

**Meeting Agenda
Board of Ethics**

Tuesday, June 30, 2026 at 5:30 p.m.
Council Chambers, City Hall

- I. Introductions
- II. Approval of Minutes from the 6/3/26 Board of Ethics Meeting
- III. Unfinished Business – Request for Advisory Opinion on City Council Referral CO 26-152
Councilor Mallar's 3/31/26 Remarks Captured on Live Mic – Second Meeting
 - A. Review voluntary statements from any persons
 - B. Review all records requested from the City or other public agencies
 - C. Public hearing
 - D. Board discussion
 - E. Motions regarding each question referred to the Board in the Council Order
- IV. Other Business
- V. Adjourn

Unless otherwise noted, all meetings are held at City Council Chambers, Bangor City Hall, 73 Harlow Street. After 4:30 p.m., members of the public are asked to use the side entrance of City Hall that faces the direction of Exchange and State streets.

In addition to Zoom, you can also watch most meetings via the City of Bangor's YouTube page.

Anyone who wishes to be heard on the application, offer public comment, evidence, or testimony must attend in person or via Zoom. To attend the meeting via Zoom, you may go to the calendar feature of the City's website at <https://www.bangormaine.gov/calendar>. From the calendar, click on the Board of Ethics meeting on June 30, 2026, and then click the link for the Zoom meeting. The link will be there on or before the date of the meeting.

Board of Ethics Minutes
For Meeting Held on June 3, 2026 at 5:30 p.m.

Members Present: Chair Shane Leonard, Member John King, Member Marc Eastman, Member Kodey Silkknitter, Member Stephen Brough and Associate Member James McGee.

Outside Counsel Present: Edward Gould, Esq.

- I. Introductions:
 - A. Chair Leonard opened the meeting.
- II. Approval of the April 16, 2026 Minutes:
 - A. Member Silkknitter made a motion to approve the 4/16/26 meeting minutes.
 1. Member King seconded the motion.
 2. Roll call vote conducted:
 - a. Motion passed (6-0).
- III. No Unfinished Business.
- IV. New Business - Request for Advisory Opinions on City Council Referral of CO 26-152 Councilor Mallar's 3/31/26 Remarks Captured on Live Mic - First Meeting
 - A. Discussion occurred and the Board determined it will request a voluntary statement from Councilor Mallar.
 - B. Discussion occurred and the Board determined it would like a copy of the initial "Bangor Daily News" article that followed the 3/31/26 Board of Ethics meeting.
 - C. Discussion occurred and the Board will request anyone testifying at the hearing to identify themselves and to identify the capacity for which they are speaking.
 - D. Board determined to hold the second meeting (public hearing) on June 30, 2026 at 5:30 pm.
- V. No other business.
- VI. Meeting adjourned.

City of Bangor, ME
Wednesday, March 18, 2026

Chapter 33. Code of Ethics

Article III. Board of Ethics

§ 33-21. Referrals.

- A. Any City Councilor, board member or commission member seeking advice as to whether a particular situation constitutes an actual or potential violation of this code shall first submit a written statement in the form of a Council order describing the nature of the matter to the City Council. If the Council feels that an advisory opinion is necessary, it shall adopt the order, by majority vote, referring the matter to the Board. A tie vote on the order shall also cause the matter to be referred to the Board.
- (1) Upon referral of a question, the Board shall have the power to request voluntary statements from all persons concerned and to review all records on file with the City of Bangor or other public agencies. All Board hearings shall be conducted in accordance with rules of procedure to be adopted by the Board. The Board may conduct any fact finding and deliberations in executive session as provided in 1 M.R.S.A. § 405, Subsection 6A.
 - (2) Upon conclusion of its fact finding and deliberations, the Board of Ethics shall issue written findings with respect to each matter and question referred to it. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so advise the Council.
 - (3) It is the purpose and intent of this code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Bangor.
- B. Employee conflicts. Upon referral, the Board of Ethics may render advisory opinions with respect to potential or prospective conflicts of interest involving City employees. However, allegations of past or present misconduct involving alleged violations of this code by City employees shall not be reviewed by the Board but shall be referred for disposition in accordance with the City's established employee disciplinary procedures.

BOARD OF ETHICS PROCEDURAL RULES

Article I – Authority and Amendment

§ 1.1 Authority

These procedural rules shall govern the Board of Ethics (the “Board”) in accordance with § 33-19 of the City’s Code of Ordinances (the “Code”). Where these procedural rules conflict with State law or City Code, the State law or City Code shall supersede these procedural rules.

§ 1.2 Amendment

These procedural rules may be amended by a majority vote of the members of the Board present at a regular or special meeting of the Board provided there is a quorum, and provided notice of the proposed amendment has been included in the agenda of the meeting.

Article II – Board Membership

§ 2.1 Compliance with Code

Board membership shall comply with all provisions of the City Code.

§ 2.2 Voting Required

All regular members present at the meeting shall vote on every item unless excused from consideration of an item because of a conflict of interest in accordance with the City of Bangor Code of Ethics.

§ 2.3 Associate Members

- A. An associate member may participate in the discussion of all items before the Board, whether designated to vote on the matter or not, unless excused from consideration of an item because of a conflict of interest in accordance with the City of Bangor Code of Ethics (see § 33-11 of the City Code).
- B. In the event that a regular member is absent from a meeting, or excused from consideration of an item because of a conflict, prior to the discussion of the item the Chair or acting Chair shall designate an associate member to vote in place of the absent or excused regular member.
- C. An associate member may only offer a motion, second a motion, or vote if designated as a voting member on the matter under consideration, unless otherwise permitted to vote under the City Code or these procedures.

Article III - Officers

§ 3.1 Officers

- A. The Board shall annually elect a Chair from among the members of the Board at the first meeting of the Board following the swearing in of new members by the City Clerk. The Chair shall serve for one year or until their successor is elected.
- B. In the event that both the Chair is absent or has a conflict of interest, any voting member of the Board may call the meeting to order. The members of the Board, including any associate members, shall then, by majority vote, select a Chair Pro Tem to serve as acting Chair for that meeting only.

§ 3.2 Duties

The Chair, or acting Chair, shall conduct each Board meeting in an orderly manner in accordance with the Code and these procedures.

Article IV – Due Process and Ethics

§ 4.1 Ex Parte Contacts Prohibited

No Board member shall discuss any pending matter with an individual referred to the Board or that individual's representative outside the forum of a Board meeting or otherwise accept any *ex parte* communications concerning a pending matter.

§ 4.2 Public Meetings

Board members may not discuss pending matters with each other outside of a Board meeting. No decision may be made by the Board outside of a regular or special meeting of the Board. Board members may discuss pending matters with City staff or their representative(s).

§ 4.3 Conflicts of Interest

All Board members shall abide by the City of Bangor Code of Ethics. Board member conflicts of interest shall be governed by the procedures in § 33-11 of the Code.

Article V - Meetings

§ 5.1 Time of Meeting

The Board shall meet as follows:

- A. At least quarterly (for example, January, April, July, and October), in accordance with Code § 33-22(B); and
- B. At special meetings when the City Council requests an advisory opinion be rendered by the Board. Any City Councilor, board member, or commission member of any of the boards, committees, and commissions of the City of Bangor seeking advice may submit a written

statement in the form of a Council Order describing the nature of an actual or potential violation to the City Council. The City Council may adopt the Council Order by majority vote referring the matter to the Board. (A tie vote also causes the matter to be referred to the Board.)

§ 5.2 Quorum

A quorum shall consist of three members of the Board. Associate members shall be included in calculating the number of members present. If, at the time of a regularly scheduled meeting of the Board, one or more members of the Board are present but there is no quorum, the members of the Board who are present may open the meeting for the sole purpose of continuing all agenda items to another date set by those members of the Board who are present.

§ 5.3 Conduct of Meetings – Advisory Opinions

- A. All meetings shall be open to the public, with the exception of properly called executive sessions, in accordance with Maine's Freedom of Access Act. Pursuant to § 33-21(A)(1), the Board may conduct any fact finding and deliberations in executive session as provided in 1 M.R.S.A. § 405(6)(A), which states that discussion of disciplining, resignation, or dismissal of an individual or group or public officials may be conducted during an executive session subject to the following conditions: (1) executive session is permitted 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 is/are allowed to attend the executive session; (3) any person charged or investigated may request in writing that the investigation or hearing or charges or complaints against that person be conducted in open session, and that request must be honored by the Board; and (4) any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present at the executive session.
- B. An agenda for each meeting shall be prepared by City staff in consultation with the Chair or acting Chair, and shall be available in advance of the meeting.
- C. The order of business at each meeting, unless otherwise indicated in the agenda or by majority vote of the Board, shall be as follows:
 1. Introductions.
 2. Approval of the minutes from the previous meeting.
 3. Unfinished business.
 4. New business.
 5. Other business.
- D. Upon referral of a question from the City Council, for which an advisory opinion from the Board is sought, the City Solicitor's office shall transmit the Council Order requesting the advisory opinion and all related materials to the Board.

E. The proceedings related to an advisory opinion shall be conducted as follows:

1. First meeting following a Council Order requesting an advisory opinion:

- The Board will discuss whether it desires to request voluntary statements from all persons concerned and review any other records on file with the City of Bangor or other public agencies.
- The Board will also discuss any pre-hearing issues or concerns;
- The Board will determine the date for the public hearing on the issue at hand.

2. Second and following meetings:

- The second and any following meetings shall be conducted as a public hearing as follows:
 - The Board may vote to go into executive session in accordance with §5.3(A) and 1 M.R.S.A. §405(6)(A);
 - The Board shall review the voluntary statements from all persons concerned and review all records requested from the City of Bangor or other public agencies;
 - A public hearing, if applicable, shall be held in accordance with §5.4 below;
 - The Chair, or acting Chair, shall open the floor to discussion by the Board;
 - A Board member shall make a motion regarding each matter and question referred to the Board in the Council Order.
- If no person or representative thereof is available in person to present their case, the Board may consider the item based on voluntary statements and other evidence as presented in accordance with the above procedure, or may postpone review of the item to another meeting.

3. Final meeting:

- The Board shall convene to review and sign the written decision that contains its determination from the prior meeting(s), in accordance with §5.5.
- The Board shall advise the City Solicitor's Office to transmit its written decision to the City Council.

§ 5.4 Public Hearings

A. The Board shall hold a public hearing when required by law or as otherwise deemed appropriate by the Board.

- B. An individual may appear in person or be represented by an attorney or other representative at the hearing.
- C. At the hearing, the order of business shall be as follows, unless otherwise allowed by the Chair or acting Chair:
 - 1. The Chair, or acting Chair, shall open the public hearing;
 - 2. The Chair, or acting Chair, shall open the floor to any individual who desires to speak on the issue, who shall be limited to three minutes to give their comment, and Board members may ask questions to each speaker when the speaker is finished speaking (public comment shall be limited to one-hour total, unless the Chair changes this time limit);
 - 3. The person(s) who is/are the subject of the request for advisory opinion from the City Council shall be given the opportunity to address the statements made during the public hearing, and Board members may ask questions to the person(s) when they are finished speaking;
 - 4. The Chair, or acting Chair, shall close the public hearing. Once closed, the public hearing shall not be reopened unless allowed by the Chair or acting Chair and, if the Board has already moved on to another item or the meeting has adjourned, upon advertising of the reopened public hearing.
- D. In order to maintain orderly procedure, each person shall proceed without interruption by anyone but the Chair or acting Chair.
- E. The Board may, on request of the individual(s) who is/are the subject of the request for advisory opinion or on its own initiative, continue a public hearing to a specified date, time, and place.

§ 5.5 Written Advisory Opinion

The City Solicitor or the outside attorney guiding the Board at the hearing, in consultation with the Chair or acting Chair, shall draft an advisory opinion of the Board's findings to be presented to the City Council. The draft advisory opinion shall be presented to the Board for adoption, or amendment and adoption, within thirty (30) days after the record is closed on the issue before the Board. The Board shall issue a written advisory opinion with respect to each matter and question presented to it. The City Council shall be presented with the Board's written advisory opinion in order to make a final determination on the issue(s) presented to the Board.

§ 5.6 Conduct of Meetings – Annual Recommendations for Code Revisions

- A. An agenda for each meeting shall be prepared by City staff in consultation with the Chair or acting Chair, and shall be available in advance of the hearing.
- B. The order of business at each meeting, unless otherwise indicated in the agenda or by majority vote of the Board, shall be as follows:

1. Introductions.
 2. Approval of minutes from the previous meeting.
 3. Discussion of the provisions of the Code of Ethics.
 4. Other business.
- C. The Board shall work in consultation with City staff to draft a written report to be presented to the City Council, on an annual basis, by the Board Chair or acting Chair of the Board's recommendations for revisions to the Code of Ethics.

Article VI – Decisions on Advisory Opinions

§ 6.1 Meeting Required for Determination

No decision on advisory opinions of the Board shall be made except in a duly called regular or special meeting of the Board.

§ 6.2 Voting

- A. The Board may only act upon a motion that has received a second. A motion shall preferably be expressed in the affirmative, e.g., to recommend to the City Council a finding that the individual before the Board has violated the Code of Ethics. Offering a motion or second expressed in the affirmative does not obligate that member to vote in favor of the application or question.
- B. Decisions of the Board shall be made by majority vote of those present and voting, unless otherwise indicated in the City Code or these procedures.

§ 6.3 Reconsideration

- A. A motion, once made and voted on, may be reconsidered in accordance with these rules.
- B. A member may move reconsideration of a motion at the same or at a regular or special meeting of the Board held within ten (10) calendar days of the date the vote on the motion was taken.
- C. A motion to reconsider may only be made by a Board member who voted with the prevailing side on the prior decision. No more than one motion for the reconsideration of any vote shall be permitted.
- D. A vote to reconsider does not require notice beyond what is required by Maine's Freedom of Access Act, may be taken without the appearance or testimony of the applicant or any other party, and is properly before the Board based only on a written petition or a motion made by a Board member.
- E. An individual present for the decision of the Board on a matter may request the Board reconsider the decision. The request must be filed within three (3) business days of the vote on the decision that is to be reconsidered. The request must be in writing, and be directed to the

Board, c/o the City Solicitor. The request must enumerate and specify the alleged errors of fact or law, and must state fully the reasons for seeking the reconsideration based on mistake, inadvertence, surprise, fraud, or other good cause. The request shall be forwarded to the Board as soon as reasonably possible. Receipt of a request for reconsideration does not compel the Board or any Board member to hold a meeting or to make a motion for reconsideration.

- F. If motion for reconsideration is made, and the motion succeeds, a hearing shall be scheduled. The individual(s) who is/are the subject(s) of the request for advisory opinion and any other parties for whom notice was required for the original hearing shall be notified of the Board's decision to reconsider, the date of the new hearing, and a copy of the request for reconsideration, if any. The same period and type of notice required for the original hearing is required for the new hearing.
- G. At the new hearing, the Board may receive additional evidence and testimony. The scope of the hearing shall include the matters raised in the request for reconsideration and any other matters the Board deems to be relevant. All testimony in the record at the time of the initial decision shall remain part of the record for the new hearing. After the new hearing, the Board shall issue a new decision, which shall replace the original decision.

Article VII – Administrative Provisions

§ 7.1 Minutes

- A. The appropriate City office shall keep a record of the business transacted by the Board. In the absence of the designated record keeper, the Chair may appoint a member of the Board or City staff to keep a record.
- B. If the Board keeps written minutes, every decision of the Board and the reasons stated for the decision shall be recorded as a part of the minutes. The minutes shall be placed on the next meeting's agenda for approval.

§ 7.2 Waiver of Procedures

A two-thirds vote of the Board members present (regular and associate) may waive any procedural rule, if such waiver does not violate a provision of Federal, State or local law.

§ 7.3 Procedural Rules

The rules contained in the current edition of Democratic Rules of Order shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with State law, City ordinance, these procedures and any rules adopted by this Board.



CITY COUNCIL ACTION

04/27/2026 26-152

Council Meeting Date: 04/27/2026

Item No: 26-152

Responsible Dept: City Council

Requested Action: Order



Map/Lot: N/A

Title, Order

Referring the Conduct of Councilor Mallar on March 31, 2026 to the Board of Ethics for an Advisory Opinion

Summary

This Order would formally refer the conduct of Councilor Mallar, on March 31, 2026 to the Board of Ethics for an advisory opinion.

During a recess of a recent meeting, an open microphone recorded a conversation between Councilor Mallar and a City staff member. According to the recording, Councilor Mallar stated: "The school department's asking for a 10% increase. As far as I'm concerned, they get no increase." He was then recorded discussing the department's spending on multilingual teachers and services, stating: "They can't speak English, read English, or write English. It's not a disability. We do not have to furnish. They're probably all illegals anyway. That's what the cultural center is supposed to be doing." These statements were made without a disclaimer clarifying whether the Councilor was speaking in his official capacity or as a private citizen.

Pursuant to the procedures outlined in our Code of Ethics, this order would direct the Board of Ethics to review the facts of this incident and issue an advisory opinion to the City Council on whether these actions violated Chapter 33 of the City Code. Specifically, the Board is asked to determine if the Councilor violated Section 33-1 regarding the maintenance of public confidence and impartial conduct; Section 33-5.1 prohibiting unlawful discrimination and the inequitable treatment of persons; Section 33-13.1 requiring the use of disclaimers to remove ambiguity; or any other provisions of the Ethics Code.

Committee Action

Committee:

Meeting Date:

Action:

For:

Against:

Previous Council Actions

City Manager

City Solicitor

Finance Director

Introduced for: New Business





CITY OF BANGOR ORDER

04/27/2026 26-152

Date: 04/27/2026

Item No: 26-152

Assigned to Councilor: Beck

Referring the Conduct of Councilor Mallar on March 31, 2026 to the Board of Ethics for an Advisory Opinion

WHEREAS, the City's Code of Ethics mandates unbiased conduct, requiring that Councilors treat all persons equitably and not discriminate unlawfully against any person because of national origin, ethnic background, cultural group, or political status; and

WHEREAS, the City's Code of Ethics requires that elected officials making statements in their individual capacity use clear disclaimers to remove ambiguity, ensuring their remarks are not interpreted as representing their office or the City; and

WHEREAS, on March 31, 2026, during a recess of the Board of Ethics meeting, Councilor Mallar reportedly engaged in a conversation with a City staff member inside a municipal building regarding official City business, specifically the School Department budget and funding for multilingual teachers and services; and

WHEREAS, during this conversation, which was recorded on an active microphone, Councilor Mallar reportedly stated his refusal to support funding for students learning English, characterizing them as "probably all illegals anyway"; and

WHEREAS, providing English instruction to multilingual students is legally mandated by state and federal law, meaning the intentional withholding or defunding of such services would constitute an unlawful act; and

WHEREAS, Councilor Mallar did not provide a disclaimer to clarify whether he was speaking in his official capacity as a City Councilor or as a private individual; and

WHEREAS, any City Councilor seeking advice as to whether a particular situation constitutes an actual or potential violation of the Code of Ethics shall submit a written statement in the form of a Council order describing the nature of the matter to the City Council;

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR THAT, the City Council hereby refers the conduct of Councilor Mallar on March 31, 2026, to the Board of Ethics to make findings of fact and render an advisory opinion to the City Council answering the following questions:

1. Violation of § 33-1 (Declaration of Policy): Did Councilor Mallar's statements and conduct, including advocating for the denial of legally mandated educational services, fail to meet the standard of being fair, impartial, and responsive, or fail to maintain a standard of conduct that inspires public confidence in the integrity of the City's government?
2. Violation of § 33-5.1 (Unbiased Conduct): Did Councilor Mallar's statements advocating for the unlawful withholding of legally mandated educational services based on language needs, alongside his assumptions regarding the legal status of students, violate the requirement to treat all persons equitably and without unlawful discrimination?

3. Violation of § 33-13.1 (Use of Titles and Disclaimers): By speaking about official City business (the school budget) to a City staff member inside a municipal building without a clear disclaimer, did Councilor Mallar fail in his duty to remove ambiguity regarding the capacity in which he was communicating?
4. General Compliance: Based on the Board's review of the facts surrounding the March 31, 2026 incident, did Councilor Mallar's actions or statements violate any other provisions of Chapter 33 (Code of Ethics) of the Code of the City of Bangor?

*City of Bangor, ME
Monday, May 11, 2026*

Chapter 33. Code of Ethics

Article I. General Provisions

§ 33-1. Declaration of policy.

The proper operation of democratic government requires that City Councilors and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the City's governmental structure; that public office not be used for personal gain; and that City employees, City Councilors and City appointees maintain a standard of conduct that will inspire public confidence in the integrity of the City's government. In recognition of these goals, a Code of Ethics is hereby established for all City employees, City Councilors and members and associate members of all the City boards and commissions now existing or hereafter created.

*City of Bangor, ME
Monday, May 11, 2026*

Chapter 33. Code of Ethics

Article II. Standards of Conduct

§ 33-5.1. Unbiased conduct.

[Added 10-23-2017 by Ord. No. 17-363]

- A. The purpose of this provision is to clearly establish the expectation of unbiased, fair, impartial, and equitable treatment of all persons.
- B. City Councilors, City employees, board members, and commission members shall conduct themselves in a manner that does not discriminate unlawfully against any person because of race, color, religion, sex, national origin, age, physical or mental disability, genetic information, gender, gender identity, sexual orientation, socioeconomic status, cultural group, or political status.
- C. All persons, irrespective of personal characteristics or other distinctions, to include, but not limited to, race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, cultural group, or political status, shall be treated in the same basic manner under the same or similar circumstances.

City of Bangor, ME
Monday, May 11, 2026

Chapter 33. Code of Ethics

Article II. Standards of Conduct

§ 33-13.1. Use of titles and disclaimers.

[Added 10-13-2021 by Ord. No. 21-335]

- A. Background. Bangor public officials, whether elected or appointed, retain their full, constitutionally guaranteed, First Amendment rights as private individuals. The Code of Ethics respects and protects these rights. One of the responsibilities of elected or appointed officials is to separate protected personal discourse from matters of governance. This section of the Code of Ethics addresses this responsibility. For the general duties of a public official to exercise fairness and impartiality see § 33-1.
- B. Use of titles. In making written or oral statements, elected or appointed City officials may use their titles upon, and only upon, the following circumstances:
- (1) When so doing does not violate any other provision of this Code of Ethics or any provision of the Code of ordinances, state law, or federal law; and
 - (2) When:
 - (a) The City Council has specifically authorized the official to speak on behalf of the City; or
 - (b) The information conveyed:
 - [1] Is consistent with the official position of the City as that position was adopted by the Council or is consistent with the official decision of an applicable board, commission, or committee and the context of the communication only involves that applicable board, commission, or committee; and
 - [2] References the appropriate decision by or position of the City Council, or to the decision of the applicable board, commission, or committee; or
 - (c) When it is made clear and unambiguous that the official is speaking in their individual capacity and not on behalf of the entire City or a board, commission, or committee.
- C. Disclaimers. Disclaimers are only required when there could be ambiguity regarding the capacity in which an elected or appointed official is communicating. In a typical disclaimer, a speaker (or writer) might say (or write), "Speaking for myself," or "Speaking as an individual," or "Although I hold the office of _____, I am speaking tonight as a private individual. My remarks should not be interpreted as representing my office or the City of Bangor's official policy." A speaker (or writer) might also say (or write), "I make these remarks in my personal capacity, and not as _____." These remarks should not be interpreted as representing the City of Bangor." The most important aspect of any disclaimer is to remove ambiguity. Section **33-13.1B(2)(c)** makes it the official's duty to ensure that there is no ambiguity. In this regard, City officials should be cautious of the circumstances or conditions of any statement and be wary of concerted or group action, which increases the likelihood that such action will be perceived as an act or endorsement of the City itself.

- D. Other considerations. Other ordinances and laws relate to the use of titles, and each must be followed. Without limitation and before using their titles, City officials should consider the following provisions: the Freedom of Access Act (Title 1, Chapter 13, of the Maine Statutes);^[1] Title 17-A, Section 608, of the Maine Revised Statutes; § **33-1.1** of the Code of Ordinances; § **33-7.1** of the Code of Ordinances; and § **33-13** of the Code of Ordinances.

[1] *Editor's Note: See 1 M.R.S.A. § 400 et seq.*

Link to 3/31/26 Board of Ethics Video

Link:

<https://www.youtube.com/watch?v=LKTEWM2wcVM>

Click on Browse YouTube

Fast forward to:

1:55:00 – Board of Ethics leaves the Chambers for Executive Session

1:56:13 – Chair Leonard cautions those in the Council Chambers that the microphones are live

2:18:35 – Councilor Mallar approaches the dais and speaks to staff member

2:20:10 – Councilor Mallar makes comments about the School Dept.

Alternative Manual Instructions to Access 3/31/26 Board of Ethics Video

Go to City of Bangor website www.bangormaine.gov

Select “**How Do I...**” from the top banner, and a pop up box displays

Select “**Meeting Videos**” under “**View**” from the right column

Select “**YouTube – City of Bangor**” under “**Quick Links**” from the far right column

Click on “**Live**” under the Subscribe Box in the center of the page

Scroll down to **Board of Ethics 3.31.26**, and click on video



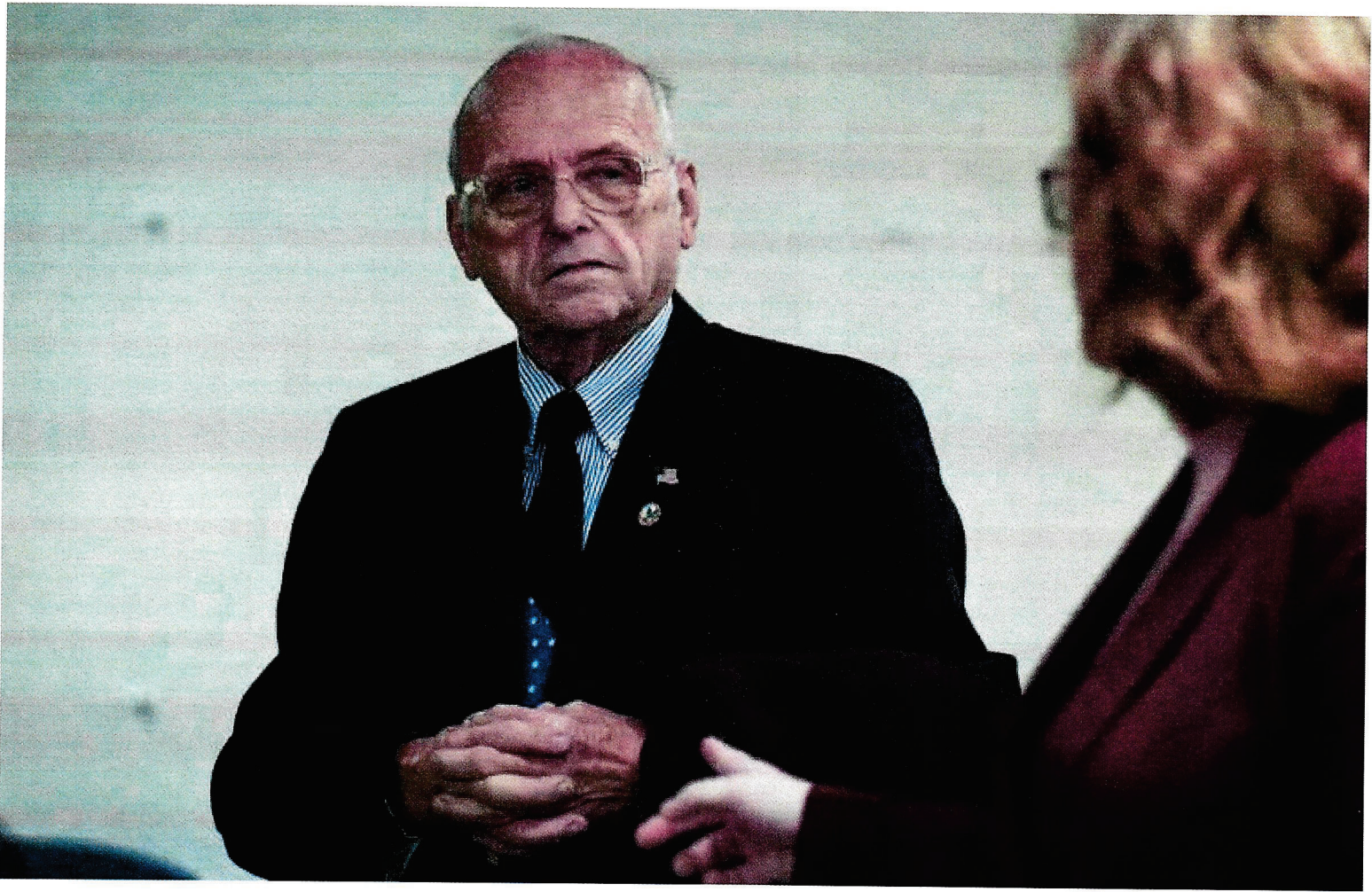
Bangor councilor caught on hot mic complaining about school budget and ‘illegals’

by **Annie Rupertus**

April 1, 2026

 68





Wayne Mallar was elected to the Bangor city council in 2024. Credit: Linda Coan O'Kresik / BDN



Listen now:

Bangor councilor caught on hot mic complaining about school budget and 'illegals'

About 3 Minutes

1x

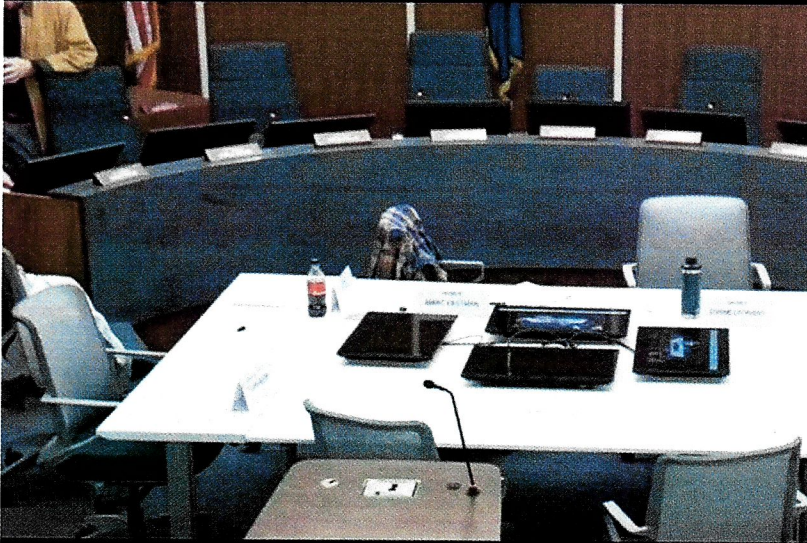
the Everitt

Bangor City Councilor Wayne Mallar was caught on a hot mic in the council chambers Tuesday night complaining about a proposed school department budget hike and programs for “illegals” in local schools.

“The school department’s asking for a 10% increase. As far as I’m concerned, they get no increase,” Mallar said. He can then be heard discussing the department’s spending on multilingual teachers and services for students learning English.

“They can’t speak English, read English, or write English. It’s not a disability. We do not have to furnish. They’re probably all illegals anyway. That’s what the cultural center is supposed to be doing,” Mallar said.

Via Bangor City Council



...they don't speak English, read English or write English.

BDN

The comments were broadcast live during the city's Board of Ethics meeting. The committee convened Tuesday to determine whether Mallar had violated the city's ethics code during a Historic Preservation Commission meeting in August. The board decided later that he had violated the code in that instance.

Mallar made the comments during a break in the public meeting when board members had left the room for an executive session. During that time, Mallar walked to the front of the room to talk to a city staff member who was seated next to one of several microphones.

Mallar stood by his comments in an interview Wednesday, saying he does not support a higher budget for the city's schools and he does not think teachers here should teach English as a second language.

“Why are we teaching English as a second language and taking away from teaching English to our regular citizens? It seems we're spending too much time on the homeless and the illegals and disregarding the citizenry,” he told the Bangor Daily News. “I don't believe most of the illegals pay taxes, property taxes anyway.”

He thinks cultural centers should instead be responsible for teaching English and that a higher budget would harm the city, saying, “The senior citizens won't be able to afford their houses, which no one seems to care about.”

 [Join the conversation](#)



Have your say.

Leave a comment below and let us know what you think.

[Read All 68 Comments](#)



Timothy Surette, the school committee's chair, said that while the committee has not yet finalized its budget, current plans would have them requesting a 6.43% hike from last year. He believes the department is planning to hire another multilingual teacher.

Surette called Mallar's comments at the meeting "false, hateful, and deeply harmful to our multilingual learners and their families here in Bangor."

The school department is required to teach English language learners, he noted, pointing to guidance from the Maine Department of Education, which states that under multiple federal and state laws, "school administrative units have an obligation to ensure that Multilingual/English learners have meaningful access to the district's educational programs and services."

Failing to provide language services could be considered discrimination under the Maine Human Rights Act, according to the education department.

Surette added that the Bangor school department is "legally and morally responsible for ensuring all children receive education, including our multilingual learners."

In Bangor schools, 5.4% of students are multilingual learners, according to 2024-25 data from the Maine DOE.

"The budget that we've put together represents the priorities of the Bangor school department in ensuring that all of our students receive the excellent academic program that we're used to here in Bangor," Surette said.

Mallar told the BDN he wasn't aware that the conversation had been broadcast and that it "shouldn't have been."

When board members left the room for their executive session, chair Shane Leonard warned audience members that the recording was still going.

“I would caution everyone in the room that it appears that the microphones are live for the meeting as they go. Anything said is still being recorded,” Leonard said.

That was about 25 minutes before Mallar’s remarks about the school budget.

A key point of discussion during the board’s deliberations Tuesday night revolved around a conversation Mallar had during a recess in an August meeting of the city’s Historic Preservation Commission. That conversation was not recorded during the break, making it unclear exactly what Mallar said. The board ultimately concluded that Mallar’s actions amounted to an ethics violation, although it does not have any power to impose consequences.

City Council Chair Susan Hawes did not immediately respond to a phone call requesting comment Wednesday.

*City of Bangor, ME
Monday, May 11, 2026*

Chapter 33. Code of Ethics

[HISTORY: Adopted by the City Council of the City of Bangor as Ch. I, Art. 6; amended 6-12-1995 by Ord. No. 95-234. Subsequent amendments noted where applicable.]

Article I. General Provisions

§ 33-1. Declaration of policy.

The proper operation of democratic government requires that City Councilors and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the City's governmental structure; that public office not be used for personal gain; and that City employees, City Councilors and City appointees maintain a standard of conduct that will inspire public confidence in the integrity of the City's government. In recognition of these goals, a Code of Ethics is hereby established for all City employees, City Councilors and members and associate members of all the City boards and commissions now existing or hereafter created.

§ 33-1.1. Nonpartisanship.

[Added 10-23-2017 by Ord. No. 17-362]

To meet the purpose of this Code, the nonpartisanship of City Councilors and their appointees is important for the public confidence in their conduct in fulfilling their duties. In fulfilling their duties and obligations to the citizens of the City of Bangor, City Councilors and their appointees are expected to maintain the nonpartisan structure and intent of Bangor's form of local governance. To this end, City Councilors and their appointees shall conduct themselves in a nonpartisan manner, favoring no political party, and shall refrain from active participation in the election campaign of any particular candidate, whenever they are identified with, or closely associated with, their roles as Bangor public officials or appointees. In such circumstances, public officials and appointees should take care to identify themselves as private individuals, explicitly separating their statements and actions from their office or appointment.

§ 33-2. Definitions.

As used in this code, the following terms shall have the meanings indicated:

BOARD

All statutory and nonstatutory boards now existing or hereafter created under the City Charter or by virtue of any ordinance, order or resolve adopted by the Bangor City Council, including, without limitation, the following:

[Amended 1-13-1997 by Ord. No. 97-59]

- A. Banair Corporation Board of Directors.
- B. Bangor Recreation District Board of Directors.

- C. Board of Appeals.
- D. Board of Assessment Review.
- E. Board of Ethics.
- F. Hersey Fund Board of Trustees.
- G. Planning Board.
- H. Sophia Kirstein Loan Fund Board of Trustees.
- I. Superintending School Committee.
- J. Tree Board.
[Added 10-25-2004 by Ord. No. 04-249]

BOARD MEMBER

Any person elected to membership or associate membership on a City board or appointed to such a board by or under the authority of the Bangor City Council.

BUSINESS

Any corporation, partnership, individual, sole proprietorship, joint venture or any other legally recognized entity organized for the purposes of making a profit.

CITY COUNCIL

For purposes of this code, references to the City Council shall be construed to mean the City Council of the City of Bangor and any of the committees or subcommittees thereof.

CITY COUNCILOR

A member of the Bangor City Council.

CITY EMPLOYEE

Any individual working for, on a permanent or temporary basis, and drawing an hourly wage or salary from the City of Bangor. The term "City employee" shall not include outside consultants or professional personnel providing services to the City as independent contractors under a written professional services contract or other similar engagement.

COMMISSION

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

[Amended 2-13-2012 by Ord. No. 12-068; 2-13-2012 by Ord. No. 12-069]

- A. Bangor Housing Authority Commission.
- B. Economic Development Advisory Commission.
- C. Firearms Discharge Committee.
- D. Historic Preservation Commission.
- E. Nursing Facility Advisory Committee.
- F. Parks and Recreation Advisory Committee.

COMMISSION MEMBER

Any person appointed to membership or associate membership on a City commission or committee by or under the authority of the Bangor City Council.

FINANCIAL INTEREST

A direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares of stock. A City employee, City Councilor, board member or commission member or any member of that person's immediate family who holds a financial interest in a

disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to assets held by the trust.

IMMEDIATE FAMILY

Spouse, children, parents, siblings, including step, half, and in-law relations, and domestic partner of a City employee, City Councilor, board member or commission member.

[Amended 6-11-2007 by Ord. No. 07-174]

PERSONAL INTEREST

Any interest of a City employee acting in their private capacity as a resident, landowner, taxpayer, citizen, or member of the general public.

[Added 10-25-2004 by Ord. No. 04-249]

SPECIAL INTEREST

A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution or the approval or disapproval thereof by the City Council, board or commission and which interest is not shared by the general public.

§ 33-3. Violations and penalties.

Violations of this code shall be punishable by civil fine as provided in Chapter 9, City Council, Article III, Ordinances, § 9-26 of the Code of the City of Bangor. In addition to any other penalties or remedies as may be provided by law, violation of this code shall constitute cause for censure, after notice and hearing conducted by the City Council. A majority of the Bangor City Council shall conduct such proceedings. A violation of this code by a City employee shall also constitute proper grounds for dismissal or other disciplinary action as provided in the City's published Personnel Rules and Regulations.

Article II. Standards of Conduct

§ 33-4. Purpose.

The purpose of this code is to establish ethical standards of conduct for all City employees, City Councilors and board and commission members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the City of Bangor.

§ 33-5. Statutory standards.

There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this code. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics and shall apply to all City employees, City Councilors, board members and commission members of the City of Bangor whenever applicable as if more fully set forth therein:

- A. 17 M.R.S.A. § 3104, Conflicts of interest; purchases by the state.
- B. 17-A M.R.S.A. § 456, Tampering with public records or information.
- C. 17-A M.R.S.A. § 602, Bribery in official and political matters.
- D. 17-A M.R.S.A. § 603, Improper influence.
- E. 17-A M.R.S.A. § 604, Improper compensation for past action.

- F. 17-A M.R.S.A. § 605, Improper gifts to public servants.
- G. 17-A M.R.S.A. § 606, Improper compensation for services.
- H. 17-A M.R.S.A. § 607, Purchase of public office.
- I. 17-A M.R.S.A. § 608, Official oppression.
- J. 17-A M.R.S.A. § 609, Misuse of information.
- K. 17-A M.R.S.A. § 903, Misuse of entrusted property.
- L. 21-A M.R.S.A. § 504, Persons ineligible to serve.
- M. 30-A M.R.S.A. § 2605, Conflicts of interest.
- N. 30-A M.R.S.A. § 5122, Interest of public officials, trustees or employees.

§ 33-5.1. Unbiased conduct.

[Added 10-23-2017 by Ord. No. 17-363]

- A. The purpose of this provision is to clearly establish the expectation of unbiased, fair, impartial, and equitable treatment of all persons.
- B. City Councilors, City employees, board members, and commission members shall conduct themselves in a manner that does not discriminate unlawfully against any person because of race, color, religion, sex, national origin, age, physical or mental disability, genetic information, gender, gender identity, sexual orientation, socioeconomic status, cultural group, or political status.
- C. All persons, irrespective of personal characteristics or other distinctions, to include, but not limited to, race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, cultural group, or political status, shall be treated in the same basic manner under the same or similar circumstances.

§ 33-6. Contracts, purchases and employment.

- A. No City employee, City Councilor, board member or commission member shall participate directly, by means of deliberation, approval or disapproval or recommendation, in the purchase of goods and services for the City and the award of any contracts with the City, except as permitted under the City's Purchasing Regulations and under the laws of the State of Maine, where to their knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award held by:
 - (1) That individual or a member of their immediate family;
 - (2) A business in which that individual or a member of their immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
 - (3) Any other person or business with whom or with which that individual or a member of their immediate family is in business or is negotiating or has an arrangement concerning future employment.
- B. No City Councilor, board member or commission member shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for City employment or City employee where said applicant or employee is:
 - (1) A member of the Councilor's, board member's or commission member's immediate family; or

- (2) A person with whom either the Councilor, board member, commission member or a member of their immediate family is in business.

C. Employees.

- (1) Except as authorized under the City's published Personnel Rules and Regulations, no City employee shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for City employment or City employee where said applicant or employee is:
 - (a) A member of the City employee's immediate family; or
 - (b) A person with whom either the City employee or a member of their immediate family is in business.
- (2) Action by a City employee shall be deemed authorized under this subsection when such action is permitted under the City's published Personnel Rules and Regulations or when the City Council has waived those rules so as to allow creation of a supervisory relationship that would otherwise violate the published rules.

§ 33-7. Confidential information.

[Amended 10-25-2004 by Ord. No. 04-249]

No City employee, City Councilor, board member or commission member shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall they use such information to advance their financial, special, or personal interest or the financial, special, or personal interest of others. For purposes of this section, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such City employee, City Councilor, board member or commission member only because of their position with the City and is not a matter of public record. Information received and discussed during an executive session of the Bangor City Council or any City agency called pursuant to 1 M.R.S.A. § 405 et seq. shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

§ 33-7.1. Use of social media.

[Added 10-23-2017 by Ord. No. 17-364]

- A. This provision provides parameters to be followed when using social media while working or during activities related to work for the public. Its purpose is to offer a means to distinguish between personal opinions or comments and opinions or comments in one's official capacity. Its intent is to respect protected speech and First Amendment rights.
- B. The use of online social networks can blur the lines between private opinions and comments and those that are made in one's official capacity. Any use of social media by a person associated with the City may be perceived as representing the City and City government. Hence, discretion and caution are needed.
- C. Social media refers to online communications tools, including but not limited to online social networks such as Facebook, professional networks such as LinkedIn®, microblogging tools such as Twitter and Tumblr, photograph and video sharing sites such as Pinterest and YouTube, and personal blogging and online forum sites.
- D. All those governed by the Code of Ethics must, on their personal social media accounts, include a qualifying statement that substantially adheres to the following form: "The views I express on this site are my own and do not reflect any official view or position of the City of Bangor."

Inappropriate uses of private social media include, but are not limited to:

- (1) Disclosure of confidential or proprietary information about or relating to the City, its customers, or its employees, private citizens, or private businesses;
- (2) Any statements or posted materials that could reasonably be considered to represent the views or position of the City or one of its departments, unless an official position has been taken;
- (3) Posting or messaging in a manner that could reasonably give rise to an expectation that someone contacting the person would receive an official response.

§ 33-8. Gifts and favors.

- A. No City employee, City Councilor, board member or commission member shall accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to their knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City, nor shall any City employee, City Councilor, board member or commission member:
 - (1) Accept any gift, favor or thing of value that tends to influence that individual in the discharge of their official duties; or
 - (2) Grant in the discharge of their official duties any improper favor, service or thing of value.
- B. Nothing herein shall prohibit the acceptance of gifts or favors by City employees, City Councilors, board members or commission members from members of their immediate families. In determining whether a violation of this section has occurred, the Board of Ethics, in cases referred to it pursuant to § 33-21 of this code, shall consider the monetary or pecuniary value of the gift, favor or thing received; any special economic value the gift, favor or thing received may have to the recipient; the circumstances under which the gift, favor or thing concerned was received; and whether a public disclosure of the receipt was made by the recipient at the time.

§ 33-9. Use of City property.

No City employee, City Councilor, board member or commission member shall use or permit the use of any City-owned property, including but not limited to motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit use of City buildings and equipment at rates and/or on terms as may be established. Nothing herein shall prohibit the use of City equipment or motor vehicles by City employees in accordance with written policies established by the City Council, City Manager or City department head concerned, nor shall this code be deemed to prohibit private use of surplus City property legally disposed of by the City or its departments in compliance with established procedures.

§ 33-9.1. Solicitations by City officials and employees.

[Added 1-11-1999 by Ord. No. 99-46]

The following provisions apply to solicitations by City of Bangor officials and employees for the benefit of the City or for the support of City programs or activities.

- A. City Council. No member of the City Council, during their term of office, shall solicit donations of money, property or items of value from any individual or business for the benefit of the City of Bangor or for the support of any City program or activity. No City Council member may directly receive or accept any such donation, whether or not solicited by the Council member concerned. This subsection does not prohibit the following:

- (1) Solicitations of individuals related to the Councilor concerned by blood, marriage or adoption;
 - (2) Solicitations of businesses in which the Councilor concerned holds an equity interest as proprietor, partner or shareholder;
 - (3) General statements of support for particular fund-raising efforts, provided that the statements of support are directed at the public at large and not at any particular individual or business; and
 - (4) Solicitations expressly authorized by City Council ordinance or order.
- B. City Manager. The provisions of § **33-9.1A** shall apply to the City Manager.
- C. City officials.
- (1) No City official with approval authority over any City-issued permit, license, benefit or contract shall solicit donations of money from any individual or business for the benefit of the City of Bangor or for the support of any City program or activity.
[Amended 10-25-2004 by Ord. No. 04-249]
 - (2) Officials subject to the provisions of this subsection include the following:
 - (a) City Clerk.
 - (b) Planning Officer.
 - (c) Police Chief.
 - (d) Director, Community and Economic Development.
 - (e) Fire Chief.
 - (f) Code Enforcement Officer.
 - (g) City Code inspectors, building inspectors, fire inspectors and engineering inspectors.
 - (h) City Engineer.
 - (i) City Solicitor.
 - (j) Assistant City Solicitor.
 - (k) (Reserved)^[1]
[1] *Editor's Note: Former Subsection C(2)(k), Parking Administrator, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (l) City Assessor.
 - (m) Purchasing Agent.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (n) Finance Director.
 - (o) Director of Public Health and Community Services.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (p) Airport Director.
 - (q) Director of Health and Community Services.
[Amended 11-14-2007 by Ord. No. 07-319]
 - (r) Director of Government Operations.
 - (s) (Reserved)^[2]

[2] *Editor's Note: Former Subsection C(2)(s), Director of Public Services, as amended 2-14-2011 by Ord. No. 11-061, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(t) (Reserved)^[3]

[3] *Editor's Note: Former Subsection C(2)(t), Director of Business and Economic Development, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(u) Director of Parks and Recreation.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

(v) Director of Public Works.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

(3) This subsection does not prohibit the following:

- (a) Solicitations of individuals related to the official concerned by blood, marriage or adoption;
- (b) Solicitations of businesses in which the official concerned holds an equity interest as proprietor, partner or shareholder;
- (c) General statements of support for particular fund-raising efforts, provided that the statements of support are directed at the public at large and not at any particular individual or business;
- (d) Solicitations expressly authorized by City Council ordinance or order;
- (e) Applications for funding or grants from an established public agency or charitable foundation; and
- (f) Assessment and collection of franchise fees, taxes, fees for services, rent, development impact fees and other amounts owed to the City.
- (g) Officials subject to this subsection may solicit donations of property and items of value, other than money, for the benefit of the City or for the support of City programs or activities, if the solicitation has been authorized by the City Council Finance Committee and is reasonably within the normal scope of the official's duties.

D. Nonschool City employees. City employees, other than School Department employees, shall not solicit donations of money, property or items of value from any individual or business, for the benefit of the City of Bangor or for the support of any City program or activity, without prior approval by the City Manager, City Council, or City Council Finance Committee. This subsection does not prohibit activities listed in § 33-9.1C(3)(a) through (f). All funds, property and items of value received as a result of such solicitations shall be processed and deposited in the manner prescribed by the City Finance Director.

E. School Department employees. No employee of the Bangor School Department shall solicit donations of money, property or items of value for the benefit of the School Department, except in the manner prescribed by the Bangor School Committee or Superintendent.

§ 33-10. Representing third party interest before City agencies.

A. No City employee shall appear on behalf of any third-party interest before any City agency or represent a third party interest in any action, proceeding or litigation in which the City or one of its agencies is a party. Nothing herein shall prohibit any City employee from appearing as a witness when duly called by a party for the purpose of giving nonprivileged testimony before any City agency or in any such action, proceeding or litigation. Nothing herein shall prohibit any City employee, on behalf of their personal interest, from appearing before any City agency.

[Amended 10-25-2004 by Ord. No. 04-249]

- B. No City Councilor shall either appear on behalf of any third-party interest before any City agency or represent a third party interest in any action, proceeding or litigation in which the City or one of its agencies is a party. Nothing herein shall prohibit a Councilor, on behalf of a constituent in the course of their duties as a representative of the electorate, or any Councilor, on behalf of their personal interest, from appearing before a City agency.
- C. No board or commission member shall appear on behalf of any third-party interest before a City agency of which they are a current member. Nothing herein shall prohibit a board member or commission member, on behalf of their personal interest, from appearing before any City agency, including that of which they are a current member, but such board member or commission member shall not deliberate or vote on the item concerned.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 33-11. Conflicts of interest.

- A. Deliberation and vote prohibited. No City Councilor, board member or commission member shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decisionmaking process, on any agenda item before their collective body in which they or a member of their immediate family has a financial or special interest, other than an interest held by the public generally.
- B. Disclosure of conflict. Any City Councilor, board member or commission member who believes that they or a member of their immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before their collective body shall disclose the nature and extent of such interest, and the City Clerk or their designee shall make a record of such disclosure. Such disclosure shall be made no later than the date of the first meeting of the City Council, board, commission or committee thereof at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the City Councilor, board member or commission member is present. Additionally, any City Councilor, board member or commission member who believes that any fellow City Councilor, board member or commission member, or a member of such fellow City Councilor's, board member's or commission member's immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before their collective body shall disclose the nature and extent of such interest, and the City Clerk or their designee shall make a record of such disclosure.
- C. Determination of conflict. Once the issue of conflict has been raised relative to an individual City Councilor, committee member, board member or commission member and disclosure has been made as provided above, such individual's fellow City Councilors, committee members, board members or commission members shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each City Councilor, committee member, board member or commission member present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Councilor's, committee member's, board member's or commission member's alleged conflict of interest.
 - (1) All votes of conflict of interest questions shall be recorded. A majority vote shall determine the question, but a vote by committee may later be reviewed by the full City Council upon the City Council's consideration of the same agenda item.
 - (2) Upon determination that a conflict of interest in fact exists, the City Councilor, committee member, board member or commission member concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.
 - (3) In lieu of the vote required by this subsection, the City Council, upon motion and by majority vote, may refer the conflict of interest question to the City Board of Ethics in accordance with

§ **33-21** of this code or may table its consideration of the relevant agenda item. In the event that a majority of the City Council, board or commission concerned, or committee thereof, shall require disclosure of further information not immediately available or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.

- D. Avoidance of appearance of conflict. To avoid the appearance of a violation of this section, once any individual City Councilor, board member or commission member is determined to have a conflict of interest in respect to any agenda item and once all conflict of interest questions relating to the agenda item concerned have been determined as provided in Subsection **C** above, said individual shall immediately remove themselves from the meeting room. They shall not return to their regular seat as a member of the body until deliberation and action on the item is completed. If the item has not been finally resolved when the conflict of interest is first determined, said individual shall not be present for any subsequent action on the agenda item. Nothing herein shall require an individual Councilor, board member or commission member to remove themselves for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by the other members and the right to abstain from voting on the item has been granted.

[Amended 10-13-2010 by Ord. No. 10-304]

- E. Personal interest. Nothing herein shall be construed to prohibit any City Councilor, board member or commission member from representing their own personal interest by appearing before their collective body on any such agenda item.

- F. Municipal budget.

[Added 3-26-2018 by Ord. No. 18-136]

- (1) Notwithstanding the provisions of §§ **33-11** and **33-11.1**, no City Councilor shall abstain from or be prohibited from voting on the municipal budget when it comes before the Council on a Council agenda for approval.
- (2) If during the Council discussion of the approval of the municipal budget the Council decides to deliberate upon a line item of the budget on which a councilor has been previously determined to have a conflict or has previously abstained, then the Councilor shall not participate in the deliberations on that particular line item. Upon the conclusion of any such deliberation, the Councilor shall continue to participate in other budget deliberations and vote on the municipal budget.
- (3) It is the intent of this provision that all Councilors shall participate in the deliberation and vote on the municipal budget when it is presented to the Council for approval, but that no Councilor shall participate in a deliberation on or vote on any specific provision in the municipal budget for which the Councilor has previously been determined to have a conflict or has previously abstained.

§ 33-11.1. Abstention; exercising the right to abstain.

[Added 10-23-2017 by Ord. No. 17-365]

Any City Councilor, board member or commission member who believes that they or a member of their immediate family has a special or financial interest, other than an interest held by the public generally, in any agenda item before their collective body may, after disclosure of the nature and extent of such interest, publicly state their intent to abstain from participation in the deliberation or vote, or otherwise taking part in the decisionmaking process on the agenda item. However, the City Council, board, or commission may by motion and vote determine that there is no conflict and that the City Councilor, board member or commission member shall not be permitted to abstain from participating and voting on the agenda item.

§ 33-12. Disclosure statement.

[Amended 6-11-2007 by Ord. No. 07-174; 8-27-2012 by Ord. No. 12-266]

Within 15 days after each annual municipal election every City Councilor and School Committee member shall file a completed disclosure form with the City Clerk. Within 30 days after their appointment, every board member and every commission member shall file a completed disclosure form with the City Clerk. Such disclosure forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

- A. The name of each person or entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 during the preceding calendar year from which such disclosing party, their spouse, or member of their immediate family actually residing in the household has received money or other thing of value in an amount in excess of \$1,000 during the preceding calendar year, including but not limited to campaign contributions, where applicable.
- B. The name of each entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 for the preceding calendar year in which such disclosing party, their spouse, or member of their immediate family actually residing in the household has a financial interest in an amount in excess of \$1,000, including but not limited to the ownership of shares of stock.
- C. The name of each nonprofit and/or for-profit entity, whether incorporated or not, for which such disclosing party, their spouse, or member of their immediate family actually residing in the household holds a position of officer or member of any board.
 - (1) For each such entity, such disclosing party shall provide the following information:
 - (a) A brief description of the purpose of each board and/or office;
 - (b) A short summary of such disclosing party's or family member's duties relative to any such board and/or office;
 - (c) The term of service on each such board and/or office; and
 - (d) Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.
 - (2) For purposes of this subsection, "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services and any other thing of value.
- D. Every City Councilor, board member and commission member shall amend their annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each such amendment shall be made within 15 days following the occurrence which requires the amendment.
- E. The City Clerk shall deliver a copy of each completed disclosure statement to every fellow member of the City Council, board or commission of each disclosing party within 30 days after the expiration of the filing period.
- F. For purposes of this code, a list prepared by the Finance Director of those persons or entities doing business with the City in an amount in excess of \$1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance and deposits in accounts from commercial or savings banks, savings and loan associations or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

§ 33-13. Political activities.

No City employee, City Councilor, board member or commission member shall participate in any political activity which would be in conflict or incompatible with the performance of their official functions and duties for the City. In conjunction therewith, no City employee, City Councilor, board member or commission member may use their official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall they solicit funds or contributions or accept or receive funds or contributions from City employees for political purposes. No City Councilor, board member or commission member may distribute pamphlets or handbills while they are performing official functions and duties with the City. Nothing herein shall be construed to prohibit any City employee, City Councilor, board member or commission member from participating in the political process in their private capacity as candidates for elected office or as private citizens.

§ 33-13.1. Use of titles and disclaimers.

[Added 10-13-2021 by Ord. No. 21-335]

- A. **Background.** Bangor public officials, whether elected or appointed, retain their full, constitutionally guaranteed, First Amendment rights as private individuals. The Code of Ethics respects and protects these rights. One of the responsibilities of elected or appointed officials is to separate protected personal discourse from matters of governance. This section of the Code of Ethics addresses this responsibility. For the general duties of a public official to exercise fairness and impartiality see § 33-1.
- B. **Use of titles.** In making written or oral statements, elected or appointed City officials may use their titles upon, and only upon, the following circumstances:
- (1) When so doing does not violate any other provision of this Code of Ethics or any provision of the Code of ordinances, state law, or federal law; and
 - (2) When:
 - (a) The City Council has specifically authorized the official to speak on behalf of the City; or
 - (b) The information conveyed:
 - [1] Is consistent with the official position of the City as that position was adopted by the Council or is consistent with the official decision of an applicable board, commission, or committee and the context of the communication only involves that applicable board, commission, or committee; and
 - [2] References the appropriate decision by or position of the City Council, or to the decision of the applicable board, commission, or committee; or
 - (c) When it is made clear and unambiguous that the official is speaking in their individual capacity and not on behalf of the entire City or a board, commission, or committee.
- C. **Disclaimers.** Disclaimers are only required when there could be ambiguity regarding the capacity in which an elected or appointed official is communicating. In a typical disclaimer, a speaker (or writer) might say (or write), "Speaking for myself," or "Speaking as an individual," or "Although I hold the office of _____, I am speaking tonight as a private individual. My remarks should not be interpreted as representing my office or the City of Bangor's official policy." A speaker (or writer) might also say (or write), "I make these remarks in my personal capacity, and not as _____." These remarks should not be interpreted as representing the City of Bangor." The most important aspect of any disclaimer is to remove ambiguity. Section **33-13.1B(2)(c)** makes it the official's duty to ensure that there is no ambiguity. In this regard, City officials should be cautious of the circumstances or conditions of any statement and be wary of concerted or group action, which increases the likelihood that such action will be perceived as an act or endorsement of the City itself.

- D. Other considerations. Other ordinances and laws relate to the use of titles, and each must be followed. Without limitation and before using their titles, City officials should consider the following provisions: the Freedom of Access Act (Title 1, Chapter 13, of the Maine Statutes);^[1] Title 17-A, Section 608, of the Maine Revised Statutes; § 33-1.1 of the Code of Ordinances; § 33-7.1 of the Code of Ordinances; and § 33-13 of the Code of Ordinances.

[1] *Editor's Note: See 1 M.R.S.A. § 400 et seq.*

§ 33-14. Incompatible employment or office.

No City employee, City Councilor, board member or commission member shall occupy any other office, elected or appointed, in any other governmental entity when the duties of such office are incompatible with the proper discharge of their official duties with the City. For purposes of this code, the occupancy of any office, elected or appointed, with any other governmental entity by any City Councilor, board member or commission member is hereby prohibited in the following circumstances:

- A. Where the duties of the other office make it a physical impossibility to discharge the duties of the City position;
- B. Where one office is subordinate to the other;
- C. Where one office carries the power of removal of the other; or
- D. Where the occupancy of both offices is prohibited by the City Charter or by other provisions of law.

§ 33-15. Ethics in contracting.

The provisions of this section shall apply to all persons doing business with the City of Bangor as vendors, suppliers or contractors, including potential vendors, suppliers and contractors submitting bids or proposals in response to a City solicitation or advertisement.

- A. Gratuities and kickbacks.
 - (1) Gratuities. It shall be a violation of this code for any person to offer, give or agree to give any City employee, City Councilor, board member or commission member a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or award pertaining to a City purchase order, contract, construction contract or professional services contract or with respect to any solicitation, advertisement, request for bids, request for proposals or any bid, proposal or other response thereto.
 - (2) Kickbacks. It shall be a violation of this code for any person to solicit, offer, give, accept or receive any undisclosed gratuity or offer of employment in connection with the award or potential award of any subcontract or contract modification or change order under a City of Bangor prime contract for construction, procurement or professional services. To be valid, any disclosure under this subsection must be made in writing to the City of Bangor Purchasing Agent prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this code to solicit, offer, give, accept or receive any such gratuity or offer of employment in violation of applicable state or federal law.
- B. Prohibition against contingent fees. It shall be a violation of this code for a person to be retained, or to retain a person, to solicit or secure a City contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
- C. Prohibition against discriminatory conduct. It shall be a violation of this Code for any person to discriminate unlawfully against any person because of race, color, religion, sex, national origin, age,

physical or mental disability, genetic information, gender, gender identity, sexual orientation, socioeconomic status, cultural group, or political status. All persons doing business with the City shall treat all persons in the same basic manner under the same or similar circumstances irrespective of personal characteristics or other distinctions, to include, but not limited to, race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, cultural group, or political status.

[Added 10-23-2017 by Ord. No. 17-366^[1]]

[1] *Editor's Note: This ordinance also redesignated former Subsections C through E as Subsections D through F, respectively.*

D. Recovery of value transferred or received in breach of ethical standards; other penalties.

- (1) General provisions. The value of anything transferred or received in breach of the ethical standards of this code by a City employee, City Councilor, board member or commission member or other person may be recovered from both the City employee, City Councilor, board member or commission member concerned and from the other person concerned.
- (2) Recovery of kickbacks by the City. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification or change order and ultimately borne by the City, and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

E. Penalties and sanctions.

- (1) In addition to the recoveries provided in Subsection D above, any violation of this section shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this section shall be fined not less than three times the value of any improper gift or kickback paid, solicited or received or \$500, whichever is greater. The penalties provided in this subsection shall be in addition to the penalties provided in § 33-3 of this code and shall be in addition to any penalties imposed under state or federal law.
- (2) Sanctions.
 - (a) Upon conviction of a violation of this section or upon a finding of a violation by the City Purchasing Agent, Board of Ethics or the City Council following written notice and hearing, the City Council may impose one or more of the following sanctions on the person, firm or corporation convicted or found to be in violation:
 - [1] Written warnings or reprimands;
 - [2] Termination of contracts; or
 - [3] Debarment or suspension as provided in the City's published Purchasing Policy (Authority to Debar or Suspend).
 - (b) Termination of a contract under this subsection shall also terminate the contractor's right to receive further payment thereunder.
 - (c) The sanctions provided in this subsection shall be in addition to the penalties provided in Subsection E(1) above.

F. Incorporation in certain contracts. The provisions of this section shall be provided to all interested bidders or proposers and shall be incorporated by reference as agreed terms in any City of Bangor construction, procurement or professional services contract with a base bid price in excess of \$10,000. In the case of a professional services contract, the base bid price for this purpose shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

Article III. Board of Ethics

§ 33-16. Establishment; membership.

There is hereby created and established a Board of Ethics consisting of five members and two associate members appointed by the City Council.

§ 33-17. Terms of office; residency requirements.

All members shall be appointed for terms of three years each. All associate members shall be appointed for terms of three years each. Each member and associate member shall serve until their successor is appointed and qualified. All members must be residents of the City of Bangor. No member shall serve more than two complete consecutive terms.

§ 33-18. Holding other office or position.

[Amended 5-12-2008 by Ord. No. 08-153]

No member or associate member of the Board shall hold any other City office or position or be the member of any City agency to which the City Council shall have appointing authority, except that any person that works as a part-time employee for the City of Bangor less than 200 hours during any calendar year may serve on the Board.

§ 33-19. Procedural rules and records.

The Board shall establish such rules as it may determine to be necessary to govern its procedures. In addition, the Board shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings.

§ 33-20. Powers and duties.

[Amended 10-23-2017 by Ord. No. 17-367]

The Board shall make findings of fact and render opinions to the City Council concerning application of the provisions of this code to any particular situation. In the performance of its duties, the Board shall limit its review and fact finding to those issues referred to it by the City Council. The Board shall also make annual recommendations for necessary revisions to this code and shall perform such other duties as may be prescribed from time to time by the City Council. In the event the Board has no recommendations for revisions to this code, the Chair of the Board shall issue a report to the City Council advising them of such.

§ 33-21. Referrals.

- A. Any City Councilor, board member or commission member seeking advice as to whether a particular situation constitutes an actual or potential violation of this code shall first submit a written statement in the form of a Council order describing the nature of the matter to the City Council. If the Council feels that an advisory opinion is necessary, it shall adopt the order, by majority vote, referring the matter to the Board. A tie vote on the order shall also cause the matter to be referred to the Board.

- (1) Upon referral of a question, the Board shall have the power to request voluntary statements from all persons concerned and to review all records on file with the City of Bangor or other public agencies. All Board hearings shall be conducted in accordance with rules of procedure to be adopted by the Board. The Board may conduct any fact finding and deliberations in executive session as provided in 1 M.R.S.A. § 405, Subsection 6A.
 - (2) Upon conclusion of its fact finding and deliberations, the Board of Ethics shall issue written findings with respect to each matter and question referred to it. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so advise the Council.
 - (3) It is the purpose and intent of this code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Bangor.
- B. Employee conflicts. Upon referral, the Board of Ethics may render advisory opinions with respect to potential or prospective conflicts of interest involving City employees. However, allegations of past or present misconduct involving alleged violations of this code by City employees shall not be reviewed by the Board but shall be referred for disposition in accordance with the City's established employee disciplinary procedures.

§ 33-22. Orientation meeting; annual report.

- A. All members shall attend an annual orientation meeting to be scheduled during the month of January of each calendar year.
- B. The Board shall meet at least quarterly and, prior to December 31 of each calendar year, shall prepare and submit to the City Council an annual report outlining its doings during the preceding twelve-month period.