

August 27, 2026

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*Sent via U.S. Mail and Electronic Mail (meyerj@cityofplattsburgh-ny.gov)*

Dear Mr. Meyer,

Thank you for responding to our June 18 letter—and please excuse the misunderstanding regarding your May 19 response to our initial letter, which we had not received. We also understand Plattsburgh’s decision not to address Ms. Wood’s individual allegations in light of her Notice of Claim against the City. However, FIRE does not represent Ms. Wood, and our interest in this matter is limited to ensuring Plattsburgh’s rules and practices comply with the First Amendment for all stakeholders. Our constitutional concerns regarding the City’s public comment rules accordingly warrant attention independent of any individual constituent’s concerns, claim, or experience.

We therefore appreciate the invitation in your May 19 letter for FIRE to forward any suggestions or proposed language concerning public comment procedures generally to the appropriate City representatives. We are enclosing a redlined version of Plattsburgh’s public comment rules for the Council’s consideration and highlight below some of the changes we propose and the rationales for them:

1. **Clarification that address and organization disclosures are requested but not required** — Plattsburgh’s rules state that speakers are “requested” to provide their address and organization. Because requiring a speaker to publicly disclose his address and organization raises substantial First Amendment concerns—as one court has noted, the “chilling effect of being forced to announce to all present one’s actual home address before speaking on a hotly contested issue is clear”<sup>1</sup>—we recommend explicitly

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<sup>1</sup> *Marshall v. Amuso*, 571 F. Supp. 3d 412, 426 (E.D. Pa. 2021) (noting that “[c]ompelled speech is subject to the same analysis as prohibitions from speaking” and holding that “requiring the speaker to announce their specific home address is an unreasonable restriction” because “[e]ach speaker’s address can be collected when they sign up for their speaking slot.”).

clarifying that speakers may decline to provide that information without forfeiting their opportunity to speak.

2. **Changing mandatory use of a spokesperson to a request** — Allowing the presiding officer to require groups of people who may not even know each other to designate spokespersons improperly conditions each individual’s opportunity to speak on the actions of others. It also requires the presiding officer to determine which speakers share the same “point of view” or “side,” inherently putting the government in the position of classifying speakers based on viewpoint and regulating their participation accordingly, which is unconstitutional. The City may incentivize voluntary coordination if it so chooses, but it may not require speakers to designate spokespersons.<sup>2</sup>
3. **Deletion of the ten-minute time limit for each point of view or side on an issue** — Likewise, limiting each point of view or side on an issue to ten-minutes requires the government to classify speakers by viewpoint and allocate speaking time accordingly. The rule could prevent someone from speaking simply because other people already expressed a similar viewpoint. It appears to wrongly assumes that comments expressing the same general viewpoint are interchangeable; to the contrary, different speakers may offer different arguments, information, experiences, or perspectives in support of the same position.
4. **Clarification that the rule on addressing the council as a body does not prohibit speakers from mentioning or criticizing individual Council members** — There is likely no First Amendment problem in requiring speakers to address comments to the body as a whole. Such a rule is distinct from a ban on mentioning or criticizing individual Council members, which would be unconstitutional. We recommend making it clear that this rule governs to whom remarks are directed, not whom speakers may mention or criticize.
5. **Changing decorum expectations to focus on disruption** — Plattsburgh’s current requirement to “observe the commonly accepted rules of courtesy, decorum, dignity and good taste” is unconstitutionally vague because speakers “of common intelligence must necessarily guess at its meaning,”<sup>3</sup> and it lacks “explicit standards” to prevent “arbitrary and discriminatory enforcement.”<sup>4</sup> Even in a limited public forum, such as a public comment period, where “some degree of discretion in how to apply a given policy is necessary, ‘that discretion must be guided by objective, workable standards’ to avoid the moderator’s own beliefs shaping” his enforcement.<sup>5</sup> Undefined terms in

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<sup>2</sup> See *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000) (“freedom of association plainly presupposes a freedom not to associate”) (cleaned up).

<sup>3</sup> *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926).

<sup>4</sup> *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972).

<sup>5</sup> *Marshall*, 571 F. Supp. 3d at 424 (quoting *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 21–22 (2018)). This “need for specificity is especially important where . . . the regulation at issue is a content-based regulation of speech,” as vagueness has an “obvious chilling effect on free speech.” *Id.* (quoting *Sypniewski v. Warren Hills Reg’l Bd. of Educ.*, 307 F.3d 243, 266 (3d Cir. 2002)).

Plattsburgh's rule, such as "courtesy," "decorum," "dignity," and "good taste," are "irreparably clothed in subjectivity" with interpretations varying from "speaker to speaker, and listener to listener."<sup>6</sup> Plattsburgh may, however, enact rules prohibiting truly disruptive conduct such as speaking over others' comments, refusing to yield the floor after expiration of speaking time, or otherwise preventing the Council from conducting its business. We also added a clarification to emphasize that speech is not disruptive merely because it is critical, offensive, or causing discomfort.

6. **Addition that any decision to grant or deny time to a speaker or topic shall not be based on approval or disapproval of the speaker's viewpoint** — We recommend this language to help ensure decisions to extend a speaker's time are based on the Council's need for additional information rather than agreement or disagreement with the speaker's message, thereby reducing the risk of First Amendment violations.

If you have any questions or concerns, we would be more than happy to discuss them with you. We appreciate your attention to our concerns and look forward to your response.

Sincerely,



M. Brennen VanderVeen, Esq.  
Program Counsel, Public Advocacy

Encl.

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<sup>6</sup> *Id.*

# CITY OF PLATTSBURGH

## COMMON COUNCIL

### RULES FOR PUBLIC COMMENT

1. The Public shall be allowed to speak only during the public comment period of the meeting.
2. Speakers shall state their name and are requested, but not required, to provide their address and organization, if any.
3. Speakers must be recognized by the presiding officer or designee.
4. Speakers must limit their remarks to five minutes.
5. Speakers may not yield any remaining time they may have to another speaker.
6. Council members, with the permission of the presiding officer, may ask questions of a speaker during or after his remarks.
7. When a meeting is attended by a group of people who share the same or opposing views on a public comment topic, the presiding officer or designee may request but not require that the group(s) designate not more than two spokespersons and limit the total time for public comment to 10 minutes for each point of view or side on an issue.
8. All remarks shall be addressed to the council as a body and not to any member thereof. However, this rule does not prohibit speakers from mentioning or criticizing individual Council members.
9. Speakers shall refrain from disrupting the meeting during their remarks. Disruptive conduct may include speaking over others' comments, refusing to yield the floor after the expiration of the allotted speaking time, or otherwise preventing the council from conducting its business. Speech is not disruptive merely because it is critical, offensive, or causes discomfort. ~~observe the commonly accepted rules of courtesy, decorum, dignity and good taste.~~
10. Interested parties or their representatives may address the council at any time by written or electronic communications.
11. The Common Council may by majority voice vote grant more time to a speaker or a topic. Any decision to grant or deny more time shall not be based on approval or disapproval of the speaker's viewpoint.

12. If a Common Council member objects to a ruling by the presiding officer, he shall raise his objection by a motion “appealing the ruling of the chair.” If the motion passes, the ruling is overruled.
13. At the Public Comment portion of a Public Hearing:
  - a. Speakers shall sign-in at the beginning of the public hearing and are requested, but not required, to provide their address and organization, if any.
  - b. Speakers must be recognized by the presiding officer.
  - c. Speakers must limit their remarks to five minutes.