legislature in 1973. Through the Act, the Commission helps oversee land use development within 500 to 1,000 feet of the Saco River and tributaries. The Commission is made up of representatives from twenty communities bordering these water bodies. One regular and one alternate member who are appointed by the Selectmen or Mayor represent each of the twenty municipalities.

The Commission meets on an 'as needed' basis.

S. Sea Level Adaptation Working Group for Saco Bay

The purpose of the Sea Level Adaptation Working Group for Saco Bay is to review the Coastal Hazard Resiliency Tools Project that has analyzed the problem of sea level rise, and then develop an action plan that will estimate regional vulnerabilities, identify regional objectives to address such vulnerabilities, and provide recommendations for regional solutions. The regional action plan shall establish the policy direction for implementing the duties of the working group, as set forth in the “Interlocal Agreement Creation of a Sea Level Adaptation Working Group between Biddeford, Saco, Old Orchard Beach, Scarborough, and SMRPC.

Membership: a nine (9) member working group – (1) municipal planner or designee from each community; (1) at-large citizen appointed from each municipal party; (1) regional planner appointed by the Director of Southern Maine Regional Planning Commission.

Meetings may be called by SMPDC, the Chairperson, or by any 6 members.

SLAWG shall conduct public meetings at least 4 times per year.

T. Shoreline Commission

The Commission is created by City Code and consists of nine members, appointed by the Mayor and confirmed by Council. A council appointed liaison serves on the shoreline commission with no privilege beyond a member of the public. The Commission shall study the continuing effects of erosion on Saco’s shorefront, and evaluate public usage of the beaches and other public infrastructure within a coastal zone under the jurisdiction of the City of Saco and advise the Council on policy matters relating to coastal erosion and use.

Chapter 45: Shoreline Commission § 45-2: The term of office of a member shall be three years, except the initial appointments, which shall be as follows: three members for three- year terms; three members for two- year terms; and three members for one-year terms.

The Commission meets monthly, at Ferry Beach Association

U. Southern Maine Planning and Development Corporation (SMPDC)

SMPDC provides economic development and planning services for the region, and coordinates joint purchasing. The purpose of SMPDC is to strengthen local municipal self- government while combining total resources for meeting regional challenges beyond individual capacities; to serve as a mutual forum to identify, study, and bring into focus regional challenges and opportunities; provide organizational support to enable communication and coordination among governments and agencies concerned with regional issues and opportunities; to act as an advocate where membership directs; and to exercise such powers as the member municipalities may delegate. Eligibility for membership in SMRPC is open to any municipality or county in the geographic area known as the Southern Maine Planning and Development District, which includes all of York County and a few southern Oxford County towns. The Board of municipal officers of each member municipality of SMPDC is eligible to appoint two (2) representatives to the SMRPC General Assembly. Any municipality with a population over 10,000 may appoint one additional representative for every 10,000 citizens. (1) Councilor or Selectmen, and (1) staff member.

The Assembly meets in June for an evening, after a meal. They usually meet in Alfred or Wells.

V. Traffic Safety Committee

The Committee is created by the City Code. The Committee consists of two members of the City Council, the Police Chief, Fire Chief, Public Works Director, Traffic Safety Officer and the City Administrator.

Primarily, the Committee reviews the functions and needs of traffic control devices, reviews and analyzes high crash areas to determine remedial actions. Reviews development and construction plans to consider their impact on traffic and other safety related concerns and makes recommendations to the planning department. Reviews and evaluates

all traffic safety complaints and ensures that proper traffic control devices are set into place to mitigate potential hazards.

The committee meets at City Hall at 7:00 p.m. approximately 10 times per year.

W. Transit Committee

The Transit Committee is an outside agency of which three members of a nine-member committee represent Saco. The purpose of the Committee is to establish, maintain and implement a short and long-range bus transit development program, and to apply for, receive and administer Federal and State grants-in-aid for mass transit on behalf of the municipalities of Biddeford, Old Orchard Beach, and Saco to provide adequate and efficient public transportation for the Biddeford, Old Orchard Beach, Saco area.

The Committee meets on the 4th Thursday of each month.

X. Zoning Board of Appeals

The Board consists of seven members appointed by the Mayor and confirmed by the Council, for a term of 5 years. Primarily the Zoning Board of Appeals, after public hearing and majority vote of its members, will decide administrative appeals of decisions of the, planning board appeals, variances, historic preservation commission appeals, shore-land variances, and Building Inspector denials of building permits. It also hears zoning variance appeals with regard to space and bulk requirements and shore land zoning variances.

The Board meets in the evening on a monthly 'as needed' basis, generally the first Monday of the month.

APPENDIX C
Mayor's Ad Hoc Committees

A. Cable Committee

The purpose of the committee is to meet annually with Thornton Academy TV for services related to cablecasting city council meetings. The Committee has met three times to date. Representatives are: 2 city councilors and the IT Director.

The Committee meets on an “as needed” basis – during daytime hours.

B. Housing Committee

The purpose of the Committee is to define affordable housing and develop a plan for addressing affordable housing in Saco. Committee members are 3 City Council members and the Development Director.

The Committee meets on an “as needed” basis during daytime working hours.

C. Goosefare Brook Watershed Management Plan Steering Committee

Steering Committee Meeting Coordination and Participation

The Steering Committee will provide oversight and guidance throughout the Watershed Management Plan development process and will consist of representatives from the key stakeholder groups including the City of Saco, Town of Old Orchard Beach, Maine DEP, Saco Valley Land Trust, Goosefare Brook watershed residents, Saco Conservation Commission, Maine Healthy Beaches Program, Thornton Academy, General Dynamics, Eastern Trails Association, Sweetser, Rachel Carson National Wildlife Refuge, Old Orchard Beach Conservation Commission, Ocean Park Conservation Society, Ocean Park Association, Ocean Park Property Committee, Maine Department of Transportation and the Maine Transportation Authority.

Five (5) to six (6) Steering Committee meetings will be held throughout the course of the project. The first will serve as an initial kickoff meeting to present the project scope / timeline and establish roles and responsibilities for various committee members. The intermediary meetings will include preliminary planning and preparation for the stakeholder kickoff meeting; work on prioritization methodologies; check-ins to ensure that the various tasks are being completed on time and within the budget; discussion and development of a funding mechanism and plan implementation; and review of draft plan. The Steering Committee will develop 2 subcommittees, a Stream Monitoring and Assessment Committee (SMAC) and a Technical Advisory Committee (TAC). The Steering Committee will provide an important opportunity to recommend any adjustments needed to remain within the project scope. The final meetings will occur near the end of the project timeline so the committee can ensure that all tasks have been completed in accordance with the project scope including planning and preparation for the presentation of the draft Watershed Management Plan to the Councils of the watershed community.

START DATE: February 2014 END DATE: February 2016 1st Year Outputs: Three steering committee meetings held within 2014

D. Saco Energy & Sustainability Committee

The Committee is a standing committee assembled by the City Administrator to explore environmental conservation options and to make recommendations to the City. The Committee consists of a Councilor and 5 city employees.

Individual communities send representatives, as they deem appropriate.

The committee meets on a monthly basis during the workday.

XIV. Qualifications

Membership and (re)appointment to various citizen boards and committees is a highly discretionary selection made by the mayor and confirmed by the council. In selecting citizens to serve on various boards and committees the City Council and Appointments Committee may consider any number of qualities and qualifications of the individual including, but not limited to:

- Expressed interest in serving on the Committee or Board and evidence that the citizen has educational, vocational or life experience that might enhance or advance the work of the Committee or Board.
- Interpersonal and leadership skills that would promote harmony, cooperation, and respectfulness among the members of the committee or board as well as between the committee or board and members of the public, and other boards, agencies, or agents of the city or State.
- Familiarity with the common goals, values, and public issues and concerns relative to issues and concerns the committee or board may be likely to consider during the term of the member.
- Availability, willingness, and interest in making the necessary time commitments incumbent on a member of such committee or board.
- Other evidence of good citizenship, leadership, and trustworthiness including past performance or participation in committees or boards or civic affairs of the city.
- The Council may also seek and consider a balance of representation from the entire committee or board in terms of neighborhoods, gender, age, tenure in the community and/or tenure on the board, public perspective and philosophy, and, where applicable, race, religion, color, national origin, disability, or sexual orientation.

CITY OF SACO

The Mayor is seeking residents interested in serving on a City Board or Committee. There may be a current vacancy as well as the need to add to a reserve list of candidates to fill future vacancies.

The application can be found on the City website www.sacomaine.org Please fill out this form online and submit electronically or return this form to: City Clerk, 300 Main Street, Saco, Maine 04072.

Appendix D
Codes of Ethics
ICMA
MMA

The ICMA Code of Ethics

The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in May 1998. The Guidelines for the Code were adopted by the ICMA Executive Board in 1972, and most recently revised in September 2013.

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

Tenet 1 - Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.

Tenet 2 - Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.

GUIDELINE

Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities.

Tenet 3 - Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.

GUIDELINES

Public Confidence. Members should conduct themselves so as to maintain public confidence in their profession, their local government, and in their performance of the public trust.

Impression of Influence. Members should conduct their official and personal affairs in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.

Appointment Commitment. Members who accept an appointment to a position should not fail to report for that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time, but once a bona fide offer of a position has been accepted, that commitment should be honored. Oral acceptance of an employment offer is considered binding unless the employer makes fundamental changes in terms of employment.

Credentials. An application for employment or for ICMA's Voluntary Credentialing Program should be complete and accurate as to all pertinent details of education, experience, and personal history. Members should recognize that both omissions and inaccuracies must be avoided.

Professional Respect. Members seeking a management position should show professional respect for persons formerly holding the position or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity in order to be appointed to a position.

Reporting Ethics Violations. When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report the matter to ICMA. In reporting the matter, members may choose to go on record as the complainant

or report the matter on a confidential basis.

Confidentiality. Members should not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.

Seeking Employment. Members should not seek employment for a position having an incumbent administrator who has not resigned or been officially informed that his or her services are to be terminated.

Tenet 4 - Recognize that the chief function of local government at all times is to serve the best interests of all of the people.

GUIDELINE

Length of Service. A minimum of two years generally is considered necessary in order to render a professional service to the local government. A short tenure should be the exception rather than a recurring experience. However, under special circumstances, it may be in the best interests of the local government and the member to separate in a shorter time. Examples of such circumstances would include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or severe personal problems. It is the responsibility of an applicant for a position to ascertain conditions of employment. Inadequately determining terms of employment prior to arrival does not justify premature termination.

Tenet 5 - Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.

GUIDELINE

Conflicting Roles. Members who serve multiple roles – working as both city attorney and city manager for the same community, for example – should avoid participating in matters that create the appearance of a conflict of interest. They should disclose the potential conflict to the governing body so that other opinions may be solicited.

Tenet 6 - Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.

Tenet 7 - Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

GUIDELINES

Elections of the Governing Body. Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not participate in an election campaign on behalf of or in opposition to candidates for the governing body.

Elections of Elected Executives. Members shall not participate in the election campaign of any candidate for mayor or elected county executive.

Running for Office. Members shall not run for elected office or become involved in political activities related to running for elected office, or accept appointment to an elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

Elections. Members share with their fellow citizens the right and responsibility to vote. However, in order not to impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices.

Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office

Elections relating to the Form of Government. Members may assist in preparing and presenting materials that explain the form of government to the public prior to a form of government election. If assistance is required by another community, members may respond.

Presentation of Issues. Members may assist their governing body in the presentation of issues involved in referenda such as bond issues, annexations, and other matters that affect the government entity's operations and/or fiscal capacity.

Personal Advocacy of Issues. Members share with their fellow citizens the right and responsibility to voice their opinion on public issues. Members may advocate for issues of personal interest only when doing so does not conflict with the performance of their official duties.

Tenet 8 - Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

GUIDELINES

Self-Assessment. Each member should assess his or her professional skills and abilities on a periodic basis.

Professional Development. Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of ICMA.

Tenet 9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

Tenet 10 - Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

GUIDELINE

Information Sharing. The member should openly share information with the governing body while diligently carrying out the member's responsibilities as set forth in the charter or enabling legislation.

Tenet 11 - Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

GUIDELINE

Equal Opportunity. All decisions pertaining to appointments, pay adjustments, promotions, and discipline should prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, political affiliation, disability, age, or marital status.

It should be the members' personal and professional responsibility to actively recruit and hire a diverse staff throughout their organizations.

Tenet 12 - Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.

GUIDELINES

Gifts: Members should not directly or indirectly solicit any gift or accept or receive any gift— whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form—under the following circumstances: (1) it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or (2) the gift was intended to serve as a reward for any official action on their part.

It is important that the prohibition of unsolicited gifts be limited to circumstances related to improper influence. In de minimus situations, such as meal checks, some modest maximum dollar value should be determined by the member as a guideline. The guideline is not intended to isolate members from normal social practices where gifts among friends, associates, and relatives are appropriate for certain occasions.

Investments in Conflict with Official Duties. Member should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with their official duties.

In the case of real estate, the potential use of confidential information and knowledge to further a member's personal interest requires special consideration. This guideline recognizes that members' official actions and decisions can be influenced if there is a conflict with personal investments. Purchases and sales which might be interpreted as speculation for quick profit ought to be avoided (see the guideline on "Confidential Information").

Because personal investments may prejudice or may appear to influence official actions and decisions, members may, in concert with their governing body, provide for disclosure of such investments prior to accepting their position as local government administrator or prior to any official action by the governing body that may affect such investments.

Personal Relationships. Member should disclose any personal relationship to the governing body in any instance where there could be the appearance of a conflict of interest. For example, if the manager's spouse works for a developer doing business with the local government, that fact should be disclosed.

Confidential Information. Members should not disclose to others, or use to further their personal interest, confidential information acquired by them in the course of their official duties.

Private Employment. Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest, or impair the proper discharge of their official duties. Prior notification of the appointing authority is appropriate in all cases of outside employment.

Representation. Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

Endorsements. Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, whether or not for compensation. Members may, however, agree to endorse the following, provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.

State of Maine Code of Ethics:

Please note: This packet is intended for general information purposes only and should not take the place of a thorough review of pertinent statutes, consultation with legal counsel, or other specific guidance on this subject.

Legal Distinction - Maine law recognizes four kinds of ethical dilemmas in municipal government: conflict of interest, incompatibility of office, prohibited appointments or employment, and bias (see “State Law and Ethics,” Maine Townsman, July 1990); conflict of interest is only one type of ethical dilemma, although the term “conflict of interest” is sometimes used generically (and incorrectly) to refer to all four. A conflict of interest, strictly speaking, exists where an official has a personal pecuniary (financial) interest in a matter of official business. Incompatibility of office is present where the same person cannot hold two public offices, by virtue of their respective and conflicting duties, simultaneously no matter how dedicated or financially disinterested. Prohibited appointments or employment is paid positions, which are barred to the municipal officers (selectpersons or councilors) because they either created the positions or increased the positions’ compensation. Bias occurs where an official, due to prejudice or a familial relationship with the applicant, is unable to make a fair and impartial decision in a matter requiring objectivity (i.e., a “quasi-judicial” proceeding). These distinctions are important because the circumstances under which an ethical problem may arise, and the legal consequences that may result if it is ignored or handled improperly, can vary widely depending on which type of problem it is.

Appearances- The basic rationale for regulation of ethics among municipal officials is to foster and preserve public trust in the fundamental integrity of local government. Even where an official’s conduct may not be legally proscribed, personal relationships or competing interests may create an appearance of impropriety sufficient to undermine public confidence in the fairness and honesty of local officials. State law (30-A M.R.S.A. § 2605(6)) therefore encourages officials to avoid the appearance of a conflict of interest by disclosure or by abstention in such cases.

Local Ethics Policies- State law (30-A M.R.S.A. § 2605(7)) authorizes the municipal officers to adopt an ethics policy governing local officials. Some municipalities have found this to be an effective method for dealing with ethical dilemmas left unresolved by other law. (For a good example, see the City of Bangor’s “Code of Ethics.”) A municipality also may adopt a charter provision that authorizes the municipal officers to reprimand one of its own members for violating the municipal charter. (See *Monroe v. Town of Gray*, 1999 ME 190, 743 A2d 1257).

Who Decides- Ultimately, of course, only a court can determine whether an official has violated an ethical restriction and, if so, what penalties or consequences may follow. However, the numerous statutes and cases can serve as a guide to local officials in resolving their own specific ethical dilemmas. In addition, certain moral principles may apply (see “Ethics: More than Just a Set of Rules, Maine Townsman, July 1990). In the absence of local charter, ordinance or bylaw provisions to the contrary, it is generally recognized that a majority of a board (not including the member whose participation is in question) may determine whether a member has a disqualifying ethical problem.

Date of last revision: 7/02

However, the statutes referenced here may have been amended during the last legislative session, and we will update them when the text becomes available.

APPENDIX E

Public Records and Proceedings – Freedom of Access Law – 2011

www.maine.gov/foaa/law/

Please note: This packet is intended for general information purposes only and should not take the place of a thorough review of pertinent statutes, consultation with legal counsel, or other specific guidance on this subject.

Maine Revised Statutes

Maine Freedom of Access Law

Title 1: General Provisions, Chapter 13: Public Records and Proceedings

Subchapter 1: FREEDOM OF ACCESS

§400. SHORT TITLE

This subchapter may be known and cited as "the Freedom of Access Act." [2011, c. 662, §1 (NEW).] SECTION HISTORY 2011, c. 662, §1 (NEW).

§401. DECLARATION OF PUBLIC POLICY; RULES OF CONSTRUCTION

The Legislature finds and declares that public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly. It is further the intent of the Legislature that clandestine meetings, conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not be used to defeat the purposes of this subchapter. [1975, c. 758, (RPR).]

This subchapter does not prohibit communications outside of public proceedings between members of a public body unless those communications are used to defeat the purposes of this subchapter. [2011, c. 320, Pt. B, §1 (NEW).]

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent. [1975, c. 758, (RPR).]

SECTION HISTORY 1975, c. 483, §1 (AMD). 1975, c. 758, (RPR). 2011, c. 320, Pt. B, §1 (AMD).

§402. DEFINITIONS

1. **Conditional approval.** Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued.

[1975, c. 758, (NEW).]

- 1-A. Legislative subcommittee.** "Legislative subcommittee" means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee.

[1991, c. 773, §1 (NEW).]

2. **Public proceedings.** The term "public proceedings" as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

- A. The Legislature of Maine and its committees and subcommittees; [1975, c. 758, (NEW).]
- B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees; [1989, c. 358, §1 (AMD); 1989, c. 443, §1 (AMD); 1989, c. 878, Pt. A, §1 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]
- C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; [1991, c. 848, §1 (AMD).]
- D. The full membership meetings of any association, the membership of which is composed exclusively of counties,

municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1995, c. 608, §1 (AMD).]

- E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; [2009, c. 334, §1 (AMD).]
- F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter; and [2009, c. 334, §2 (AMD).]
- G. The committee meetings, subcommittee meetings and full membership meetings of any association that:
 - (1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and
 - (2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach. [2009, c. 334, §3 (NEW).]

[2009, c. 334, §§1-3 (AMD)]

3. **Public records.** The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

- A. Records that have been designated confidential by statute; [1975, c. 758, (NEW).]
- B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; [1975, c. 758, (NEW).]
- C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intra-office memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over; [1991, c. 773, §2 (AMD).]

C-1. Information contained in a communication between a constituent and an elected official if the information:

- (1) Is of a personal nature, consisting of:
 - (b) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
 - (c) Credit or financial information;
 - (d) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family;
 - (e) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or
 - (f) An individual's social security number; or

- (2) Would be confidential if it were in the possession of another public agency or official; [2011, c. 264, §1 (NEW).]
- D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; [1989, c. 358, §4 (AMD).]
- E. Records, working papers, interoffice and intra-office memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B; [1989, c. 358, §4 (AMD); 1989, c. 443, §2 (AMD); 1989, c. 878, Pt. A, §2 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]
- F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1 (AMD).]
- G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1 (AMD).]
- H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; [1995, c. 608, §4 (AMD).]
- I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; [1999, c. 96, §1 (AMD).]
- J. Working papers, including records, drafts and interoffice and intra-office memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization; [2001, c. 675, §1 (AMD).]
- K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or non-mandatory educational programs or services, if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A; [2003, c. 392, §1 (AMD).]
- L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure; [2003, c. 614, §1 (AMD).]
- M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software. Records or information covered by this paragraph

may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure; [2011, c. 662, §2 (AMD).]

N. Social security numbers; [2011, c. 320, Pt. E, §1 (AMD).]

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; [2009, c. 1, §1 (COR).]

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; [2011, c. 149, §1 (AMD).]

(Paragraph P as enacted by PL 2009, c. 339, §3 is REALLOCATED TO TITLE 1, SECTION 402, SUBSECTION 3, PARAGRAPH Q)

Q. (REALLOCATED FROM T. 1, §402, sub-§3) Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials, the Department of Corrections or members of the State Board of Corrections under conditions that protect the information from further disclosure; [2013, c. 339, §1 (AMD).]

R. Social security numbers in the possession of the Secretary of State; and [2013, c. 339, §2 (AMD).]

S. E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating non interactive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these non-interactive communications. [2013, c. 339, §3 (NEW).]

[2013, c. 339, §§1-3 (AMD)]

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough; [2013, c. 267, Pt. B, §1 (AMD).]

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and [2013, c. 267, Pt. B, §1 (AMD).]

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information. [2013, c. 267, Pt. B, §1 (AMD).]

[2013, c. 267, Pt. B, §1 (AMD).]

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records.

[2009, c. 334, §4 (NEW).]

5. Public access officer. "Public access officer" means the person designated pursuant to section 413, subsection 1.

[2011, c. 662, §3 (NEW).]

6. Reasonable office hours. "Reasonable office hours" includes all regular office hours of an agency or official. [2011, c. 662, §3 (NEW).]

SECTION HISTORY

1973, c. 433, §1 (AMD). 1975, c. 243, (RPR). 1975, c. 483, §2 (AMD). 1975, c. 758, (RPR). 1977, c. 164, §§1,2 (AMD). 1977, c. 696, §9 (AMD). 1985, c. 695, §§1,2 (AMD). 1985, c. 779, §§1,2 (AMD). 1987, c. 20, §1 (AMD). 1987, c. 402, §A1 (AMD). 1987, c. 477, §1 (AMD). 1989, c. 358, §§1-4 (AMD). 1989, c. 443, §§1,2 (AMD). 1989, c. 878, §§A1,2 (AMD). 1991, c. 448, §§1,2 (AMD). 1991, c. 773, §§1,2 (AMD). 1991, c. 848, §1 (AMD). 1995, c. 608, §§1-5 (AMD). 1997, c. 714, §1 (AMD). 1999, c. 96, §§1-3 (AMD). 2001, c. 477, §1 (AMD). 2001, c. 675, §§1-3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2003, c. 392, §§1-3 (AMD). 2003, c. 614, §§1-3 (AMD). 2005, c. 381, §§1-3 (AMD). 2007, c. 597, §1 (AMD). RR 2009, c. 1, §§1-3 (COR). 2009, c. 176, §§1-3 (AMD). 2009, c. 334, §§1-4 (AMD). 2009, c. 339, §§1-3 (AMD). 2011, c. 149, §§1-3 (AMD). 2011, c. 264, §1 (AMD). 2011, c. 320, Pt. E, §1 (AMD). 2011, c. 662, §§2, 3 (AMD). 2013, c. 267, Pt. B, §1 (AMD). 2013, c. 339, §§1-3 (AMD).

§402-A. PUBLIC RECORDS DEFINED

(REPEALED)

SECTION HISTORY

1975, c. 483, §3 (NEW). 1975, c. 623, §1 (RPR). 1975, c. 758, (RP).

§403. MEETINGS TO BE OPEN TO PUBLIC; RECORD OF MEETINGS

1. Proceedings open to public. Except as otherwise provided by statute or by section 405, all public proceedings must be open to the public and any person must be permitted to attend a public proceeding.

[2011, c. 320, Pt. C, §1 (NEW).]

2. Record of public proceedings. Unless otherwise provided by law, a record of each public proceeding for which notice is required under section 406 must be made within a reasonable period of time after the proceeding and must be open to public inspection. At a minimum, the record must include:

A. The date, time and place of the public proceeding; [2011, c. 320, Pt. C, §1 (NEW).]

B. The members of the body holding the public proceeding recorded as either present or absent; and [2011, c. 320, Pt. C, §1 (NEW).]

C. All motions and votes taken, by individual member, if there is a roll call. [2011, c. 320, Pt. C, §1 (NEW).] [2011, c. 320, Pt. C, §1 (NEW).]

3. Audio or video recording. An audio, video or other electronic recording of a public proceeding satisfies the requirements of subsection 2.

[2011, c. 320, Pt. C, §1 (NEW).]

4. Maintenance of record. Record management requirements and retention schedules adopted under Title 5, chapter 6 apply to records required under this section.

[2011, c. 320, Pt. C, §1 (NEW).]

5. Validity of action. The validity of any action taken in a public proceeding is not affected by the failure to make or maintain a record as required by this section.

[2011, c. 320, Pt. C, §1 (NEW).]

6. Advisory bodies exempt from record requirements. Subsection 2 does not apply to advisory bodies that make recommendations but have no decision-making authority.

[2011, c. 320, Pt. C, §1 (NEW).]

SECTION HISTORY

1969, c. 293, (AMD). 1975, c. 422, §1 (AMD). 1975, c. 758, (RPR). 2009, c. 240, §1 (AMD). 2011, c. 320, Pt. C, §1 (RPR).

§404. RECORDED OR LIVE BROADCASTS AUTHORIZED

In order to facilitate the public policy so declared by the Legislature of opening the public's business to public scrutiny, all persons shall be entitled to attend public proceedings and to make written, taped or filmed records of the proceedings, or to live broadcast the same, provided the writing, taping, filming or broadcasting does not interfere with the orderly conduct of proceedings. The body or agency holding the public proceedings may make reasonable rules and regulations governing these activities, so long as these rules or regulations do not defeat the purpose of this subchapter. [1975, c. 758, (RPR).]

SECTION HISTORY

1975, c. 422, §2 (RPR). 1975, c. 483, §4 (AMD). 1975, c. 758, (RPR).

§404-A. DECISIONS

(REPEALED)

SECTION HISTORY

1973, c. 433, §2 (NEW). 1973, c. 704, §§1,2 (AMD). 1975, c. 758, (RP).

§405. EXECUTIVE SESSIONS

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions. [1975, c. 758, (NEW).]

1. **Not to defeat purposes of subchapter.** An executive session may not be used to defeat the purposes of this subchapter as stated in section 401.
[2009, c. 240, §2 (AMD).]
2. **Final approval of certain items prohibited.** An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session.
[2009, c. 240, §2 (AMD).]
3. **Procedure for calling of executive session.** An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies.
[2009, c. 240, §2 (AMD).]
4. **Motion contents.** A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.
[2003, c. 709, §1 (AMD).]
5. **Matters not contained in motion prohibited.** Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session.
[2009, c. 240, §2 (AMD).]
6. **Permitted deliberation.** Deliberations on only the following matters may be conducted during an executive session:
 - A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a

person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal; [2009, c. 240, §2 (AMD).]

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire; [2009, c. 240, §2 (AMD).]

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency; [1987, c. 477, §3 (AMD).]

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions; [1999, c. 144, §1 (RPR).]

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage; [2009, c. 240, §2 (AMD).]

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute; [1999, c. 180, §1 (AMD).]

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and [1999, c. 180, §2 (AMD).]

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter. [1999, c. 180, §3 (NEW).]

[2009, c. 240, §2 (AMD).]

SECTION HISTORY

1975, c. 758, (RPR). 1979, c. 541, §A3 (AMD). 1987, c. 477, §§2,3 (AMD). 1987, c. 769, §A1 (AMD). 1999, c. 40, §§1,2 (AMD). 1999, c. 144, §1 (AMD). 1999, c. 180, §§1-3 (AMD). 2003, c. 709, §1 (AMD). 2009, c. 240, §2 (AMD).

§405-A. RECORDED OR LIVE BROADCASTS AUTHORIZED

(REPEALED)

SECTION HISTORY

1975, c. 483, §5 (NEW). 1975, c. 758, (RP).

§405-B. APPEALS

(REPEALED)

SECTION HISTORY

1975, c. 483, §5 (NEW). 1975, c. 758, (RP).

§405-C. APPEALS FROM ACTIONS

(REPEALED)

SECTION HISTORY

1975, c. 483, §5 (NEW). 1975, c. 758, (RP).

§406. PUBLIC NOTICE

Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of 3 or more persons. This notice shall be given in ample time to allow public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster means used to notify the members of the agency conducting the public proceeding. [1987, c. 477, §4 (AMD).]

SECTION HISTORY

1975, c. 483, §6 (AMD). 1975, c. 758, (RPR). 1987, c. 477, §4 (AMD).

§407. DECISIONS

1. **Conditional approval or denial.** Every agency shall make a written record of every decision involving the conditional approval or denial of an application, license, certificate or any other type of permit. The agency shall set forth in the record the reason or reasons for its decision and make finding of the fact, in writing, sufficient to appraise the applicant and any interested member of the public of the basis for the decision. A written record or a copy thereof shall be kept by the agency and made available to any interested member of the public who may wish to review it.

[1975, c. 758, (NEW).]

2. **Dismissal or refusal to renew contract.** Every agency shall make a written record of every decision involving the dismissal or the refusal to renew the contract of any public official, employee or appointee. The agency shall, except in case of probationary employees, set forth in the record the reason or reasons for its decision and make findings of fact, in writing, sufficient to apprise the individual concerned and any interested member of the public of the basis for the decision. A written record or a copy thereof must be kept by the agency and made available to any interested member of the public who may wish to review it.

[2009, c. 240, §3 (AMD).]

SECTION HISTORY

1975, c. 758, (NEW). 2009, c. 240, §3 (AMD).

§408. PUBLIC RECORDS AVAILABLE FOR PUBLIC INSPECTION AND COPYING

(REPEALED)

SECTION HISTORY

1975, c. 758, (NEW). 2003, c. 709, §2 (RPR). 2007, c. 501, §1 (AMD). 2009, c. 240, §4 (AMD). 2011, c. 662, §4 (RP).

§408-A. PUBLIC RECORDS AVAILABLE FOR INSPECTION AND COPYING

Except as otherwise provided by statute, a person has the right to inspect and copy any public record in accordance with this section within a reasonable time of making the request to inspect or copy the public record. [2011, c. 662, §5 (NEW).]

1. **Inspect.** A person may inspect any public record during reasonable office hours. An agency or official may not charge a fee for inspection unless the public record cannot be inspected without being converted or compiled, in which case the agency or official may charge a fee as provided in subsection 8.

[2011, c. 662, §5 (NEW).]

2. **Copy.** A person may copy a public record in the office of the agency or official having custody of the public record during reasonable office hours or may request that the agency or official having custody of the record provide a copy. The agency or official may charge a fee for copies as provided in subsection 8.

A. A request need not be made in person or in writing. [2011, c. 662, §5 (NEW).]

B. The agency or official shall mail the copy upon request. [2011, c. 662, §5 (NEW).] [2011, c. 662, §5 (NEW).]

3. **Acknowledgment; clarification; time estimate; cost estimate.** The agency or official having custody or control of a public record shall acknowledge receipt of a request made according to this section within 5 working days of receiving the request and may request clarification concerning which public record or public records are being requested. Within a reasonable time of receiving the request, the agency or official shall provide a good faith, nonbinding estimate of the time within which the agency or official will comply with the request, as well as a cost estimate as provided in subsection 9. The agency or official shall make a good faith effort to fully respond to the request within the estimated time.

[2013, c. 350, §1 (AMD).]

4. **Refusals; denials.** If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide written notice of the denial, stating the reason for the denial, within 5 working days of the receipt of the request for inspection or copying. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

[2013, c. 350, §2 (AMD).]

5. **Schedule.** Inspection, conversion pursuant to subsection 7 and copying of a public record subject to a request under this section may be scheduled to occur at a time that will not delay or inconvenience the regular activities of the agency or official having custody or control of the public record requested. If the agency or official does not have regular office hours, the name and telephone number of a contact person authorized to provide access to the agency's or official's records must be posted in a conspicuous public place and at the office of the agency or official, if an office exists.

[2011, c. 662, §5 (NEW).]

6. **No requirement to create new record.** An agency or official is not required to create a record that does not exist.

[2011, c. 662, §5 (NEW).]

7. **Electronically stored public records.** An agency or official having custody or control of a public record subject to a request under this section shall provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

A. If in order to provide access to an electronically stored public record the agency or official converts the record into a form susceptible of visual or aural comprehension or into a usable format for inspection or copying, the agency or official may charge a fee to cover the cost of conversion as provided in subsection 8. [2011, c. 662, §5 (NEW).]

B. This subsection does not require an agency or official to provide a requester with access to a computer terminal.

[2011, c. 662, §5 (NEW).]

[2011, c. 662, §5 (NEW).]

8. **Payment of costs.** Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees for public records as follows.
- A. The agency or official may charge a reasonable fee to cover the cost of copying. [2011, c. 662, §5 (NEW).]
 - B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than \$15 per hour after the first hour of staff time per request. Compiling the public record includes reviewing and redacting confidential information. [2011, c. 662, §5 (NEW).]
 - C. The agency or official may charge for the actual cost to convert a public record into a form susceptible of visual or aural comprehension or into a usable format. [2011, c. 662, §5 (NEW).]
 - D. An agency or official may not charge for inspection unless the public record cannot be inspected without being compiled or converted, in which case paragraph B or C applies. [2011, c. 662, §5 (NEW).]
 - E. The agency or official may charge for the actual mailing costs to mail a copy of a record. [2011, c. 662, §5 (NEW).]
- [2011, c. 662, §5 (NEW).]
9. **Estimate.** The agency or official having custody or control of a public record subject to a request under this section shall provide to the requester an estimate of the time necessary to complete the request and of the total cost as provided by subsection 8. If the estimate of the total cost is greater than \$30, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than \$100, subsection 10 applies.
- [2011, c. 662, §5 (NEW).]
10. **Payment in advance.** The agency or official having custody or control of a public record subject to a request under this section may require a requester to pay all or a portion of the estimated costs to complete the request prior to the search, retrieval, compiling, conversion and copying of the public record if:
- A. The estimated total cost exceeds \$100; or [2011, c. 662, §5 (NEW).]
 - B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner. [2011, c. 662, §5 (NEW).]
- [2011, c. 662, §5 (NEW).]
11. **Waivers.** The agency or official having custody or control of a public record subject to a request under this section may waive part or all of the total fee charged pursuant to subsection 8 if:
- A. The requester is indigent; or [2011, c. 662, §5 (NEW).]
 - B. The agency or official considers release of the public record requested to be in the public interest because doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester. [2011, c. 662, §5 (NEW).]
- [2011, c. 662, §5 (NEW).]

SECTION HISTORY

2011, c. 662, §5 (NEW). 2013, c. 350, §§1, 2 (AMD).

§409. APPEALS

1. **Records.** Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to any Superior Court within the State as a trial de novo. The agency or official shall file an answer within 14 calendar days. If a court, after a trial de novo, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.
- [2013, c. 350, §3 (RPR).]
2. **Actions.** If anybody or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the

penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

[2011, c. 559, Pt. A, §2 (AMD).]

3. **Proceedings not exclusive.** The proceedings authorized by this section are not exclusive of any other civil remedy provided by law.

[2009, c. 240, §6 (AMD).]

4. **Attorney's fees.** In an appeal under subsection 1 or 2, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

This subsection applies to appeals under subsection 1 or 2 filed on or after January 1, 2010. [2009, c. 423, §1 (NEW).]

SECTION HISTORY

1975, c. 758, (NEW). 1987, c. 477, §5 (AMD). 2007, c. 695, Pt. C, §1 (AMD). 2009, c. 240, §§5, 6 (AMD). 2009, c. 423, §1 (AMD). 2011, c. 559, Pt. A, §§1, 2 (AMD). 2011, c. 662, §6 (AMD). 2013, c. 350, §3 (AMD).

§410. VIOLATIONS

For every willful violation of this subchapter, the state government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged. [1987, c. 477, §6 (RPR).]

SECTION HISTORY

1975, c. 758, (NEW). 1987, c. 477, §6 (RPR).

§411. RIGHT TO KNOW ADVISORY COMMITTEE

1. **Advisory committee established.** The Right to Know Advisory Committee, referred to in this chapter as "the advisory committee," is established to serve as a resource for ensuring compliance with this chapter and upholding the integrity of the purposes underlying this chapter as it applies to all public entities in the conduct of the public's business.

[2005, c. 631, §1 (NEW).]

2. **Membership.** The advisory committee consists of the following members:

- A. One Senator who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the President of the Senate; [2005, c. 631, §1 (NEW).]
- B. One member of the House of Representatives who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the Speaker of the House; [2005, c. 631, §1 (NEW).]
- C. One representative of municipal interests, appointed by the Governor; [2005, c. 631, §1 (NEW).]
- D. One representative of county or regional interests, appointed by the President of the Senate; [2005, c. 631, §1 (NEW).]
- E. One representative of school interests, appointed by the Governor; [2005, c. 631, §1 (NEW).]
- F. One representative of law enforcement interests, appointed by the President of the Senate; [2005, c. 631, §1 (NEW).]
- G. One representative of the interests of State Government, appointed by the Governor; [2005, c. 631, §1 (NEW).]
- H. One representative of a statewide coalition of advocates of freedom of access, appointed by the Speaker of the

House; [2005, c. 631, §1 (NEW).]

- I. One representative of newspaper and other press interests, appointed by the President of the Senate; [2005, c. 631, §1 (NEW).]
- J. One representative of newspaper publishers, appointed by the Speaker of the House; [2005, c. 631, §1 (NEW).]
- K. Two representatives of broadcasting interests, one appointed by the President of the Senate and one appointed by the Speaker of the House; [2005, c. 631, §1 (NEW).]
- L. Two representatives of the public, one appointed by the President of the Senate and one appointed by the Speaker of the House; and [2005, c. 631, §1 (NEW).]
- M. The Attorney General or the Attorney General's designee. [2005, c. 631, §1 (NEW).] The advisory committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

[2005, c. 631, §1 (NEW) .]

3. **Terms of appointment.** The terms of appointment are as follows.

- A. Except as provided in paragraph B, members are appointed for terms of 3 years. [2005, c. 631, §1 (NEW).]
- B. Members who are Legislators are appointed for the duration of the legislative terms of office in which they were appointed. [2005, c. 631, §1 (NEW).]
- C. Members may serve beyond their designated terms until their successors are appointed. [2005, c. 631, §1 (NEW).]

[2005, c. 631, §1 (NEW).]

4. **First meeting; chair.** The Executive Director of the Legislative Council shall call the first meeting of the advisory committee as soon as funding permits. At the first meeting, the advisory committee shall select a chair from among its members and may select a new chair annually.

[2005, c. 631, §1 (NEW).]

5. **Meetings.** The advisory committee may meet as often as necessary but not fewer than 4 times a year. A meeting may be called by the chair or by any 4 members.

[2005, c. 631, §1 (NEW).]

6. **Duties and powers.** The advisory committee:

- A. Shall provide guidance in ensuring access to public records and proceedings and help to establish an effective process to address general compliance issues and respond to requests for interpretation and clarification of the laws; [2005, c. 631, §1 (NEW).]
- B. Shall serve as the central source and coordinator of information about the freedom of access laws and the people's right to know. The advisory committee shall provide the basic information about the requirements of the law and the best practices for agencies and public officials. The advisory committee shall also provide general information about the freedom of access laws for a wider and deeper understanding of citizens' rights and their role in open government. The advisory committee shall coordinate the education efforts by providing information about the freedom of access laws and whom to contact for specific inquiries; [2005, c. 2, §1 (COR).]
- C. Shall serve as a resource to support the establishment and maintenance of a central publicly accessible website that provides the text of the freedom of access laws and provides specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. The website must include the contact information for agencies, as well as whom to contact with complaints and concerns. The website must also include, or contain a link to, a list of statutory exceptions to the public records laws; [2005, c. 2, §1 (COR).]
- D. Shall serve as a resource to support training and education about the freedom of access laws. Although each agency is responsible for training for the specific records and meetings pertaining to that agency's mission, the advisory committee shall provide core resources for the training, share best practices experiences and support the establishment and maintenance of online training as well as written question- and-answer summaries about specific topics. The advisory committee shall recommend a process for collecting the training completion records required

under section 412, subsection 3 and for making that information publicly available; [2007, c. 576, §1 (AMD).]

- E. Shall serve as a resource for the review committee under subchapter 1-A in examining public records exceptions in both existing laws and in proposed legislation; [2005, c. 631, §1 (NEW).]
- F. Shall examine inconsistencies in statutory language and may recommend standardized language in the statutes to clearly delineate what information is not public and the circumstances under which that information may appropriately be released; [2005, c. 631, §1 (NEW).]
- G. May make recommendations for changes in the statutes to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations; [2005, c. 631, §1 (NEW).]
- H. Shall serve as an adviser to the Legislature when legislation affecting public access is considered; [2005, c. 631, §1 (NEW).]
- I. May conduct public hearings, conferences, workshops and other meetings to obtain information about, discuss, publicize the needs of and consider solutions to problems concerning access to public proceedings and records; [2005, c. 631, §1 (NEW).]
- J. Shall review the collection, maintenance and use of records by agencies and officials to ensure that confidential records and information are protected and public records remain accessible to the public; and [2005, c. 631, §1 (NEW).]
- K. May undertake other activities consistent with its listed responsibilities. [2005, c. 631, §1 (NEW).]

[2007, c. 576, §1 (AMD).]

7. **Outside funding for advisory committee activities.** The advisory committee may seek outside funds to fund the cost of public hearings, conferences, workshops, other meetings, other activities of the advisory committee and educational and training materials. Contributions to support the work of the advisory committee may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution shall certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the advisory committee's activities. Such a certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director of the Legislative Council shall administer any funds received by the advisory committee.

[2005, c. 631, §1 (NEW).]

8. **Compensation.** Legislative members of the advisory committee are entitled to receive the legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the advisory committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the advisory committee.

[2005, c. 631, §1 (NEW).]

9. **Staffing.** The Legislative Council shall provide staff support for the operation of the advisory committee, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. In addition, the advisory committee may contract for administrative, professional and clerical services if funding permits.

[2005, c. 631, §1 (NEW).]

10. **Report.** By January 15, 2007 and at least annually thereafter, the advisory committee shall report to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over judiciary matters and the Chief Justice of the Supreme Judicial Court about the state of the freedom of access laws and the public's access to public proceedings and records.

[2005, c. 631, §1 (NEW).]

SECTION HISTORY

RR 2005, c. 2, §1 (COR). 2005, c. 631, §1 (NEW). 2007, c. 576, §1 (AMD).

§412. PUBLIC RECORDS AND PROCEEDINGS TRAINING FOR CERTAIN ELECTED OFFICIALS AND PUBLIC ACCESS OFFICERS

1. **Training required.** A public access officer and an elected official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official or public access officer shall complete the training not later than the 120th day after the date the elected official takes the oath of office to assume the person's duties as an elected official or the person is designated as a public access officer pursuant to section 413, subsection 1.

[2011, c. 662, §7 (AMD).]

2. **Training course; minimum requirements.** The training course under subsection 1 must be designed to be completed by an official or a public access officer in less than 2 hours. At a minimum, the training must include instruction in:

- A. The general legal requirements of this chapter regarding public records and public proceedings; [2007, c. 349, §1 (NEW).]
- B. Procedures and requirements regarding complying with a request for a public record under this chapter; and [2007, c. 349, §1 (NEW).]
- C. Penalties and other consequences for failure to comply with this chapter. [2007, c. 349, §1 (NEW).]

An elected official or a public access officer meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include all of this information and may include additional information.

[2011, c. 662, §7 (AMD).]

3. **Certification of completion.** Upon completion of the training course required under subsection 1, the elected official or public access officer shall make a written or an electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The elected official shall keep the record or file it with the public entity to which the official was elected. A public access officer shall file the record with the agency or official that designated the public access officer.

[2011, c. 662, §7 (AMD).]

4. **Application.** This section applies to a public access officer and the following elected officials:

- A. The Governor; [2007, c. 349, §1 (NEW).]
- B. The Attorney General, Secretary of State, Treasurer of State and State Auditor; [2007, c. 349, §1 (NEW).]
- C. Members of the Legislature elected after November 1, 2008; [2007, c. 576, §2 (AMD).]
- D. [2007, c. 576, §2 (RP).]
- E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments; [2007, c. 576, §2 (NEW).]
- F. Municipal officers, clerks, treasurers, assessors and budget committee members of municipal governments; [2007, c.

576, §2 (NEW).]

G. Officials of school administrative units; and [2011, c. 662, §7 (AMD).]

H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2. [2007, c. 576, §2 (NEW).]

[2011, c. 662, §7 (AMD).]

SECTION HISTORY

2007, c. 349, §1 (NEW). 2007, c. 576, §2 (AMD). 2011, c. 662, §7 (AMD).

§413. PUBLIC ACCESS OFFICER

1. **Designation; responsibility.** Each agency, county, municipality, school administrative unit and regional or other political subdivision shall designate an existing employee as its public access officer to serve as the contact person for that agency, county, municipality, school administrative unit and regional or other political subdivision with regard to requests for public records under this subchapter. The public access officer is responsible for ensuring that each public record request is acknowledged within a reasonable period of time and that a good faith estimate of when the response to the request will be complete is provided according to section 408-A. The public access officer shall serve as a resource within the agency, county, municipality, school administrative unit and regional or other political subdivision concerning freedom of access questions and compliance.

[2011, c. 662, §8 (NEW).]

2. **Acknowledgment and response required.** An agency, county, municipality, school administrative unit and regional or other political subdivision that receives a request to inspect or copy a public record shall acknowledge and respond to the request regardless of whether the request was delivered to or directed to the public access officer.

[2011, c. 662, §8 (NEW).]

3. **No delay based on unavailability.** The unavailability of a public access officer may not delay a response to a request.

[2011, c. 662, §8 (NEW).]

4. **Training.** A public access officer shall complete a course of training on the requirements of this chapter relating to public records and proceedings as described in section 412.

[2011, c. 662, §8 (NEW).]

SECTION HISTORY 2011, c. 662, §8 (NEW).

Legislative History for Rules and Order of Business

- A.** Adopted by the City Council of Saco: December 16, 2002
- B.** Amended by the City Council of Saco: December 15, 2003
- C.** Amended by the Council January 20, 2004
- D.** Amended by the Council December 17, 2007
- E.** Amended by the Council December 14, 2009
- F.** Amendment by the Council January 4, 2010
- G.** January 9, 2012 – amended for iPad, meeting posting requirements; motion for executive session requirements.
- H.** January 6, 2014 – complete update.
- I.** May 4, 2015 – amended for Public Comments addition
- J.** Amended by the Council December 2015
- K.** Revised June 18, 2018
- L.** Amended by the Council on December 16, 2019
- M.** Edits approved by the Council on January 21, 2020

1. PROTOCOLS FOR IMPROVED ADVOCACY: Make your thinking process visible (walk up the ladder of inference slowly).	
What to do	What to say
State your assumptions, and describe the data that lead to them.	"Here's what I think, and here's how I got there."
Explain your assumptions.	"I assumed that ..."
Make your reasons explicit.	"I came to this conclusion because..."
Explain the context of your point of view: who will be affected by what you propose, how they will be affected, and why.	
Give examples of what you propose, even if they are hypothetical or metaphorical.	"To get a clear picture of what I'm talking about, imagine that you're the customer who will be affected..."
As you speak, try to picture the other people's perspective on what you are saying.	
Publicly test your assumptions.	
Encourage others to explore your model, your assumptions, and your data.	"What do you think about what I just said?", "Do you see any flaws in my reasoning?", or "What can you add?"
Refrain from defensiveness when your ideas are questioned. If you are advocating something worthwhile, then it will only get stronger by being tested.	
Reveal where you are least clear in your thinking. Rather than making your vulnerable, it diffuses the force of advocates who are opposed to you, and invites improvement.	"Here's one aspect which you might help me think through..."
Even when advocating: listen, stay open, and encourage others to provide different views.	"Do you see it differently?"

2. PROTOCOLS FOR IMPROVED INQUIRY: Ask others to make their thinking process visible.	
What to do	What to say
Gently walk others down the ladder of inference and find out what data they are operating from.	"What leads you to conclude that?" "What data do you have for that?" "What causes you to say that?"
Use un-aggressive language, particularly with people who are not familiar with these skills. Ask in a way, which does not provoke defensiveness, or "lead the witness."	Instead of "What do you mean?" or "What's your proof?" say, "Can you help me understand your thinking here?"
Draw out their reasoning, find out as much as you can about why they are saying what they are saying.	"What is the significance of that?" "How does this relate to your other concerns?" "Where does your reasoning go next?"
Explain your reasons for inquiring, and whom your inquiry relates to your concerns, hopes, and needs.	"I'm asking you about your assumptions here because..."
Compare your assumptions to theirs.	
Test what they say by asking for broader contexts, or for examples.	"How would your proposal affect...?" "Is this similar to...?" "Can you describe a typical example...?"
Check your understanding of what they have said.	"Am I correct that you're saying...?"
Listen for the new understanding that may emerge. Do not concentrate on preparing to destroy the other person's argument or promote your own agenda.	

3. PROTOCOLS FOR FACING A POINT OF VIEW WITH WHICH YOU DISAGREE:	
What to do	What to say
Again, inquire about what has led the person to that view.	"How did you arrive at this view?" "Are you taking into account data that I have not considered?"
Make sure you truly understand the view	"If I understand you correctly, you're saying that ..."
Explore, listen, and offer your own views in an open way.	"Have you considered..."
Listen for the larger meaning that may come out of honest, open sharing of alternative mental models.	
Use your left-hand column as a resource.	"When you say such-and-such, I worry that it means..."
Raise your concerns and state what is leading you to have them.	"I have a hard time seeing that, because of this reasoning..."

4. PROTOCOLS FOR WHEN YOU'RE AT AN IMPASSE:	
What to do	What to say
Embrace the impasse, and tease apart the current thinking. (You may discover that focusing on "data" brings you all down the ladder of inference.)	"What do we know for a fact?" "What do we sense is true, but have no data for yet?" "What don't we know?" "What is unknowable?"
Look for information that will help people move forward.	"What do we agree upon, and what do we disagree on?"
Ask if there is any way you might together design an experiment or inquiry that could provide new information.	
Listen to ideas as if for the first time.	
Consider each person's mental model as a piece of a larger puzzle.	"Are we starting from two very different sets of assumptions here? Where do they come from?"
Ask what data or logic might change their views.	"What, then, would have to happen before you would consider the alternative?"
Ask for the group's help in redesigning the situation.	"It feels like we're getting into an impasse and I'm afraid we might walk away without any better understanding. Have you got any ideas that will help us clarify our thinking?"
Do not let conversation stop with an "agreement to disagree."	"I don't understand the assumptions underlying our disagreement."
Avoid building your "case" when someone else is speaking from a different point of view.	