



**TWO
RIVERS**
WISCONSIN

**CITY OF TWO RIVERS,
WISCONSIN
CODE OF CONDUCT FOR
ELECTED OFFICIALS
04-19-2022**

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CODE OF CONDUCT FOR ELECTED OFFICIALS

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This Code of Conduct is adopted pursuant to authority granted to the Council under Wis. Stat. §62.11(3)(a) and (e), applicable to the Council under Wis. Stat. §64.07(1), and Wis. Stat. §19.59(1m) and (4). The applicable provisions of Wis. Stat. §19.59, the statutory Code of Ethics for Local Government Officials, Employees and Candidates, and Wis. Stat. §946.13, prohibiting private interest in public contracts, are incorporated by reference in this Code.

This Code of Conduct shall apply to the Standing Committees of the Council described in Section 2-2-4 of the Municipal Code of the City, and their members.

SECTION 1: The City of Two Rivers Code of Conduct

It is the policy of the City of Two Rivers to uphold, promote, and demand the highest standards of ethics from its elected officials. Accordingly, members of the City Council shall maintain the utmost standards of personal integrity, trustfulness, honesty, and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or authority improperly or for personal gain.

The City of Two Rivers and its elected officials share a commitment to ethical conduct and service to the City of Two Rivers. This Code has been created to ensure that all officials have clear guidelines for carrying out their responsibilities in their relationships with each other, with the City staff, with the citizens of Two Rivers, and with all other private and governmental entities.

SECTION 2: Elected Official Conduct with One Another

The City Councilmembers (hereinafter the “Council”) have a responsibility to set the policies for the City. In doing so, certain types of conduct are beneficial while others are destructive. The Council has the responsibility to take the high road on Intra-Council conduct and to treat other Councilmembers as they would like to be treated.

The Council is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all choose to serve in public office and, therefore, have the obligation to preserve and protect the well-being of the community and its citizens. In all cases, this common goal should be acknowledged, and the Council must recognize that certain behavior is counterproductive, while other behavior will lead to success.

A. Use Civility and Decorum in Discussions and Debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. Every Councilmember has the right to an individual opinion, which should be respected by the other Councilmembers. Councilmembers shall not be hostile, degrading, or defamatory when debating a contentious issue. Councilmembers should assume the other members of the Council have the appropriate motives and interest of the public in mind and should not criticize differing opinions because they believe them to be lacking in judgment or improperly motivated.

Councilmembers shall not make belligerent, impertinent, slanderous, threatening, abusive, or personally disparaging comments in public meetings or during individual encounters. Shouting or physical actions that could be construed as threatening or demeaning will not be accepted. If a Councilmember is personally offended by the remarks of another Councilmember, the offended member should make a note of the actual words used and call for a “point of personal privilege” that challenges the other Council member to justify or apologize for the language used.

B. Honor the Role of the Chair in Maintaining Order

It is the responsibility of the President of the Council to keep the comments of Councilmembers on track during Council meetings. Councilmembers should honor efforts by the President to focus discussion on current agenda items. If there is disagreement about the agenda, those objections should be voiced politely and with reason, following parliamentary procedure. The same responsibilities are vested in the Committee Chairs for Committee meetings.

C. Responsibility to Devote Full Attention to Council and Committee Proceedings.

It is the policy of the Council that Council Meetings should be devoted exclusively to the conduct of public business. Council Members should provide their full attention to matters on the agenda, or which otherwise relate to matters within the Council's jurisdiction and authority, and not engage in private discussions or transact private business during meetings except as expressly provided in this Code. Electronic devices may be used during meetings as an alternative to printed materials before the Council, to look up information relevant to matters being considered by the Council, or similarly in a manner which contributes to the Council's considerations and decisions concerning agenda items and can be shared with the Council.

Such devices shall have ringers turned off during meetings and shall not be used during meetings for private entertainment or to transact private business. However, electronic communications to and from Council Members regarding a Council Member's employment or business, or family members, which require immediate attention or may be responded to quickly, are allowed.

Electronic communications (e.g. by text, email or instant messaging) sent or received by Council Members during a meeting may create public records subject to disclosure under Wisconsin's Public Records Law, and may be attributed to the City and the Council. Therefore, if they relate to matters being addressed by the Council, they must be shared with the Council as a whole. If the need to engage in a private communication not related to the meeting arises, the Council Member shall step out of the meeting room to communicate unless the private communication may be responded to quickly and without impeding the Council Member's consideration of matters being addressed by the Council or the conduct of Council meetings.

SECTION 3: Elected Official Code of Ethics, Prohibited Activity

A. Council Ethics

City Council members are expected to avoid conflicts of interest. Council Members should avoid the appearance of conflicts of interest in order to ensure that City Council decisions are made in an independent and impartial manner. Each Council Member is prohibited from making or attempting to use his or her official position to influence a City

decision in which Council Members know or have reason to know he or she has a financial interest as defined by law.

As provided in Wis. Stat. Section 19.59, no Council Member:

- (1) may use his or her position as Council Member to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated;
- (2) take any official action substantially affecting a matter in which a Council Member, a member of his or her immediate family, or an organization with which the Council Member is associated has a substantial financial interest; or
- (3) use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the Council Member, one or more members of his or her immediate family either separately or together, or an organization with which the official is associated.

As used in this Section:

“Anything of value” means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment.

“Associated,” when used with reference to an organization, includes any organization in which a Council Member or a member of his or her immediate family is a director, officer, or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10 percent of the outstanding equity or of which a Council Member or a member of his or her immediate family is an authorized representative or agent.

“Immediate family” means (a) a Council Member's spouse; and (b) a Council Member's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the Council Member or from whom the Council Member receives, directly or indirectly, more than one-half of his or her support.

B. Prohibited Activity (Discrimination and Harassment Prohibited)

The City Council is committed to the fostering of City policies, meetings, operations and work environment that are free of discrimination and harassment, including sexual harassment. No Council Member while performing the duties or exercising the authority of a Council Member shall harass or make offensive or derogatory comments to any person, either directly or indirectly, based on race, color, sex, religion, age, disability, marital status, sexual orientation, gender, actual or perceived gender identity, pregnancy, childbirth or related medical condition, national origin, or otherwise act in such a manner as to potentially subject the City or Council to legal action under Federal Law or the Laws of the State of Wisconsin governing civil rights and discrimination by local governments.

SECTION 4: Elected Official Conduct with City Staff

Governance of the City relies on the cooperative efforts of elected officials who set policy and the City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each other for the good of the community.

A. Treat all Staff as Professionals

Councilmembers should treat all staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected.

Disrespectful behavior toward staff is not acceptable. Councilmembers should refer to staff by their title followed by the individual's last name in public meetings when first introduced.

B. Never Publicly Demean or Personally Attack an Individual Employee

Councilmembers shall never demean or personally attack an employee regarding the employee's job performance in public, including media or social media statements. This shall not be interpreted to prohibit legitimate criticisms or concerns regarding services provided or not provided by employees, but rather to prohibit comments expressing disdain for or insulting an employee.

C. Employee Performance Issues

All Council member concerns regarding any employee performance issues shall be forwarded to the City Manager (or to the Council President in the case of the City Manager's performance) through private correspondence or conversation.

D. Do not Supersede Administrative Authority

Neither the Council, nor any of its members, shall attempt to supersede the administration's powers and duties. Neither the Council nor any member thereof shall give orders to the City Manager, Department Heads or any subordinate staff, either publicly or privately. This shall not prohibit Council Members from communicating with the City Manager, Department Heads or any subordinate staff to obtain information, notify them of problems coming to the attention of Council Members which are within the City's authority and the scope of their employment, or making suggestions regarding such matters, but rather is meant to prohibit Council Members from commanding or purporting to command them to take or not to take certain actions.

Councilmembers shall not attempt to unethically influence or coerce City staff concerning either their actions or recommendations to Council about personnel, purchasing, awarding contracts, selection of consultants, processing of development applications, the granting of City licenses and permits, or other matters. Nothing in this section shall be construed, however, as prohibiting the Council while in open session from fully and freely discussing with or suggesting to the City Manager and Department Heads anything pertaining to City affairs or the interests of the City.

Outside of Council meetings, any City Council member who requests information from City staff relative to matters that may come before the Council or its committees shall either direct such request to the City Manager or send that request in the form of an e-mail to a department head, with copy to the City Manager. The purpose of this paragraph is to both recognize the City Manager's role as the appointed chief executive officer of the City and to assure that all Council members are provided with the same background information on matters that may come before the Council or its committees. In such instances, the City Manager shall provide the requested information to all Council members.

E. Do not Solicit Political Support from Staff

Councilmembers should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, collection of petition signatures, etc.) from City staff on duty or in the workplace. City staff may, as private citizens within their constitutional rights, support political candidates, but all such activities must be done away from the workplace. Photographs of uniformed City employees shall not be used in political ads.

SECTION 5: Elected Official Conduct Towards the Public

In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice, or disrespect should be evident on the part of individual Councilmembers toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony. The Councilmembers are expected to demonstrate, both publicly and privately, their honesty and integrity, and to be an example of appropriate and ethical conduct. All Councilmembers should convey to the public their respect and appreciation for the public's participation, input, and opinions.

A. Be welcoming to Speakers and Treat them with Care and Respect

For many citizens, speaking in front of Council is a new and difficult experience. Under such circumstances, many are nervous. Councilmembers are expected to treat citizens with care and respect during public hearings. Councilmembers should commit full attention to the speakers or any materials relevant to the topic at hand. Comments and non-verbal expressions should be appropriate, respectful, and professional.

B. Be Fair and Equitable in Allocating Public Hearing Time to Individual Speakers

The Council President will determine and announce time limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated five minutes, with applicants and appellants or their designated representative allowed more time. If

many speakers are anticipated, the Council President may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

Each speaker may only speak once during the public hearing unless the Council requests additional clarification later in the process. After the close of the public hearing, no additional public testimony will be accepted unless the Council reopens the public hearing for a limited and specific purpose.

C. Ask for Clarification, but Avoid Debate and Argument with the Public

Only the Council President, not other Councilmembers, may interrupt a speaker during a presentation. However, other Councilmembers may ask the Council President for a point of order if the speaker is off the topic or exhibiting behavior or language the Councilmember finds disturbing. Questions directed by Councilmembers to members of the public testifying should seek to clarify or expand information, not to criticize or debate.

D. Follow Parliamentary Procedure in Conducting Public Meetings

The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Council President or Committee Chair, subject to the appeal of the full Council or Committee per Roberts Rules of Order.

Outside of Public Meetings

E. Make no Promise on Behalf of the City or Council in Unofficial Settings.

Councilmembers will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. Overt or implicit promises that the Council will vote or make decisions in a particular way on matters brought before it or promises that City staff will take some specific actions shall be avoided.

Councilmembers must ensure that in expressing their own opinions they do not mislead any listener into believing that their individual opinion is that of the entire Council, unless the Council has taken a vote on that issue and the Councilmember's opinion is the same as the decision made by the Council. Likewise, no Councilmember should state in writing that Councilmember's position in a way that implies it is the position of the entire City Council. A Councilmember has the right to state a personal opinion, and has the right to indicate that he/she is stating such as a member of the Council, but must always clarify that he/she is not speaking on behalf of the City or the Council unless authorized by the Council to do so.

F. Defer to the Council on Matters Directed to the Council as a Body

It is the policy of the City and the Council that questions, suggestions, demands and claims made to the Council as a body, including those made generally to each Council Member, should be responded to by the Council as a body. This requires that a response be made by action of the

Council. Individual Council Members may respond if they wish to do so, but in that case they should make it clear in the response that they do not do so on behalf of the Council, speak only for themselves, and that any response by the Council is to be made by Council action.

SECTION 6: Elected Official Conduct with Public Agencies

A. Be Clear about Representing the City or Personal Interests

If a Councilmember appears before another governmental agency or organization to give a statement on an issue, the Council member must clearly state whether his or her statement reflects personal opinion or is the official stance of the City.

Councilmembers must inform the Council of their involvement in an outside organization if that organization is or may become involved in any issue within the City's jurisdiction. If an individual Councilmember publicly represents or speaks on behalf of another organization whose position differs from the City's official position on any issue, the Councilmember must clearly communicate the organization upon whose behalf they are speaking and must withdraw from voting as a Councilmember upon any action that has bearing upon the conflicting issue.

B. Representation of the City on Intergovernmental Commissions and Other Outside Entities

SECTION 7: Elected Official Conduct with Boards and Commissions

A. Limit Contact with Board and Commission Members to Questions of Clarification

Councilmembers shall not contact a Board or Commission member to lobby on behalf of an individual, business, developer or organization. Councilmembers may contact Board or Commission members in order to clarify a position taken by the Board or Commission or a member thereof. Council members may respond to inquiries from Board and Commission members. Communications should be for information only.

B. Attendance at Board or Commission Meetings

Councilmembers may attend any Board or Commission meeting, which are open to any member of the public. However, they should be sensitive to the way their participation is viewed, especially if it is on behalf of an individual, business, developer or organization. which could be perceived as unfairly affecting the process.

C. Be Respectful of Diverse Opinions

A primary role of Boards and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers must be fair and respectful to all citizens serving on Boards and Commissions.

SECTION 8: Elected Official Conduct with the Media or Social Media

A. Expression of Positions on Issue

When communicating with the media or in social media on matters within the authority of the City or the Council or brought before the Council for action, Council Members should clearly differentiate between personal opinions and the official position of the City. Each Council Member represents one vote of nine and until a vote on any issue is taken, Council Members' positions are merely their own.

B. Discussions Regarding City Staff

Councilmembers should not initiate discussions of City personnel issues or other matters regarding individual City staff in the media or social media. Any issues pertaining to City staff should only be addressed directly to the City Manager.

C. Discussions Regarding Closed Session Matters

Council Members should hold in strict confidence all information concerning matters dealt with in Closed Session. Closed Sessions may involve confidential or privileged information in litigation, records the release of which is prohibited by the Public Records Law or any other statutory or common law limitation on the release of records, information significant to the competitive or bargaining position of the City in various matters, or privacy and reputational interests of individuals.

Council member shall not, either directly or indirectly release, make public, or in any way divulge any such information, or any aspect of the closed session deliberations to anyone, unless expressly authorized by Council or required by law to do so, or unless such information has already been made public or the reasons for holding closed session no longer apply.

D. Councilmembers reporting or commenting on pending or past actions of the Council, shall not deliberately mischaracterize pending or past actions of the Council or actions of City staff.

SECTION 9: Enforcement of this Code of Conduct

A. Filing of Complaints

Any person who believes an Elected official, in his/her official capacity, has violated a requirement, prohibition, or guideline set out herein except a violation under Section 2 of this Code, may file a sworn complaint with the City Clerk identifying (1) the complainant's name, address and contact information; (2) the name and position of the City official who is the subject of the complaint; (3) the nature of the alleged violation, including the specific provision of the Code allegedly violated, and (4) a statement of facts constituting the alleged violation and the dates on which, or period of time during which, the alleged violation occurred. Council Members may file sworn complaints alleging violations under Section 2 of this Code, which shall include the information referred to in (1) through (4) above.

Attached to the complaint the person making the complaint shall provide all documents or other materials in the complainant's possession that are relevant to the allegation, a list of

all documents or other materials relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other materials relevant to the allegation but unavailable to the complainant, including the location of the documents if known, and a list of witnesses, what they may know, and information to contact those witnesses.

The complaint shall include an affidavit at the end of the complaint stating that the "information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged are true and correct and that they constitute a violation of the Code." If the complaint is based on information and belief, the complaint shall identify the basis of the information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public, or before the City Clerk. The notary public or City Clerk shall verify the signature.

If a complaint filing is determined to be complete by the City Clerk, the City Clerk shall forward the matter to the City Council. If the complaint filing is determined incomplete, the City Clerk shall notify the complainant of the deficiency.

B. Time for Filing

A complaint under the Code must be filed no later than 30 days from the date of discovery of the alleged violation. Provided, however, such time limit shall be 30 days following the alleged violation of this Code, if such alleged violation occurred in open session during a public meeting. However, anyone having information on which a complaint is based is encouraged to file the complaint as soon as the information is obtained so that immediate action may be taken by the Council or the appropriate staff member or agency. The delay in filing a complaint may be considered in determining the sanction to be imposed.

C. False or Frivolous Complaints

A person who knowingly makes a false, misleading, or unsubstantiated statement in a complaint is subject to criminal prosecution for perjury and possible civil liability. If, after reviewing a complaint, it is determined that a sworn complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided, the person filing the complaint may be subject to prosecution for perjury or other penalty. If a complaint filed by a Council Member is determined to be filed in bad faith or for the purpose of harassment, or determined to be intentionally false or provides malicious information, it shall be considered a violation of this Code. A City official who seeks to take civil action regarding any such complaint shall do so at his or her expense.

D. Complaint Procedure

- (1) Hearing on Complaint- If the City Clerk determines that the complaint is complete he/she shall forward it to the City Council to set a hearing to investigate the allegations within 30 days after filing of the complaint. The City Council shall issue a summons signed by the City Clerk, commanding the individual so complained of to appear before the City Council on a day and at a place named in such summons and show cause as to why the individual should not be subject to penalties and sanctions. Such summons shall be served at least seven days before the time in which such person is commanded to appear, and shall include the complaint and any supporting documentation.
- (2) Failure to Respond to Summons- If the individual charged does not appear as required by the summons, the City Council may consider such failure to appear in its recommendation to Council. The Council may subsequently consider such failure to appear in its decision to issue penalties or sanctions.
- (3) Parties Counsel- If the person charged appears as required by the summons and denies the complaint; both the complainant and the person charged may produce witnesses, cross-examine witnesses, and be represented by counsel. The person charged shall be provided a written transcript of the hearing at his or her expense.
- (4) Council Action- At the conclusion of the evidentiary hearing, the City Council, following deliberation in open or executive session, shall make a decision which includes findings of fact, conclusions of law, and a determination as to what action, if any, the Council should take into account with respect to the individual charged. The City Council shall provide the complainant and the individual charged with a copy of the report. Either the complainant or the person charged may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Council.
- (5) Penalties and Sanctions Policy - It is the intent of the Council to educate and, when necessary, discipline Councilmembers who violate this Code. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes that the progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving the matter, including the intent of the one accused of wrongdoing.
- (6) Possible Penalties and Sanctions- Possible sanctions may include:
- a. An informal censure by the Council, which would only be made as part of a motion in a public meeting.
 - b. A formal censure by the Council, which would be made by motion in a public meeting and then published in the City official newspaper
 - c. Removal as provided in WI Stats. Sections 62.11(3)(a) and 17.12(1)(a)
 - d. Any other sanction available by law.

Imposition of an informal or formal censure shall require a majority vote of the Council. Removal shall require an affirmative vote of $\frac{3}{4}$ of the Council (i.e., at least seven of the nine members). Failure to comply with this Code may constitute grounds for the Council to expel a Council Member under Wis. Stat. Section 62.11(3)(a) only if neglect of duty is found by the Council, and grounds for removal from office under Wisconsin Statute §17.12(1)(a) only if inefficiency, neglect of duty, official misconduct or malfeasance in office is found by the Council (see Wis. Stat. Section 17.001).

(7) Notice- The City Clerk shall give written notice of the Council's decision to the person charged.

Section 10. Code of Conduct to be Provided to Each Member of the City Council

Upon or prior to the swearing-in of each newly-elected or re-elected member of the City Council, the City Clerk shall provide such member with a copy of this Code of Conduct and shall request their signed acknowledgement of same of having received and reviewed this Code of Conduct, on the form presented on the next page.

By signing this document, I acknowledge that I have read and understand the information provided.

Name: _____

Signature: _____

Date: _____