



CITY OF PORTSMOUTH, NEW HAMPSHIRE
GOVERNANCE COMMITTEE

PUBLIC MEETING NOTICE
MONDAY, July 17, 2023
10:00 a.m.

Conference Room A
City Hall Complex, 1 Junkins Avenue Portsmouth,
NH 03801

*Members of the public also have the option to join the meeting over Zoom
(See below for more details)**

1. Welcome and Call to Order
2. Roll Call
3. Review and approval of the Minutes from the June 26, 2023 meeting
4. Old Business
 - a. Economic Development Committee Ordinance
 - b. Arts and Cultural Commission Ordinance
 - c. Sustainability BR Committee Conversion Ordinance – status update
 - d. Conflict of Interest in Administrative Ordinance Sections 1.801 and 1.802 – Final Draft Language
 - e. Election Disclosures - Administrative Ordinances 1.902, Council Rule 21, and City Charter Section 3.8
 - Current Election Disclosure Requirements
 - Discussion of Any Proposed Changes to the Ordinance for 2025
5. New Business
 - a. City Council Preliminary Draft Ethics Policy
6. Public Comment
7. Announcements
 - a. Current Committee Schedule
 - Conflict of Interest, Sections 1.901/1.902, Council Rule 21, Election and Interest Disclosure Forms, Sidewalk Policy – July 31
8. Adjournment

****Members of the public also have the option to join this meeting over Zoom using the link below:***

Join Zoom Meeting
<https://us06web.zoom.us/j/81940623010>

Meeting ID: 819 4062 3010
Passcode: 583812

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IV, Section 1.402 – **ECONOMIC DEVELOPMENT COMMISSION**, subsections B and C, of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE IV: COMMISSIONS AND AUTHORITIES

Section 1.402: ECONOMIC DEVELOPMENT COMMISSION

- A. Membership and Term: The Economic Development Commission shall consist of nine (9) qualified regular members and one alternate member. They shall be appointed by the Mayor subject to the approval of the City Council for a term of four years, **except that the first two (2) appointments made by the Mayor for members whose terms expire in 2025 shall each be for a term of two (2) years. Thereafter, all appointments shall be for a term of four (4) years from the end date of any expiring term. Vacancies shall be filled for the remainder of the term of the member whose departure from the Commission created the vacancy.** The Mayor and City Manager shall also serve as ex-officio members of the Economic Development Commission whose terms shall correspond to their respective tenure of office. (Amended 9/22/97)
- B. Powers and Duties: ~~The Commission shall encourage the establishment of business and industry in Portsmouth and the surrounding area and promote the welfare of local industry and general business. (Adopted as amended 12/03/90)~~ **The Commission shall develop and recommend to the City Council and other departments, City Manager, and boards and committees, and commissions of the City policies, procedures, regulations, and ordinances and take such other actions that encourage and promote economic and business development, including business recruitment, retention, and growth, and the creation and maintenance of a healthy, diversified, and sustainable business community in the City and broad prosperity in the community.**
- C. Functions: In furtherance of its duties set out in Subsection B, the Commission may perform one or more of the following functions:
- ~~The Commission shall make recommendations to the City Council concerning the acquisition, bonding, developing, building, leasing~~

~~and mortgaging of commercial and industrial land and buildings and other matters incidental to attracting business and industry to Portsmouth. (Adopted as amended 12/03/90)~~ **Assist the City Council and staff City Manager in the formulation of economic development goals for the City.**

2. ~~It shall be the general responsibility of the Economic Development Commission to increase and sustain the business and personal prosperity of all residents of this community while protecting and maintaining the quality of our natural environment and historic and cultural assets. This process should consist of the encouragement of a broad, productive community effort to coordinate and enhance the utilization of all community resources involved in any respect with economic development. The process should further ensure that adequate financing sources are available to those qualified enterprises, which desire to start up, expand, and/or locate in our Community. (Adopted as amended 12/03/90)~~ **Assess existing economic development policies of the City for the purpose of recommending such modifications as may be appropriate to promote the economic development goals of the City.**
3. **Formulate or assist in the formulation of new economic development strategies, policies, regulations, and ordinances for the purpose of achieving the economic development goals of the City in collaboration with the Assistant City Manager for Economic Development or as designated by the City Manager.**
4. **Prepare and submit recommendations to the City Council, the City Manager and other boards, committees, and commissions and staff on a broad range of matters generally related to economic development, including, business development, public-private partnerships, maintenance and development of commercial, industrial, and business districts, and business retention and attraction programs.**
5. **Make recommendations to the City Council regarding the acquisition, bonding, developing, building, leasing, financing and mortgaging of commercial and industrial land and buildings and other matters incidental to retaining and attracting business and industry to the City.**
6. **Respond to inquiries of the City Council on matters relating to economic development.**
7. **Conduct research into the economic conditions and trends of the community and the greater regional economy.**

- ~~8. Survey the business community regarding its condition, needs for and obstacles to its continued health, success, and growth.~~
- ~~9. Meet, meet and confer with businesses, civic organizations, developers, educational institutions, landowners, and citizens to learn promote the merits of economic development and to understand better the resources and needs of the community and to promote the merits of economic development to support its continued health, success, and growth.~~
- ~~109. Provide leadership and guidance to assigned department heads and staff the City Manager in the areas of planning of, economic development and redevelopment.~~
- ~~110. Perform such other duties as and provide such other information, assistance, and advice to the City Council, City Manager, and other boards, committees and commissions and staff as is consistent with Subsection B herein.~~

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

PORTSMOUTH CITY COUNCIL APPOINTED BOARDS AND COMMISSIONS

ECONOMIC DEVELOPMENT COMMISSION		9 Members, 4 Year Terms				
Clancy, Sean, Economic Dev. Ex-Officio						
City Manager, Ex-Officio						
Cohen, Philip	114 Crescent Way	767-1395	12/14/2020	R	10/1/2024	
Eaton, Everett, Chair	155 Pinehurst Rd.	430-3808	10/24/2022	R	10/1/2026	
Gold, Alan	50 South School St., #3	978-886-1910	9/20/2021	R	10/1/2025	
Lachance, Sarah	316 Coolidge Dr.	682-4830	10/18/2021	R	10/1/2025	
Lehoux, Jacob	93 High Street, Apt. 2	603-502-0920	12/6/2021		12/31/2025	
Marchewka, Robert	327 Sagamore Ave.	436-9222	11/16/2020	R	10/1/2024	
Mayor, Ex-Officio						
Ward, Andrew	445 Ocean Rd. Unit 2	603-617-0252	12/20/2021		10/1/2025	
Watson, Thomas	220 New Castle Ave.	431-0986	10/24/2022	R	10/1/2026	
Weidman, Anne	44 Lookout Lane	603-770-0876	11/14/2022		10/1/2026	
Kelley, JoAnna "Jo", Asst. Mayor, Council Rep.					12/31/2023	
Lombardi, Vincent, Council Rep.					12/31/2023	
Howard, Anna, Alternate	553 Maplewood Ave.	508-523-1862	2/6/2023		10/1/2025	

Membership Terms Expiration Dates
under Proposed Change to Section 1-402.A

Current Membership

10/1/2023
10/1/2024 Cohen, Marchewka
10/1/2025 Gold, Lachance, Lehoux, Ward, Howard
10/1/2026 Eaton, Watson, Weidman

End of 2023

10/1/2024 Cohen, Marchewka
10/1/2025 Gold, Lachance, Lehoux, Ward, Howard
10/1/2026 Eaton, Watson, Weidman
10/1/2027

(No change as no terms expired in 2023)

End of 2024

10/1/2025 Gold, Lachance, Lehoux, Ward, Howard
10/1/2026 Eaton, Watson, Weidman, Cohen, Marchewka
10/1/2027
10/1/2028

(Cohen and Marchewka, as first two appointments under the amended Subsection A, get 2 year terms)

End of 2025

10/1/2026 Eaton, Watson, Weidman, Cohen, Marchewka
10/1/2027 Gold, Lachance
10/1/2028
10/1/2029 Lehoux, Ward, Howard

(Gold and Lachance, as the third and fourth appointments under the amended Subsection A, get 2 year terms. Lehoux, Ward and Howard get 4 year terms.)

NOTE: Assumes re-appointments are taken in alphabetical order

Membership Terms Expiration Dates
under Proposed Change to Section 1-402.A [Version 2]

Current Membership

10/1/2023
10/1/2024 Cohen, Marchewka
10/1/2025 Gold, Lachance, Lehoux, Ward, Howard
10/1/2026 Eaton, Watson, Weidman

End of 2023

10/1/2024 Cohen, Marchewka
10/1/2025 Gold, Lachance, Lehoux, Ward, Howard
10/1/2026 Eaton, Watson, Weidman
10/1/2027

(No change as no terms expired in 2023)

End of 2024

10/1/2025 Gold, Lachance, Lehoux, Ward, Howard
10/1/2026 Eaton, Watson, Weidman,
10/1/2027
10/1/2028 Cohen, Marchewka

(Cohen and Marchewka get 4 year terms as usual)

End of 2025

10/1/2026 Eaton, Watson, Weidman,
10/1/2027 Gold, Lachance
10/1/2028 Cohen, Marchewka
10/1/2029 Lehoux, Ward, Howard

(Gold and Lachance, as the first two appointments under the amended Subsection A, get 2 year terms. Lehoux, Ward and Howard get 4 year terms.)

NOTE: Assumes re-appointments are taken in alphabetical order

Version 2: **“except that the first two appointments for members whose terms expire in 2025 shall each be for a term of two (2) tears.**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IV, Section **1.413 – ARTS AND CULTURAL COMMISSION** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE IV: COMMISSIONS / AUTHORITIES

Section 1.413: ARTS AND CULTURAL COMMISSION

- A. Membership and Term: The Arts and Cultural Commission shall consist of 14 qualified regular members and one alternate member. Of those 14 members, 4 members shall represent the arts and cultural institutions in Portsmouth, both for profit and nonprofit in nature, and their membership on the committee shall be on behalf of their institutions, rather than through individual membership. Those institutional members shall not serve consecutive terms, but their membership shall rotate among those arts and cultural institutions to foster participation on the part of various institutions. An additional 4 members shall be appointed from the community of artists within the City of Portsmouth. Four members shall be individuals with appreciation for community arts and cultural programming. One City Councilor shall serve in a term corresponding with his/her/their respective tenure of office. All members shall be appointed by the Mayor, subject to the approval of the City Council, for a term of three years. The City Manager or his/her/their representative shall serve as an ex-officio member of the commission.**
- B. Definitions: Arts and Cultural Institutions should be defined as those institutions engaging primarily in direct community work in visual arts, musical arts, theater arts, cultural community events, and historical preservation and education.**
- C. Powers and Duties: The Commission shall encourage support for arts and culture within the wider Portsmouth community, including, but not limited to the following.**
- 1. The Commission shall foster the implementation of the Cultural Plan of the City of Portsmouth, and shall conduct other studies and planning processes, as necessary, focusing on the arts and cultural community.**
 - 2. The Commission shall support the establishment of arts and**

cultural institutions in Portsmouth and the surrounding area, promote the welfare of existing arts and cultural institutions, and support coordination and communication among local artists, arts and cultural institutions.

- 3. The Commission shall make recommendations to the City Council concerning arts and cultural needs within the City, and shall create a plan for attracting and retaining artists and arts and cultural institutions.**
- 4. The Commission shall work to increase and sustain the arts and cultural appreciation of all residents while protecting and maintaining the quality of our arts institutions and historic and cultural assets. This process should consist of the encouragement of a broad, productive community effort to coordinate and enhance the utilization of all community resources involved in any respect with arts and culture.**
- 5. The Commission shall identify governmental funding sources, including state and federal funding resources designated for Municipalities, to support its work. The Commission shall not raise funds in direct competition with arts and cultural organizations within the City of Portsmouth.**
- 6. The Arts and Cultural Commission shall work in coordination with, and in support of the Public Art Review Committee to promote Public Art in the City of Portsmouth.**

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk


CITY OF PORTSMOUTH

LEGAL DEPARTMENT

MEMORANDUM

DATE: June 27, 2023

TO: COUNCILOR KATE COOK, COUNCILOR JOHN TABOR, and
COUNCILOR VINCENT LOMBARDI

FROM: ROBERT P. SULLIVAN, OF COUNSEL 

RE: CODE OF ETHICS

Following the Governance Committee meeting of June 26, 2023, attached hereto in draft form is a proposed ordinance suitable for submission to the City Council after any final modifications to it are determined by the Governance Committee and the draft watermark is removed. The form of the document attached hereto, which is dated June 27, 2023, incorporates all proposed amendments to the current Code of Ethics, which have been voted by the Governance Committee prior to the June 26th date. Additionally, it contains the three (3) further modifications determined by the Governance Committee on June 26th. These are:

1. The correction of a formatting error between Section 1.801 H (1) and 1.801 H (2).
2. The modifications as determined on June 26th by the Governance Committee to Section 1.802 D.
3. The re-wording of Section 1.802 J (c), as determined by the Governance Committee on June 26th.

I anticipate that it will be possible for the Governance Committee to put this proposed ordinance in a form usable to present to the City Council at the Committee meeting of July 17.

RPS/smr

Attachment

cc: Suzanne M. Woodland, Deputy City Manager
Susan G. Morrell, City Attorney

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article VIII – **CODE OF ETHICS**, Preliminary, Section 1.801 – DEFINITIONS, and Section 1.802 – CONFLICTS OF INTEREST of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE VIII: CODE OF ETHICS

PRELIMINARY

The citizens of Portsmouth are entitled to a fair, ethical, and accountable City government. The effective functioning of democratic government requires that all of its officials, whether elected or appointed, comply with both the letter and the spirit of the laws and be independent, impartial, and fair in their judgment and actions. Public Office is to be used for the public good, not for personal gains. Public deliberations and processes must be conducted in an atmosphere of respect and civility and openly, unless legally confidential. To this end, the City Council adopts this Code of Ethics for all of its officers and officials, whether elected or appointed.

Section 1.801: DEFINITIONS

For purpose of this Article, the following terms shall be defined in the following manner:

- A. Charged Party: That Officer or Employee alleged to have violated this Ordinance and is the subject of the Complaint.
- B. Complaint: Any written communication meeting the requirements of Section 1.806 (A).
- C. Complainant: The person making the Complaint.
- D. Employee: The term "Employee" shall include all employees of the City including the Police, School and Fire Departments whose salary is paid in whole or in part from the City Treasury.
- E. Ethics Investigation Officer (EIO): That person serving in the capacity as described in Section 1.805.
- F. Governing Body: The term "Governing Body" shall mean the City Council, School Board, Police Commission, or Fire Commission.

G. Officer: The term "Officer" shall be defined to include every person who serves the City of Portsmouth in any official position which is established by state law, the Municipal Charter, the Ordinances of the City or by appointment of the City Council.

H. Official Duties: The term "Official Duties" shall mean the following:

1. In the case of members of the City Council, School Board, Fire Commission, Police Commission and the City Manager, those duties and responsibilities set forth in the City Charter and/or established by State law.

In the case of all other Officers, those duties and responsibilities set forth in the legislation or vote which establishes the position held by the Officer or the job description for that position.

2. In the case of the Chief of Police, the Superintendent of Schools, the Fire Chief, and all employees, those duties and responsibilities set forth in the respective job description for each party or employee.

Paragraph formatting
edit – indent under
Paragraph 1

I. **Quasi-Judicial: Those City employees or officers who are required by state or municipal law to act in a neutral and impartial manner in making judicial-type decisions in the performance of any particular function, while performing that function.**

J. **Family: Any group of people closely related by blood, marriage or choice, as parents, children, and members of one's household.**

K. **Direct Personal Interest: An interest in real estate created by the City employee or official or their family member being an owner or abutter of real estate being considered by a public body, or likewise, an interest in a business for which any action in their official capacity could result in personal or familial financial gain.**

L. **Direct Pecuniary Interest: A gain or loss in the form of money, property, or any other item of measurable value provided to or taken from a person.**

Section 1.802: CONFLICTS OF INTEREST

A. No Officer or employee shall engage in any business or transaction or shall have a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his/or her official duties.

- B. Representing Private Interests Before City Agencies: No Officer or employee shall appear in behalf of private interests before any governing body or land use regulatory board of which the officer or employee is a member or membership on which is subject to approval by the officer or employee.

Officers and employees, however, may appear without compensation in behalf of constituents or in the performance of public or civic obligations. This section shall not prohibit appearances upon matters only incidentally requiring official action which do not develop into a substantial part of the employment, provided, that the retainer is not for the purpose of appearing before the governing body or land use regulatory board.

- C. Representing Private Interests Before Courts: No officer or employee shall represent private interests in any action or proceeding against the interests of the land use regulatory board or governing body of which the officer or employee is a member, or membership on which is subject to approval by the officer or employee in any litigation to which the City is a party.
- D. Disclosures of Interest in Legislation: A Councilor who has a direct or indirect financial or other private interest in any proposed legislation shall publicly disclose, on the official records of the Council, the nature and extent of such interest. **Reference is made to the separate and distinct disclosure obligations of municipal officials under Chapter 1, Article IX, Section 1.901 and election candidates under Article IX, Section 1.902.**
- E. Disclosures by Officer or Employee of Interest in Legislation: An officer or employee who has a direct or indirect financial interest or other private interest in any legislation and who participates in discussion before or gives official opinion to the Council, shall publicly disclose on the official record the nature and extent of such interest.
- F. Gifts and Favors: No officer or employee shall accept any gift, over over ~~\$100.00~~ **\$350.00 per calendar year**, whether in the form of service, loan, thing or promise, **travel and lodging, or** any other form from any person, firm or corporation which to his/or her knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the City. This provision shall not apply to campaign contributions **of \$100.00 or less. (See Section 1.901 of this ordinance.)**
- G. Disclosures of Confidential Information: Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her

official duties shall publicly disclose on the official record the nature and extent of such interest.

- H. Investments in Conflict with Official Duties: Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her official duties shall publicly disclose on the official record the nature and extent of such interest.
- I. Incompatible Employment: No officer or employee shall engage in or accept private employment or render or seek services or goods for private interests when such employment or service creates a conflict with his/her official duties.
- J. **Actions in a Quasi-Judicial Capacity: City employee or official acting in a quasi-judicial capacity must abide by all provisions of state law with regard to conflict of interest and ethics. This shall include:**
 - (a) **Compliance with all statutes and governing case law.**
 - (b) **Avoiding any involvement in an application when a family member is participating in any way in connection with the application presented to the City employee or official, inclusive of when that family member speaks at public comment or in a public hearing.**
 - (c) **Officials acting in a quasi-judicial capacity shall not speak publicly as members of the public at hearings on matters or issues that are pending before any public body of which they are a member, except when the official has a direct personal interest as defined herein.**
 - (d) **City employees or officials acting in a quasi-judicial capacity shall not participate as a party to any litigation which involves a person, property, or issue which might reasonably come before that employee or official when acting in a quasi-judicial capacity, except when the City employee or official has a direct personal interest as defined herein.**

Section 1.803: CONSEQUENCES OF VIOLATION

Any violation of any provisions of this ordinance shall constitute cause for public censure, suspension or removal from office or, in the case of Employees disciplinary action as may be set forth in any collective bargaining or employment agreement up to and including termination from employment.

Section 1.804: BOARD OF ETHICS

- A. A Board of Ethics (“BOE”) is hereby created. This BOE shall consist of five (5) persons: two members shall be selected from the City Council and one member each from the School Board, Police Commission and Fire Commission. All members shall be selected by lot to maintain a full board as necessary. The City Attorney (ex officio) or such other legal counsel (ex officio) shall provide legal advice and support for the BOE. The BOE members shall be selected by lot and drawn at the first meeting of the calendar year of the governing bodies.
- B. Each BOE Member selected is required to serve unless the BOE Member is the subject of the Complaint, has a conflict of interest, or is excused due to unavailability or exceptional causes (such as a health issue).
- C. The BOE Members shall elect a chairperson and the BOE may adopt such rules for the conduct of its business as it sees fit. The BOE shall have the power to draw upon City departments for reports and information and stenographic and clerical help. They shall have all subpoena powers as may be available to them under State law.

Section 1.805: ETHICS INVESTIGATION OFFICER

- A. The position of Ethics Investigation Officer (EIO) is hereby created. The City Manager shall have the power to identify and retain an EIO, with approval from the Board of Ethics, to assist with the investigation and prosecution of any Complaint which has been referred for investigation. The EIO, with approval from the Board of Ethics, shall have sufficient experience and training to conduct the investigation.
- B. In the event the Complaint is against the City Manager, the responsibility to identify and retain an EIO shall reside with the City Attorney in agreement with the Mayor and with the approval of the Board of Ethics.

Section 1.806: COMPLAINTS, INVESTIGATIONS AND HEARING

- A. **Complaint Requirements.** Any person may submit a written complaint alleging one or more violations of Section 1:802. Such complaint must be based on personal knowledge, and set forth facts with enough specificity and detail for a determination of sufficiency for investigation. The Written Complaint must be signed under oath and include contact information, including: home address, phone number and email address (such personal contact information to be treated as

confidential upon request). The Complaint shall be delivered to the City Attorney with a copy to the Mayor and City Clerk. The City Attorney shall promptly provide a copy of the Complaint to the Charged Party.

B. Review for Sufficiency.

1. A Review for Sufficiency of the Complaint will be completed within thirty (30) days of receipt. This review will be based on the allegations contained in the Complaint and the immediately available record of any public meetings or records referenced in the Complaint.
2. The City Attorney and the Mayor shall conduct the Review for Sufficiency except in cases in which either is the subject of the Complaint. Complaints against the City Attorney shall be reviewed by the City Manager and Mayor. Complaints against the Mayor shall be reviewed by the City Attorney and the Assistant Mayor.
3. If the Complaint is deemed insufficient, the Complainant will be notified in writing of that decision with a copy provided to the Charged Party. A Complaint will be deemed sufficient if it is determined that the Complaint establishes some reasonable possibility that a violation of the Code of Ethics may have occurred.
4. If the Complaint is deemed to be sufficient for further investigation, it shall be referred to the EIO for further action and all parties will be notified of this step through a communication in writing. That communication in writing will contain the following:

This Determination of Sufficient does not determine the truth or falsity of any of the allegations contained in the Complaint or constitute any finding or conclusion that a violation occurred.

C. Investigation Phase. The EIO shall be provided the full cooperation of the City government to conduct such investigation as may be necessary to determine whether any violation may have occurred and next steps. The EIO shall have all subpoena powers as may be available under State law. The Charged Party shall have an opportunity to provide a response to the Complaint.

The EIO's investigation shall be completed within forty-five (45) days of the date of referral unless the Charged Party and the City's representative (City Manager or City Attorney) mutually agree to a longer period.

The EIO shall provide a written report with the conclusions reached in the completed investigation to the BOE. The EIO shall provide a non-binding recommendation as to the disposition of the Complaint to the BOE. Thereafter, all action with regard to the Complaint shall be taken by the BOE.

D. Board of Ethics Hearings.

1. The BOE shall take no further evidence on any Complaint, but shall make its determination based upon the report received from the EIO. However, the BOE shall hold at least one (1) public hearing at which the EIO, the Complainant, and the Charged Party shall be afforded an opportunity to present oral and written argument to the BOE. The BOE may hear from such other and further parties as it determines appropriate.
2. Any party may be represented by legal counsel at his or her own expense at any stage of an ethics proceeding.
3. The BOE shall issue a written decision within thirty (30) days of the final public hearing with findings and a disposition, dismissal or referral for further action if a violation has been found. If a violation has been found, the BOE shall recommend a sanction or penalty, and refer the matter to the City Council (if an Officer or the City Manager) or to the City Manager (if an Employee) for disposition, sanction or other action as set forth in Section 1:807.

- E.** If the employee is a member of a bargaining unit covered by the terms of a collective bargaining agreement, the investigation will comply with those provisions of the applicable collective bargaining agreement; this may include, but is not limited to the employee having Union representation at any investigative interview that may lead to discipline.

Section 1.807: DISPOSITION AND SANCTION

- A.** In the event that the BOE determines that any Officer or the City Manager committed a violation of this Ordinance, the City Council may take any of the following actions:
- a. Vote for removal pursuant to the City Charter as amended;
 - b. Vote to publicly censure or admonish the offending member;
 - c. Vote to place the matter on file; or
 - d. Vote to overturn the finding of a violation.
- B.** In the case of Employees, the City Manager shall have all rights available under any employment agreement or collective bargaining

agreement to discipline or terminate the employee and the City Manager shall make such report to the City Council as it determines necessary, in public or non-public session as may be determined at the time, as to the action taken.

- C. Criminal Sanctions: In addition to the civil sanctions imposed by this ordinance violation of any provision of this ordinance shall constitute a criminal offense and the City Council may authorize the City Attorney or any other attorney approved by it to prosecute such a violation in the Portsmouth District Court.

The penalty for violation of any provision of this Ordinance upon conviction in the Portsmouth District Court shall be \$1,000 for each offense.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk