



## City of Fergus Falls Committee of the Whole Agenda

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April 26, 2023

7:00 am

City Council Chambers

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A. Call to Order

B. Roll Call

C. Discussion Items

1. Lead Service Lines Update

Len Taylor/Minnesota Department of Public Health

2. No Mow May

Len Taylor

Requested Action: Recommendation to the council to allow residents a temporary exemption from City Code 95.04 (C) as requested by the Natural Resources Advisory Committee

3. Donation for Fire Department

Ryan Muchow

Requested Action: Recommendation to the council to accept a \$3,000 donation to the Fire Department to purchase two air monitors

4. City Council Retreat Follow Up

Andrew Bremseth

Requested Action: Recommendation to the council directing staff to review the city's open forum policy, minutes, the addition of agenda items, a Code of Conduct and mediation

D. Additional Agenda Items

E. Announcements

May 1 5:30 pm City Council meeting

May 10 7:00 am Committee of the Whole meeting

Adjourn



# Council Action Recommendation

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**Meeting Date:** 4-26-23

**Subject:** Lead/Copper Rule Revision

**Recommendation:** Information only, no action required at this time.

**Background/Key Points:** In 2022, the Environmental Protection Agency announced new rules that require the removal of service pipes in cities nationwide that contain lead and copper. Lead pipes, primarily used in infrastructure through the first half of the twentieth century, can have negative long-term impacts on human health and water quality. This new rule requires communities to identify lead service lines and develop a plan to mitigate the risk of using lead service lines until such a time the service line can be replaced.

**Budgetary Impact:** Financial responsibility and funding opportunities will be presented by MDH representative.

**Originating Department:** Public Works/Water Treatment Div.

**Respectfully Submitted:** Len Taylor

**Attachments:**



## Council Action Recommendation

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**Meeting Date:** 4-26-23

**Subject:** "NO MOW MAY"

**Recommendation:** Allow, for those residents who sign up, a temporary exemption from city nuisance regulation 95.04(C) that doesn't allow for grass to exceed 6" in height.

### **95.04(C)**

**LAWN MAINTENANCE:** No owner or occupant shall allow any turf grass, weeds, native vegetation or rank vegetation to grow to a height greater than six inches on any lot or parcel of land.

**Background/Key Points:** The Natural Resources Advisory Committee believes that participating in "No Mow May" supports all of Minnesota's pollinators. Minnesota pollinators include native bees, butterflies, ants, flies, beetles, birds, and more. Avoiding mowing in early spring and during the month of May helps to protect overwinter habitat for threatened bee populations and other pollinators, while allowing flowering plants to grow rich in nectar and other key nutrients that serve as food for our pollinators during a time when needed most. In areas like Fergus Falls, pollinator habitat and food sources are relatively sparse this time of year, by participating in "No Mow May", residents can help support the health and diversity of the native pollinator populations by providing the resources needed for pollinators to thrive. All lawns would need to comply to the height maximum by or on June 1<sup>st</sup>.

**Budgetary Impact:** None

**Originating Department:** Public Works/Code Enforcement Div.

**Respectfully Submitted:** Len Taylor

**Attachments:**

**Registration is now open for No Mow May 2023. Registration closes May 15th, 2023.**

Participate in Fergus Falls' first ever No Mow May program! No Mow May encourages residents who live in owner-occupied or rented properties to allow flowering plants to bloom that provide habitat and nutrition for early-season pollinators by pausing mowing their lawn during the month of May. The City Council passed a Resolution of Support for No Mow May at its \_\_\_\_\_ meeting, temporarily suspending its turf and weed ordinances related to lawn height for participating properties. Properties must come back into compliance by June 1st, 2023.

**Registration closes May 15th for the 2023 program!** Sign up by May 15th to ensure your yard is included in No Mow May this year.

Participants can print a free sign from [Bee City USA's No Mow May website](#) to display.

**Benefits of No Mow May:** Participating in No Mow May supports all of Minnesota's pollinators – Minnesota pollinators include native bees, butterflies, ants, flies, beetles, birds, and more! Avoid mowing in early spring and during the month of May to protect overwinter habitat for threatened bee populations and other pollinators, while allowing flowering plants to grow rich in nectar and other key nutrients that serve as food for our pollinator friends during a time when needed most. In areas, like Fergus Falls, pollinator habitat and food sources are relatively sparse this time of year – by joining No Mow May, you can help support the health and diversity of native pollinator populations by providing the resources needed for pollinators to thrive.

**June – Return to Mow Tips:** When you start mowing again in June, learn from the UMN about mowing best practices for a healthy lawn. Best practices for bringing your grass back down to a reasonable height while keeping it healthy include:

- Mow late in the day or when grass is dry
- Mow down in small increments (never more than 1/3 of grass blade's height at one time)
- Rake up excessive clippings to prevent them from going into streets. This protects your local water quality and keeps storm drains clear.

## To Help Pollinators Year-round:

- Mow less – instead of mowing your lawn every single week, or even multiple times a week, mow every 2 to 3 weeks. Mowing stresses your grass and creates unhealthy lawns if mowed too frequently. Lawns mowed every 3 weeks can have as much as 2.5x more lawn flowers, and support a greater number of pollinators (UMass-Amherst, 2018).
- Mow higher – consider keeping your lawn 3.5-4.5 inches in height. Taller grass holds more moisture, is less prone to stress, and better hides plants like clover and dandelion that pollinators need.
- Water your lawn 1" (in volume) per week in the early morning or late evening, and avoid watering during rain events.
- Water your lawn all at once rather than in smaller quantities more frequently. This can disrupt pollinators and other insects, and stress your lawn during periods of drought.
- Allow some flowering plants to persist in your lawn; tolerate clover and dandelions. To provide plenty of food sources from spring and throughout fall, avoid de-weeding your entire yard – no need to pull up all those ‘evil’ patches of clover or rid your lawn of all those ‘pesky’ dandelions. These are a favorite food source for many of MN’s threatened pollinators, including several bee species.
- Limit or cease use of synthetic pesticides and fertilizers. Use organic sources sparingly instead.
- Ready to re-seed your grass lawn? Consider prioritizing fine fescue over Kentucky bluegrass. Fine fescue is slow growing while KY bluegrass requires more frequent mowing.
- Consider applying for Minnesota’s [Lawns to Legumes](#) program.

Participating in No Mow May supports all of Minnesota’s pollinators – Minnesota pollinators include native bees, butterflies, ants, flies, beetles, birds, and more! Avoid mowing in early spring and during the month of May to protect overwinter habitat for threatened bee populations and other pollinators, while allowing flowering plants to grow rich in nectar and other key nutrients that serve as food for our pollinator friends during a time when needed most. In areas, like Fergus Falls, pollinator habitat and food sources are relatively sparse this time of year – by joining No Mow May, you can help support the health and diversity of native pollinator populations by providing the resources needed for pollinators to thrive



## Council Action Recommendation

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**Meeting Date:** Committee of the Whole 04/26/2023

**Subject:** MDU Resources Foundation monetary donation to the Fire Department

**Recommendation:** Council to approve the acceptance of a \$3,000 donation to the Fire Department for the purchase of 2 air monitors.

**Background/Key Points:** The Fire Department needs updated air monitoring equipment for hazardous material calls. Through cooperatively working with Great Plains Natural Gas we learned of their parent company, MDU Resources, foundation grant. The Fire Department applied and was successful in receiving partial funding for our project. The Fire Department plans to purchase two Sensit air monitors, which is like equipment to one we currently have and to our gas utility. This makes for a more seamless operation during a natural gas leak or other hazardous material calls.

**Budgetary Impact:** Each monitor costs approximately \$2,000. The Fire Department will use funds from its equipment capital fund to cover the remaining cost.

**Originating Department:** Fire

**Respectfully Submitted:** Ryan Muchow

**Attachments:**



# Council Action Recommendation

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**Meeting Date:**

4/26/2023 Committee of the Whole, 5/1/23 City Council

**Subject:**

Council Retreat follow up items- Open Forum, Minutes, adding items to an agenda, town hall meetings, Code of Conduct and Mediation

**Recommendation:**

Resolution approving the various actions associated with these topics. Each item requiring action will be a separate resolution before the Council.

**Background/Key Points:**

The City Council and Department Heads held a retreat on April 13, 2023. During that retreat session, conversations were held on numerous topics related to Council process and procedure. Those conversations led to a consensus on several topics, that the Council will need to take official action on if they wish to implement these changes. Other items are for follow up or public awareness/transparency.

**Open Forum**

The current open forum policy of the City requires individuals wishing to speak to sign up by noon the day of the Council meeting. The City Council has expressed a desire to change this policy to add a section to the agenda, which would allow the opportunity for anyone present at the meeting to speak about a topic that is not on the agenda. The same rules would apply (except for signing up) to those wishing to speak. For example, there would be a time limit, no political endorsements, etc. The Council can make this change through a resolution.

**Minutes**

With many requests for changes to the minutes in recent meetings, staff has been more detailed while preparing minutes. After a discussion about this at the retreat, the Council expressed a desire for shorter minutes that summarize the discussion and actions of the Council. The hope of the Council is that the minutes are high level enough that edits should not be necessary. There is no additional action needed from the Council.

**Adding Agenda Items**

There was a discussion about the process for adding agenda items to the agenda. Staff and Council both agree that items should rarely be added to the agenda at the Council meeting. An exception would be a time sensitive item that we were not aware of prior to the packet and agenda being posted. The city wants the public to be fully aware of what topics will be discussed at a meeting and wants staff and Council to be prepared to discuss items. The Council was reminded that items can only be added after the agenda is posted by unanimous consent of the Council. The City Administrator is responsible for setting the

agenda and ensuring the agenda is posted in compliance with State Statue. No further action is needed on this item from the Council.

### **Town Halls Meetings**

The Council discussed the concept of Town Hall meetings and whether those should be considered official City meetings and the participation and involvement of staff. It was the consensus of the Council that a meeting hosted by one Council member is not an official City meeting and should not be held at City Hall. Hosting these meetings at City Hall gives the impression that it's hosted by the city and that is not the case. Further, Council feels that staff should not participate, as if all Council members were to do this monthly, staff would be spending most of their evenings with work commitments. They also indicated they don't want staff to spend time or city resources on this. There were also concerns about non-Councilmembers taking or answering questions on behalf of the city. It was understood that if all Councilmembers were going to be involved or a particular ward, staff would be in attendance. It was agreed that we should allow the meeting on 4/19/23 to take place at City Hall and that staff would unlock and lock the room, but not participate. The council was clear that they support and encourage public participation and suggested that it may better serve the public to host these meetings by Ward or as a whole Council. They also thought quarterly, rather than monthly, would be more appropriate. Finally, it was understood that the proposed changes to the Open Forum will allow the opportunity for any member of the public to address the whole Council at the same time. No further action is needed on this.

### **Code of Conduct**

At the retreat, staff presented a proposed Code of Conduct for City Council members. This is a document that was previously adopted by another City and was customized to fit our situation in Fergus Falls. This has been distributed to Council members in Word form and we encourage your comments and feedback on the document. The intention is to have a conversation about this in depth on May 10<sup>th</sup>. In advance of that discussion, Council is encouraged to send proposed changes to Lynne so we can have it ready for discussion on the 10<sup>th</sup> and potential acceptance on May 15<sup>th</sup>. The draft is attached. The Council can approve the Code of Conduct by resolution.

### **Mediation**

The City Council discussed at length the tension and conflict that has been present in the Council dynamic since the beginning of the year. The Council brought up and agreed that the two Council members from Ward 3 should sit down with a non-local impartial mediator to try to sort out their differences. Both Council and staff agreed that this dysfunctional relationship has gotten in the way of productive City business and has had an impact on everyone in the organization. The Council was clear that their expectation was that both members would participate and find a resolution so we can move forward. There is no additional action at this time.

### **Originating Department:**

Administration on behalf of the Council and staff



**Respectfully Submitted:**

Andrew Bremseth, City Administrator

**Attachments:**

Open Forum Rules (existing)

Proposed Code of Conduct

# Open Forum Registration

## City of Fergus Falls

**A written request to address the Council at the Open Forum must be filed and received in the City Administrator's office by noon the day of the City Council meeting. The Open Forum is held from 5:20-5:30 pm.**

**Today's Date:** \_\_\_\_\_ **Date wishing to speak:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Issue you wish to address with the Council:**

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**Action you would like to see taken by the Council:**

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**If you would like to be contacted regarding this issue, please provide the following:**

\_\_\_\_\_ and/or \_\_\_\_\_

**Phone Number**

**Email Address**

**I have read the City of Fergus Falls Open Forum Policy (see back) and agree to comply with the rules as outlined:**

\_\_\_\_\_  
*Must be signed*

## Open Forum Policy

1. The open forum is an opportunity to address the Fergus Falls City Council regarding a city business item that is not on the agenda of a regular meeting. The open forum will be held from 5:20-5:30 pm the day of a scheduled city council meeting and the time is to be used to talk about an issue, not to make a presentation.
2. A written request to participate in the open forum must be filed with the City Administrator's office by noon the day of the City Council meeting. The form must be filled out with the participant's name, address, and a brief detailed statement of the comment or issue to be addressed.
3. When addressing the council, participants shall stand at the podium and speak into the microphone. Each participant shall begin by stating their name and address.
4. Speakers will be limited to a maximum of THREE minutes.
5. All remarks should be directed to the City Council. The Mayor may limit the number of individual presentations on any issue to accommodate time set aside for the open forum session.
6. Open forum comments may be limited if they become redundant, repetitive, irrelevant, argumentative, disrespectful, disparaging, harassing, abusive, discriminatory, or do not relate to official city business. Participants shall conduct themselves in a professional, courteous manner and refrain from the use of profanity.
7. The open forum must not be used to make personal attacks on the Mayor, Council, city staff, members of the public, or any business.
8. It is inappropriate to use the open forum to make political endorsements, political speeches or for any political campaign purposes.
9. The council will generally not engage in debate or dialogue with speakers during the open forum session and may refer the issue to staff or ask that it be scheduled on a future agenda, if necessary.
10. Speakers will not be permitted on the same subject more than 2 times within a 12-month period.
11. All materials to be discussed, including photos, must be submitted at the time of the request submission. The use of city technology during the meeting is not allowed.

*This open forum policy was adopted on April 16, 2018  
Resolution #79-2018*

# City of Fergus Falls Code of Conduct for Elected Officials, Adopted \_\_\_\_\_

## **The Three Rs of Fergus Falls Government Leadership: Roles, Responsibilities and Respect**

The Home Rule Charter of the City of Fergus Falls and the Fergus Falls City Code provide information on the more formal duties of Councilmembers, the Mayor and the Acting Mayor. The city's Code of Ethics Policy (adopted as Ordinance 14, Eighth Series in 2021) provides guidance related to conflicts of interest. To further clarify the conduct expectations of Councilmembers and the Mayor, the Council in 2023 adopted a Code of Conduct for Fergus Falls' elected officials. After careful review of the Code of Conduct, the Council has determined that it is in the public interest to amend it as noted herein.

This Code of Conduct is designed to describe the manner in which the Mayor and Councilmembers should treat one another, city staff, consultants, constituents, and others they come into contact with in representing the City of Fergus Falls. It reflects the work of the Mayor and City Council in defining more clearly the behavior, manners, and courtesies that are suitable for various occasions. In concert with this document, the Mayor and City Council may wish to consider policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The contents of this Code of Conduct includes:	Page
Overview of Roles & Responsibilities	2
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The constant and consistent theme through all of the conduct guidelines is "respect." The Mayor and Councilmembers experience stress in making decisions that impact the lives of the citizens. At times, the impacts of the entire community must be weighed against the impact of only a few. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide the Mayor and Councilmembers to do the right thing in even the most difficult situations.

# Overview of Roles & Responsibilities

Other resources that are helpful in defining the roles and responsibilities of elected officials are the Home Rule Charter of the City of Fergus Falls, Fergus Falls City Code, and League of Minnesota Cities resources for elected officials, including the *Handbook for Minnesota Cities* and the *Minnesota Mayors Handbook*, among many other publications.

## **MAYOR**

- Elected “at-large” for a four year term
- Presiding officer of the council (Fergus Falls City Charter, Section 2.07)
- Votes in the event of a tie vote by the City Council (Fergus Falls City Charter, Section 4.03)
- Executes and authenticates ordinances and resolutions (Fergus Falls City Charter, Section 4.04)
- Leads the Council into an effective, cohesive working team

## **ACTING MAYOR**

- Elected by the City Council at their first meeting in January of each year
- (Fergus Falls City Charter, Section 2.08)
- Performs the duties of the Mayor if the Mayor is absent or disabled (Fergus Falls City Charter, Section 2.08)

## **ALL COUNCIL MEMBERS**

All members of the City Council, including the Acting Mayor have equal votes. No Councilmember has more power than any other Councilmember, and all should be treated with equal respect.

All Councilmembers should:

- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others
- Prepare in advance of meetings and be familiar with issues on the agenda
- Represent the City at ceremonial functions at the request of the Mayor
- Be respectful of other people’s time
- Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community
- Inspire public confidence in Fergus Falls city government
- Demonstrate honesty and integrity in every action and statement
- Participate in scheduled activities

# **Policies & Protocol Related To Conduct**

## **Ceremonial Events**

Requests for a City representative at ceremonial events will be directed to the Mayor. The Mayor will serve as the designated City representative. If the Mayor is unavailable, the Acting Mayor will be recommended to serve as the substitute. Invitations received at City Hall are presumed to be for official City representation.

## **Correspondence Signatures**

The Mayor and Councilmembers do not need to acknowledge the receipt of correspondence relating to City business, or copies of such correspondence, during Council meetings. City staff will prepare official letters in response to public inquiries and concerns. These letters will carry the signature of the Mayor or the appropriate City staff. If correspondence is addressed only to the Mayor or to one Councilmember, that correspondence will be shared with the rest of the Council.

## **Endorsement of Candidates and Ballot Initiatives**

The Mayor and Councilmembers have the right to endorse candidates for all Council seats, other elected offices, and ballot initiatives by other government bodies. It is inappropriate to include such items on any Council agenda or to mention those endorsements during Council meetings or other official City meetings or functions.

## **Intergovernmental Relations**

The Mayor and Council value intergovernmental relations with neighboring communities and other entities. As a result, the Mayor and Councilmembers should make a concerted effort to attend scheduled meetings with other entities to further promote intergovernmental relations.

## **Legislative Process**

The procedural rules adopted by the City Council will be the governing guide for council proceedings.

## **Public Meeting Hearing Protocol**

The Mayor will determine the meeting protocol on a case-by-case basis, taking into account any legally-required protocols that may apply in certain circumstances. Generally, staff will make an initial presentation and when they have concluded, the Mayor will open the public hearing. At that time, the applicant or appellant, if any, shall be given the opportunity to speak first. In situations where there is no applicant or appellant, members of the public will be invited to speak in any order deemed appropriate by the Mayor. If deemed necessary by the Mayor, any speaker who has already spoken may be given the opportunity to respond to comments made by others. The Mayor has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run smoothly. This includes determining how much time will be allowed for each speaker, with 3 to 5 minutes the standard time granted. The Mayor may also limit presentations of viewpoints that are repetitive of comments that have already been made and may exclude any person who exhibits disorderly conduct or other inappropriate or unlawful behavior. The Mayor may ask the Council if any issues need clarification before the public hearing is closed. The Mayor and Councilmembers will not express opinions during the public hearing portion of the meeting except to ask

pertinent questions of the speaker or staff. "I think" and "I feel" comments by the Mayor and Councilmembers are not appropriate until after the close of the public hearing. The Mayor and Councilmembers should refrain from arguing or debating with the public during a public hearing and shall always show respect for different points of view. Once the Mayor is satisfied that all information that could be gathered during the public hearing has been gathered, the Mayor shall close the public hearing and resume the Council meeting.

### **EEO, Discrimination, Harassment and Respectful Workplace**

The Mayor and all councilmembers shall be familiar with and adhere to the City's equal employment opportunity, discrimination, sexual and other harassment and respectful workplace policies.

## **Mayor and Council Conduct with One Another**

Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as the Mayor and Council may "agree to disagree" on contentious issues.

### **IN PUBLIC MEETINGS**

#### **• Practice civility, professionalism and decorum in discussions and debate**

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, the Mayor and Councilmembers to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threats will be tolerated. The Mayor and Councilmembers should always conduct themselves in a professional manner.

#### **• Honor the role of the Mayor in maintaining order**

It is the responsibility of the Mayor to keep the comments of Councilmembers on track during public meetings. Councilmembers should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following procedures outlined in the procedural rules adopted by the Council.

#### **• Avoid personal comments that could offend other Councilmembers**

If a Councilmember is personally offended by the remarks of another Councilmember, the offended Councilmember should note their concerns during the meeting and make notes of the actual words used and follow the Council's procedural rules to request the other Councilmember to justify or apologize for the language used. The Mayor will maintain control of this discussion.

#### **• Demonstrate effective problem-solving approaches**

The Mayor and Councilmembers have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

- **Be punctual and keep comments relative to topics discussed**

The Mayor and Councilmembers have made a commitment to attend meetings and participate in discussions. Therefore, it is important that the Mayor and Councilmembers be punctual and that meetings start on time. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discussed scheduled issues.

## **IN PRIVATE ENCOUNTERS**

- **Continue respectful behavior in private**

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

- **Be aware of the insecurity of written notes, voicemail messages, e-mail, text messages, “tweets,” and social media**

Technology allows words written or said without much forethought to be distributed wide and far. Before recording or putting something in writing, consider:

- Would you feel comfortable to have this note forwarded to others?
- How would you feel if this voicemail message was played on a speaker phone in a full office?
- What would happen if this e-mail or text message was forwarded to others?
- How would you feel if this comment, image, video, “tweet,” or social media post went “viral” for the world to see and read?
- Written notes, voicemail messages, email and social media posts should be treated as potentially "public" communication. It is the responsibility of the City Council to be aware of and follow the City’s Data Practices Policy and the Minnesota Government Data Practices Act (“MGDPA”).
- If the communication is between Councilmembers, could this conversation or written exchange, including emails, text messages, and other forms of electronic communication violate Minnesota’s Open Meetings Law?

- **Even private conversations can have a public presence**

Elected officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates and arguments will be watched, and casual comments between individuals before and after public meetings noted. Before Council meetings are opened and after they are closed, Councilmembers should avoid any pre- and post-meeting discussions amongst themselves, as such conversations could violate Minnesota’s Open Meetings Law, or at least be perceived as a violation.

## **Mayor and Council Conduct with City Staff**

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



- **Treat all staff as professionals**

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

- **Limit contact to specific City staff**

Questions of City staff and/or requests for additional background information should be directed to the City Administrator, Mayor, or Department Heads. The City Administrator should be copied on or informed of any request.

Requests for follow-up or directions to staff should be made only through the City Administrator. When in doubt about what staff contact is appropriate, Councilmembers should ask the City Administrator or Mayor for direction. Materials supplied to a Councilmember in response to a request will be made available to the Mayor and all members of the Council so that all have equal access to information.

- **Do not disrupt City staff from their jobs**

The Mayor and Councilmembers should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. As a matter of courtesy and effective time management, Councilmembers should schedule appointments with staff in advance.

- **Never publicly criticize an individual employee**

The Mayor and Council should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Administrator through private correspondence or conversation. Councilmembers must respect the City's employees' right to data privacy under the MGDPA.

- **Do not get involved in administrative functions**

The Mayor and Councilmembers must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

- **Check with City staff on correspondence before taking action**

Before sending correspondence, the Mayor and Councilmembers should check with City staff to see if an official City response has already been sent or is in progress.

- **Do not attend meetings with City staff unless requested by staff.**

Even if the Mayor and/or Councilmember does not say anything, the Mayor and/or Councilmember's presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

- **Limit requests for staff support**

Requests for additional staff support – even in high priority or emergency situations – should be made to the City Administrator who is responsible for allocating City resources in order to maintain a professional, well-run City government.

- **Do not solicit political support from staff**

The Mayor and Councilmembers should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

## **Mayor and Council Conduct with the Public**

### **IN PUBLIC MEETINGS**

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of the Mayor or individual Councilmembers toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony or comment.

- **Be welcoming to speakers and treat them with care and gentleness**

Speaking in front of the Mayor and Council can be a difficult experience for some people. Some issues the Council undertakes may affect people's daily lives and homes. Some decisions are emotional. The way that the Mayor and Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity. Deescalating a situation will lead to a more productive outcome for all involved and the community as whole.

- **Give the appearance of active listening**

It is disconcerting to speakers to have the Mayor and Council members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

- **Ask for clarification, but avoid debate and argument with the public**

Only the Mayor – not individual Councilmembers – may interrupt a speaker during a presentation. However, using the Council's rules of procedure, a Councilmember may ask the Mayor to address the situation if the speaker is off the topic or exhibiting behavior or language the Councilmember finds disturbing.

If speakers become flustered or defensive by Council questions, it is the responsibility of the Mayor to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Councilmembers to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Council members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

- **No personal attacks of any kind, under any circumstance**

The Mayor and Councilmembers should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

- **Follow the Council's rules of procedure in conducting public meetings**

The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to the Council's rules of procedure. Final rulings on procedural issues are made by the Mayor, subject to the Council's rules of procedure.

## **MAYOR AND COUNCIL CONDUCT IN UNOFFICIAL SETTINGS**

### **• Make no promises on behalf of the Council**

The Mayor and Councilmembers will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to express personal feelings or positions on an issue or to give a brief overview of City policy and to refer to City staff or Council for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers, approve a license or permit, install a traffic sign, etc.).

### **• Make no personal comments about the Mayor or other Councilmembers**

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about the Mayor or other Councilmembers, their opinions and actions.

### **• Remember that despite its continued growth, Fergus Falls is a small community at heart**

The Mayor and Councilmembers are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Fergus Falls. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by the Mayor and Councilmembers, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

## **Mayor and Council Conduct with Other Public Agencies**

### **• Be clear about representing the City or personal interests**

If the Mayor or a Councilmember appears before another governmental agency or organization to give a statement on an issue, the Mayor or Councilmember must clearly state:

- 1) If his or her statement reflects personal opinion or is the official stance of the City;
- 2) Whether this is the majority or minority opinion of the Council, if the Council has taken a position on the matter. Even if the Mayor or Councilmember is representing his or her own personal opinions, remember that this still may reflect upon the Council as an organization and the City as a whole.

If the Mayor or Councilmember is representing the City, the Mayor or Councilmember must support and advocate the official City position on an issue, not a personal viewpoint even if the Councilmember may personally disagree with the City's official position.

If the Mayor or Councilmember is representing another organization whose position is different from the City, the Mayor or Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. The Mayor and Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

- **Correspondence also should be equally clear about representation**

City letterhead may be used when the Mayor or Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the City Administrator to be filed as part of the permanent public record.

City letterhead may not be used for correspondence of the Mayor and Councilmembers representing a personal point of view, or a dissenting point of view from an official Council position.

## **Mayor and Council Conduct with Boards, Committees and Commissions**

The City has established several Boards, Committees, and Commissions as a means of gathering more community input. Citizens who serve on Boards and Commissions become more involved in government and serve as advisors to the Mayor and City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- **If attending a Board or Commission meeting of which the Councilmember is not a member, be careful to only express personal opinions** The Mayor and Councilmembers may attend any Board or Commission meeting, which are always open to any member of the public. However, if the Board or Commission is conducting a public hearing, the Mayor or Councilmember shall remove themselves from the proceedings. The Mayor and Councilmembers should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by the Mayor or a Councilmember at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council. Also, the Mayor or a Councilmember's presence may affect the conduct of the Board or Commission and limit their role and function. In addition, Councilmembers must be cognizant of how their presence impacts any potential quorum of the Council and, therefore, the resulting implications under Minnesota's Open Meeting Law.

- **Limit contact with Board and Commission members**

It is inappropriate for the Mayor or a Councilmember to contact a Board or Commission member to lobby on behalf of an individual, business, or developer. The Mayor and Councilmembers should contact staff in order to clarify a position taken by the Board or Commission.

- **Remember that Boards and Commissions serve the community, not the Mayor or individual Councilmembers**

The Mayor and City Council appoint individuals to serve on Boards and Commissions, and it is the

responsibility of Boards and Commissions to follow policy established by the Council. But Board and Commission members do not report to the Mayor or individual Councilmembers, nor should the Mayor or Councilmembers feel they have the power or right to threaten Board and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board or Commission appointment should not be used as a political "reward."

- **Be respectful of diverse opinions**

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

- **Keep political support away from public forums**

Board and Commission members may offer political support to the Mayor or a Councilmember, but not in a public forum while conducting official duties. Conversely, the Mayor or Councilmembers may support Board and Commission members who are running for office, but not in an official forum in their capacity as the Mayor or a Councilmember.

- **Inappropriate behavior can lead to removal**

Inappropriate behavior by a Board or Commission member should be noted to the Mayor, and the Mayor should counsel the offending member. If inappropriate behavior continues, the Mayor should bring the situation to the attention of the Council which shall decide the appropriate action, which may include removal from the Board or Commission.

## **Mayor and Council Conduct with the Media**

The Mayor and Councilmembers may be contacted by the media for background and quotes.

- **The best advice for dealing with the media is to never go "off the record"**

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted. Words that are said cannot be unsaid.

- **The Mayor is the official spokesperson for the representative on City position**

The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

- **Choose words carefully and cautiously**

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, c u r s i n g or word play. When talking to the media, consider the same issues noted in the **In Private Encounters** section above.

# Sanctions

## • Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

## • Inappropriate Staff Behavior

Council members should refer to the City Administrator any City staff who do not follow proper conduct in their dealings with Council members, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions.

## • Council members Behavior and Conduct

The Mayor or City Council members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

1. If the Mayor or a Councilmember believes that another Councilmember or the Mayor has violated this Code of Conduct or the City's Code of Ethics during a meeting of the Council, s/he should call the matter to the offending person's attention at that or a subsequent Council meeting. If the problem continues, it shall be referred to the Mayor (or the Acting Mayor if the complaint is against the Mayor) who will attempt to resolve the matter in private. If the dispute is between the Mayor and the Acting Mayor, the Council shall select one of its other members to attempt to privately resolve the matter. The Mayor (or Acting Mayor or Council's designee, if any) may involve the City Administrator and/or City Attorney to investigate and make recommendations about the dispute. If these private efforts do not resolve the matter, then the Mayor or any member of the Council may bring it before the Council at a duly noted public meeting, at which time the Council shall decide whether or not to proceed with further action as noted in section 3 below.
2. If the Mayor or a Councilmember believes that another Councilmember or the Mayor has violated this Code of Conduct or the City's Code of Ethics at a time other than a meeting of the Council, s/he should call the matter to the offending person's attention and attempt to resolve it privately. If the problem is not resolved or continues after that informal discussion, it may be called to the attention of the Mayor (or the Acting Mayor if it is the Mayor's actions that are being challenged) who shall attempt to privately resolve the matter. If the dispute is between the Mayor and the Acting Mayor, then it shall be referred to the City Attorney who shall attempt to privately resolve the matter. The City Administrator shall be included in these efforts to privately resolve the matter. If these private efforts do not resolve the matter, then the elected official who initiated the complaint may raise it with the City Council at a duly noted public meeting, at which time the Council shall decide whether or not to proceed with further action as noted in section 3 below.
3. If a Code of Conduct or Code of Ethics complaint is raised with the City Council after informal efforts to resolve it have failed as described in 1 or 2 above, then the Council shall, at a duly noted public meeting, consider all available evidence and decide whether sanctions

are warranted, and if so, which sanction(s) to impose. Prior to making this decision, the Council may authorize the City Attorney, City Administrator, and/or other designee to investigate the matter further and to report his or her findings to the Council. The Council may also form an ad hoc committee to look into the matter. If, after considering all evidence presented, the Council determines that sanctions are warranted, the Council may take any and all lawful action it deems appropriate, including: requiring the offending member to undergo training or other appropriate education intended to fix the problem, censure, or terminating appointments to boards, committees and commissions.

## **Principles of Proper Conduct/Statement of Values**

The proper operation of democratic government requires that decision-makers must be independent, impartial and accountable to the people they serve. All elected and appointed officials, City employees and volunteers shall subscribe to the statement below, understand how it applies to their specific responsibilities and practice this conduct and express these values in their work.

### **Representatives of the City of Fergus Falls.....**

- Serve the public interest
- Fulfill the duties and responsibilities of holding public office
- Are forward thinking
- Keep promises
- Are dependable
- Build a solid reputation
- Participate and are available
- Demonstrate patience
- Practice fiscal responsibility
- Show empathy
- Hold onto ethical principles under stress
- Listen attentively
- Study thoroughly
- Keep integrity intact
- Overcome discouragement
- Go above and beyond, time and time again
- Model a professional manner

### **Proper conduct IS NOT ...**

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up divisiveness or controversy
- Acting in a self-righteous manner

## **It all comes down to respect**

Respect for one another as individuals . . . respect for the validity of different opinions . . . respect for the democratic process . . . respect for the community that we serve.

## **Checklist for Monitoring Conduct/Values**

- ✓ Will my decision/statement/action violate the trust, rights or good will of others?
- ✓ What are my interior motives and the spirit behind my actions?
- ✓ If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- ✓ How would my conduct be evaluated by people whose integrity and character I respect?
- ✓ Even if my conduct is not illegal or unethical, is it done at someone else's expense? Will it destroy their trust in me? Will it harm their reputation?
- ✓ Is my conduct fair? Just? Morally right? If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- ✓ Does my conduct give others reason to trust or distrust me?
- ✓ Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- ✓ Do I exhibit the same conduct in my private life as I do in my public life?
- ✓ Can I take legitimate pride in the way I conduct myself and the example I set?
- ✓ Do I listen and understand the views of others?
- ✓ Do I question and confront different points of view in a constructive manner?
- ✓ Do I work to resolve differences and come to mutual agreement?
- ✓ Do I support others and show respect for their ideas?
- ✓ Will my conduct cause public embarrassment to someone else or my community?

## **Identifying and Addressing Conflicts of Interest**

So that citizens may have the utmost confidence and trust in the integrity of City government, and to protect the City's interest and its citizen's interests, the Mayor and City Council ("Members") must disclose and avoid conflicts of interest that arise in performing their official duties. To this end, the below principles provide guidance for identifying, addressing, and disclosing conflicts of interest. This guidance supplements, not supplants, the responsibilities Members have under law regarding conflicts of interest. Members should consult with the City Administrator and/or City Attorney with questions or concerns they may have regarding conflicts of interest (whether the conflicts are real or perceived, potential or in existence), and not participate in or take any official action on a matter until such questions or concerns are resolved with the City Administrator or City Attorney.

## **Identifying Legal Conflicts of Interest**

A "legal conflict of interest" exists when, in the discharge of official duties, a Member participates in a governmental decision, action or transaction that:

- a. affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation; or



b. affects the financial interests of an organization in which the person participates as a member of the governing body unless the person serves in that capacity as the City's representative.

## **Identifying Financial Interests**

A financial interest is any interest, including loans, which may yield, directly or indirectly, a monetary or other material benefit to the Member (other than monetary or material benefits authorized by the City in accordance with law). A financial interest of a Member or Member's employer (other than the City), his or her associated business, or his or her spouse, domestic partner, parent, sibling or child, and their employers or associated businesses shall also be considered a financial interest of the Member. The following assets shall not be considered a financial interest for purposes of this section:

- a. ownership of shares in a diversified mutual fund;
- b. membership in a pension plan or employee benefit plan;
- c. ownership of bonds or publicly traded securities; and
- d. ownership of a whole life insurance policy

## **Addressing Legal Conflicts of Interest**

When a legal conflict of interest exists, except as permitted by law, a Member must disclose the potential conflict of interest for the public record (in the manner as set forth below) and refrain from participating in the discussion and from voting on the matter. To participate or participation means making the decision, acting, entering into a transaction, providing advice or a recommendation, introducing, sponsoring, debating, voting on, approving, and investigating the decision, action, or transaction.

A Member shall not participate in making or attempt to use his or her position to influence any City governmental decision, action, or transaction in which the Member knows or has reason to know that he or she has a legal conflict of interest.

## **Non-Legal Conflicts of Interest**

Members may face situations in performing their official duties that raise, or are perceived to raise, a conflict of interest but which do not fall within the above description of a legal conflict of interest and are otherwise not a conflict of interest regulated by law. These types of conflicts are referred to, for purposes of this document, as "non-legal conflicts of interest."

While non-legal conflicts of interest may be different in nature or degree from a legal conflict of interest and other conflicts of interest regulated by law, they can nevertheless impair, or give the appearance of impairing, a Member's independence of judgement and/or harm the City's interests and the interests of the citizens.

The significance of non-legal conflicts of interest often depends on the facts and circumstances involved in each situation, and thus it is difficult to establish bright-line rules regarding when such conflicts must be disclosed and necessitate a Member to refrain from participating in a matter. Therefore, Members are entrusted to use their best judgement regarding such situations with the aim of upholding the principles established under this document and the highest possible standards of ethical conduct, and with the understanding that public disclosure of non-legal conflicts of interest, by itself, helps maintain citizens' trust and confidence in the integrity of City government.

To this end, if a Member recognizes that his or her participation may create a non-legal conflict of interest, he or she should (i) discuss the matter in advance (to the extent possible) and in confidence with the City Administrator and/or City Attorney regarding the appropriate action to take; and/or (ii) disclose the conflict as set forth below and, if necessary, refrain from participating in the matter.

Without limiting the foregoing, a Member may participate in a City governmental decision, action, or transaction involving an organization or entity that the Member, or his or her partner, spouse, partner, domestic partner, sibling, or child is an officer, director, board member, or trustee of, if the Member does not have a legal conflict of interest in the governmental decision, action, or transaction. However, the Member must disclose his or her affiliation with the organization or entity as though it were a legal conflict of interest, as in the manner as set forth below.

Similarly, a Member may participate in a City governmental decision involving a person related by family to the Member, other than his or her parent, spouse, domestic partner, sibling, or child, if the Member does not have a legal conflict of interest in the governmental decision, action, or transaction. However, the Member must disclose his or her relationship with the related person as though it were a legal conflict of interest, in the manner set forth below.

## **Disclosure of Conflicts of Interest**

If a Member, in the discharge of his or her official duties, recognizes that his or her participation in a matter would create a legal conflict of interest, or a non-legal conflict of interest that should or must be disclosed, the Member shall disclose the conflict of interest as follows:

- a. The Member shall disclose the conflict of interest to the City Administrator and his or her fellow Members as soon as he or she becomes aware of the conflict. If a Member becomes aware of a conflict during a meeting of the Council or a committee or board, the Member shall immediately disclose the conflict of interest orally.
- b. In the case of a legal conflict of interest, a Member must also prepare a written statement describing the matter requiring action or decision and the nature of his or her conflict of interest, or as otherwise required by law. In the case of a Council Member, the written statement shall be distributed to the other Council Members and Mayor and filed with the City Administrator. After the first time the Member has orally disclosed a conflict of interest and filed the disclosure form, the Member may subsequently orally disclose a conflict by referring to the filed form. Because Members may not attend all meetings, oral disclosure may consist of the written statement being read into the record by the presiding Member at the first regular meeting after the form has been filed. All written statements shall be filed and distributed within one week after the Member becomes aware of the legal conflict of interest. In the case of non-legal conflicts of interest that a Member discloses, the Member may file a written statement regarding the conflict.
- c. If a Member does not participate in any discussion or vote on a matter due to a conflict of interest, he or she shall be counted present for the purposes of establishing a quorum to carry on the business of the Council, board, or commission, but shall be considered disqualified for the purpose of establishing the number of votes necessary to pass motions, resolutions or ordinances.

## Hearing

Any person may file a written complaint with the City Administrator questioning a Member's adherence to the principles of these conflicts of interest. After reviewing the complaint, the Council may hold a public hearing only if: (1) a neutral third-party designated by the City Attorney, advises the Council that the allegations state a legally recognized violation of the law or a legally-recognized conflict of interest; or (2) a neutral third-party designated by the City Attorney, advises the Council that the complaint has been lodged in good faith and that the alleged violation is related to the accused Member's role as a Member. Prior to the hearing, a letter will be sent to the accused Member stating the alleged complaint. At the hearing, the accused Member shall have the opportunity to be heard. If, after the hearing, the Council finds a violation of the principles stated in this Conflict of Interest section, the Council may, by a majority vote, censure the accused Member. The accused Member shall not participate in the Council's decision to censure.

## Shared Values Statement

I affirm that I believe in and am committed to upholding the values as stated in this City of Fergus Falls Code of Conduct for Elected Officials.

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**Refusal** to sign City of Fergus Falls Code of Conduct for Elected Officials

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

This policy was adopted by the Fergus Falls City Council \_\_\_\_\_, 2023