



City Council Handbook

2019 Edition

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January 2019

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Welcome to the City Council

Council Mail Boxes: Each Councilmember has a box located in the City Manager's Office. Staff will place items received in the mail or additional material required for meetings in your box on a regular basis. Please check your box at least once a week to ensure you are up to date.

Name Tag: A name tag is provided for your use outside of City meetings.

Keycard: A keycard is required to access rooms within City Hall. Councilmembers mainly use their card to access the City Manager's Office without being "buzzed in". It is not required, but is convenient. If you would like a keycard, please advise City Manager's staff to schedule a time to have your photo taken for the card.

Parking Passes: You will receive a parking pass each January for parking in the City Hall lot and surrounding areas. Parking for more than two hours without a pass could result in a parking citation.

Photo: The City Manager's Office will work with you to schedule an appointment to have your photo taken. The photo will be placed in the City Hall lobby and used for promotional materials.

Bio: A bio is needed for our website. If you have one prepared, please provide it to the City Manager's Office. Otherwise, our Community Relations Coordinator can assist you in drafting your bio.

Training: The League of Oregon Cities offers free training for new Councilmembers on their website at www.orcities.org. See the Policies section of this handbook for more information on training and travel expenses.

Meeting Schedule: The City Manager's Office issues a meeting schedule on Fridays. The meeting schedule outlines all Council meetings, study sessions and other meetings the Council attends for at least three months in advance. Be aware that meetings can be added or changed on a regular basis.

Meetings: Council meetings are generally held in the Council Chambers; study sessions in the Medford Room; Council Officers (details on page 12) in the Mayor's Office. Most meetings include a meal beforehand to allow interaction with staff, have questions answered and speak with other Councilmembers. If a meal is provided, it is scheduled one-half hour before the meeting, in the Medford Room unless otherwise noted.

Chambers Seating: Seating at the dais is set by the Council President and could change each year.

Microphones: Microphones on the dais in Council Chambers remain off, unless you are speaking. To speak, push the button on the microphone to activate and inactivate. Be aware that the microphone at the podium is always on and voices may be recorded, even if your individual microphone is turned off.

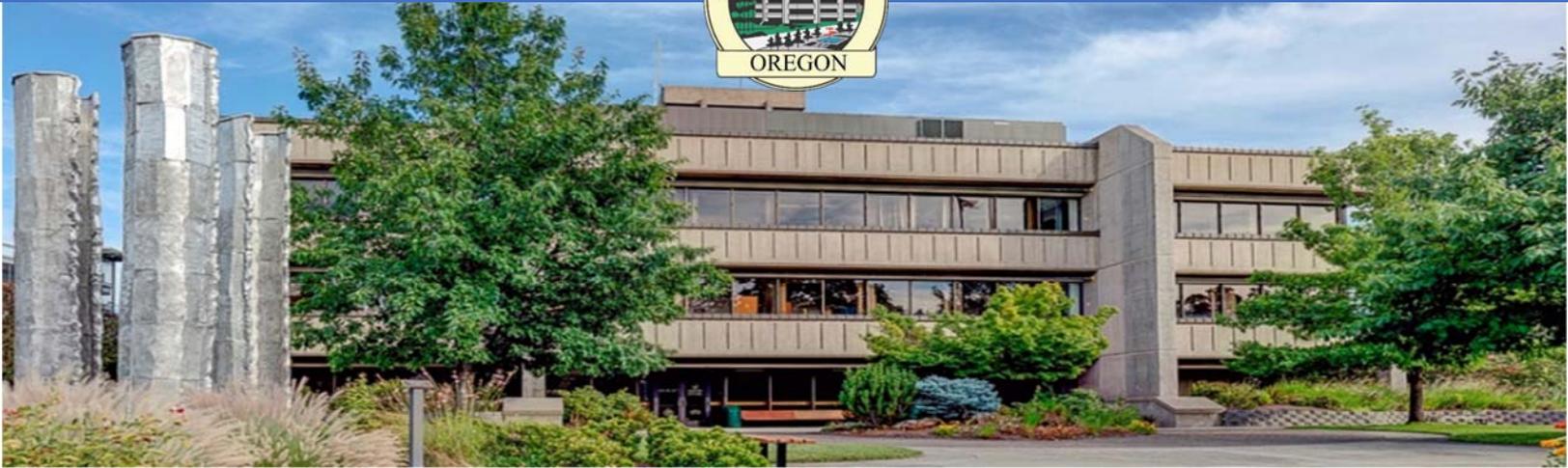
Microphones in the Medford Room are highly sensitive and are often turned on a few minutes before meetings and remain on for a few minutes after. Anything said during that time will be recorded and available for the public when uploaded to the website.

Recordings: All Council meetings are live-streamed and recorded. They are uploaded to the City's website within a week. Study sessions are not streamed live, but are recorded and uploaded immediately following the meetings to the website.

Agendas: Council meeting and study session agendas will be available no later than the Friday before the meeting is held. You will receive an email when the agendas are ready for download to your iPad.

If documentation is submitted after the agenda is prepared, it will be placed on the dais.

iPads: You will receive an iPad to use for accessing your meeting agendas. iPads are property of the City and activities on the iPads are subject to public records requests. See iPad policy.



VISION

Medford will continue to offer an exceptional quality of life for all generations. Residents and visitors alike will experience a vibrant community, safe and connected neighborhoods, and exemplary cultural and recreational opportunities. As the center of the Southern Oregon economy, businesses and educational institutions will find a collaborative environment encouraging partnerships, growth and innovation.

MISSION STATEMENT

Medford - A Fantastic Place to Live, Work & Play

CORE VALUES

Integrity: Adherence to moral principles and professional ethics – sound character.

Caring: Enthusiastically embracing our community through a performance culture.

Courage: Have the courage to make the difficult decisions and stand by them.

Accountability: We recognize our decisions and actions, as individuals and as an organization, positively impact the community through best practices.

Teamwork:
Valuing our colleagues and community in working collaboratively.



COUNCIL GOALS

Housing Strategies: Enhancing livability for all residents by providing and safeguarding a range of housing choices in Medford.

- Complete Urban Growth Boundary Amendment
- Regional Housing Strategy – As required by Regional Problem Solving
- Develop Opportunities for Downtown Housing
 - Define Downtown area where strategies will be utilized

Community Engagement: Bring community stakeholders together to discuss common vision for what Medford is going to strive to accomplish. Engagement includes involving and informing citizens about the Vision, Mission and Goals for the City.

- Complete and approve an internal visioning process that includes:
 - Core Values
 - 2017-19 Council Goals
- Develop a broad-based vision with community stakeholders
 - Medford 2050 Plan
- Develop a branding strategy for the City
 - Create new City logo
 - Create hashtag
 - Increase social media presence

Public Infrastructure: Proactively plan for and respond to identified infrastructure needs by providing facilities essential for citizens and visitors to live, work and play in a manner that is financially and environmentally sustainable.

- Complete vitally important plans
 - Transportation System Plan
 - Sewer Collection System Master Plan
- Update to Pavement Management Strategy
- Determine feasibility of a potential Event/Recreation Center
- Aquatic facility analysis and direction
- Citywide space needs assessment/City Hall utilization strategy

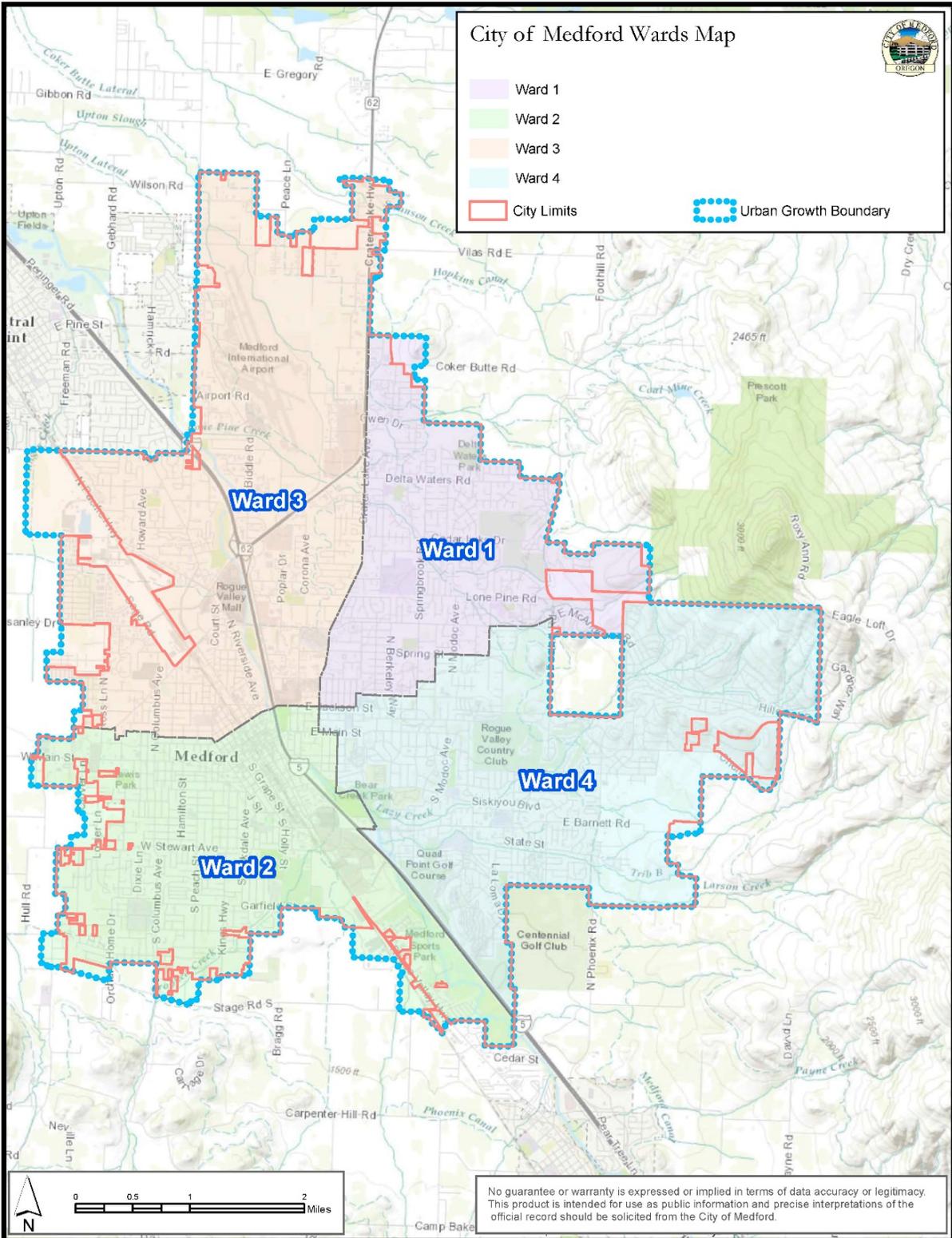
Economic Development: The City will play an active role in maintaining and enhancing Medford's diverse economy with an emphasis on family wage jobs.

- Collaborate with SOREDI in development of an economic strategy
- Re-apply for re-designation of the current Urban Enterprise Zone
- Provide case management approach to large industrial/commercial customers
 - Designated point person in each development services departments that will have direct access to City Manager's office to quickly resolve communication issues.
- Training of staff in order to become more business friendly

Downtown & Redevelopment: The City will seek opportunities to assist with the development and redevelopment opportunities within the downtown core area.

- Determine future of current Urban Renewal District
 - Review need for additional new district areas
- Seek Federal and State grants to assist with seismic retrofits for downtown properties
- Public/Private partnerships for developing City owned downtown properties for housing and/or retail
- Partner with established downtown organizations to set priorities and funding mechanisms for improvements
 - SPARC Central Medford
 - Chamber

City Wards





Medford's Form of Government

The City of Medford Charter establishes a Council-Manager form of government, which vests policy authority in a volunteer City Council and administrative authority for day-to-day operations in an appointed, professional City Manager. The Medford City Council consists of eight Councilmembers who serve staggered four-year terms. The Mayor is the presiding officer for the Council, is not a member of the Council and serves a four-year term.

Mayor

The Mayor serves as the City's presiding official and Chair of the Council. He or she is elected by the City at large on a nonpartisan ballot for a four-year term of office. The Mayor serves without compensation and is the formal representative of the City.

Role of the Mayor During Meetings

The Mayor is the Presiding Officer or Chair of the Council meetings. The duties of the Chair are:

- Open the meeting on time and call the meeting to order
- Request a roll call
- Announce in proper sequence the business on the agenda
- Recognize members who are entitled to the floor
- State and put to a vote all legitimate questions that arise during the meeting
- If a motion is out of order, the Chair should rule it out of order
- Enforce the rules regarding debate and keep order
- Expedite business in a way compatible with the rights of the members
- Decide all questions of order
- Respond to inquiries of members
- Declare the meeting adjourned

City Council

The City Council, Medford's legislative body, has eight Councilmembers. The Councilmembers are elected on a nonpartisan ballot for four-year terms and serve without compensation. Councilmembers may be given a stipend for cell phone data, upon request.

The Council sets City goals, enacts legislation, adopts policies and plans, and determines the services the City provides. The Council adopts the City budget, which specifies how much money can be spent for each City service. The Mayor and Council also appoint volunteers to committees to advise the City on a wide range of issues.

The Council elects one of its members to serve as Council President and one to serve as Council Vice-President. The President presides over the Council in the Mayor's absence and often represents the Mayor and Council on special occasions.

The Council takes official action at regular Council meetings, which are held at 6:00 p.m. the first and third Thursdays of each month, in the Council Chambers at City Hall. The Council conducts study sessions at 6:00 p.m. on the second Thursday of each month, at 6:00 p.m. in the City Hall Medford Room with the option to utilize the fourth Thursday for special and time sensitive subjects. The Council also schedules other meetings as needed. All Council proceedings are open to the public, except for properly called executive sessions.

Role of the City Council During Meetings

- Effective Councilmembers understand Council's rules of procedure as well as parliamentary procedure and abide by them
- Councilmembers should address all remarks through the Chair
- Members should use their parliamentary knowledge in a constructive manner rather than hindering or obstructing the business of the meeting
- Members should be knowledgeable and familiar with the issues before them so they can participate effectively
 - Review of agenda packet in advance of meeting
 - Speak with appropriate staff about questions prior to the meeting
 - Provide staff sufficient time to provide responses to questions; answers will be sent to all Councilmembers
- Councilmembers should know how to introduce motions or second another member's motion
- Debate the issue according to the rules or asking questions of information regarding the issues
- A Councilmember may vote but cannot be forced to do so. A Councilmember should not vote on questions of direct personal or pecuniary interest not common to other Councilmembers. A Councilmember may change a vote before the result is announced

Role of Council Officers

Following are general rules concerning activities of the Council Officers as approved during the November 18, 2010 Council meeting.

- Council Officers meetings include the Council President, Council Vice-President and the Mayor
- Council President provides leadership for the meetings and other called upon activities
- Council Officers' meeting agendas are built with input from the Council Officers, Councilmembers, Mayor and the City Manager
- Non-officer Councilmembers are encouraged to attend, but attendance at Council Officers' meetings shall not include a quorum of the Council
- Minutes will be written and distributed to Councilmembers after each meeting
- Council Officers shall meet, as needed, to discuss items of interest/concern that may require Council action in open meetings or executive sessions and shall advise the City Manager on the agenda priority of such items

- Consult with the City Manager on potential Council meeting agenda items, recommending agenda priorities. The City Manager has the responsibility to build Council agendas
- Respond to items of request, e.g. letters of support, that do not require Council action; copies of responses will be forwarded to Councilmembers
- Meet with delegations, reporting details to Council
- Sign other correspondence when directed by Council
- Council President manages the process to select individuals for City Committees, Commissions and Boards
- Council President manages the process for Council to evaluate the City Manager's work performance
- Council President recommends Council Liaisons to Boards and Commissions
- Council President proposes to Council, individuals to represent the City/Council to outside organizations
- Council President monitors the orientation of new Councilmembers
- Council President represents the City/Council at community functions or other events
- Mayor appoints members to Council/City Committees or taskforces when authorized formally or informally by Council
- The Vice-President serves as Chair of the Council's Finance Committee

Council Officers do not:

- Establish policy
- Give direction to staff if such direction is correctly the responsibility of the Council as a whole

City Manager

Under the Council-Manager form of government, the Council appoints a City Manager who manages the City's staff and departments. The City Manager is responsible for the day-to-day operations of the City of Medford organization. The Manager hires Deputy City Managers and department heads to assist in providing City services and enforcing City ordinances.

Role of the City Manager

The City Manager serves as the City of Medford's chief executive with responsibility for the administration of the various functions of City government as described in the City Charter and in accordance with legislative policy established by the City Council.

Duties:

Leads by contributing to the vision for the City's future; balances long term strategic needs with the day to day operation needs of the City; promotes ethical practices and encourages individual integrity.

Builds an effective management team to plan, direct and coordinate a varied work program; supervises and delegates responsibility; meets with citizen groups and organizations to address concerns or opportunities; establishes and maintains effective

working relationships with the community at large, the City Council, subordinate officials and employees, and public officials of other jurisdictions.

Integrates knowledge of management theory and practice; municipal organization and procedures; and laws, rules and regulations concerning the operation of municipal government into City management. Represents management of the City to appropriate labor organizations and unions.

Identifies opportunities for productivity increases by implementing new processes, organization structure and individual assignments, utilizing technology, reducing or avoiding costs, and enhancing revenue.

Analyzes efficiency and productivity of the workforce; improves the quality of life for the workforce through leadership, support, training and resources; and measures customer satisfaction with quality of work. Increases quality standards incrementally as continuous improvement is sought.

Communicates objectives and results to the work force, elected officials, and the community; and demonstrates that efforts were effective. Provides professional judgment to elected officials in identifying, analyzing and communicating policy issues significant to the community and provision of public services.

Implements processes and projects to fulfill vision, mission and goals as adopted by elected officials; and leads and motivates the work force to accomplish the same.

Medford Charter

AN ACT to provide for the government of the City of Medford in Jackson County, Oregon, and to repeal all charter provisions of the City enacted prior to the time that this charter was adopted, except Section 67-C thereof, heretofore adopted by the people, and Sections 98 and 101 of Chapter 292, Oregon Special Laws, 1905.

BE IT ENACTED by the people of the City of Medford, Jackson County, Oregon:

CHAPTER I NAME AND BOUNDARIES

Section 1. TITLE OF ENACTMENT. This enactment may be referred to as "THE MEDFORD CHARTER OF 1998."

Section 2. NAME OF CITY. The municipality of the City of Medford in Jackson County, Oregon, shall continue to be a municipal corporation with the name "CITY OF MEDFORD."

Section 3. BOUNDARIES. The City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by voters, by the Council, or by any other agency with legal power to modify them. The City Recorder shall maintain an official, accurate, and up-to-date description of the City boundaries in the recorder's office at the City Hall.

CHAPTER II POWERS

Section 4. POWERS OF THE CITY. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers.

Section 5. CONSTRUCTION OF CHARTER. In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the City would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the City may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home-rule provisions of the state constitution. As used in this charter, the term "whole Council" means all of the present membership of the Council at the time the vote is taken.

CHAPTER III FORM OF GOVERNMENT

Section 6. WHERE POWERS VESTED. Except as this charter provides otherwise, all powers of the City shall be vested in the Council.

Section 7. COUNCIL. The Council shall be composed of eight Councilmembers. There shall be two Councilmembers elected from each ward and the City shall be divided into four wards, the boundaries of said wards to be fixed by the City Council by ordinance. The ward boundaries in existence on the effective date of this charter shall remain in existence until changed by ordinance.

Section 8. COUNCILMEMBERS. The Councilmembers in office at the time this charter is adopted shall continue in office, each until the end of the member's term of office as fixed by the charter of the City in effect at the time this charter is adopted. At each biennial general election after this charter takes effect, four Councilmembers, one from each ward, shall be elected, each for a term of four years, so that the Councilmembers in each ward are biennially elected for overlapping terms. To qualify for election and to hold office, a Councilmember must be and remain a resident of the ward the member represents.

Section 9. MAYOR. The Mayor elected in November, 1998, shall serve the two year term for which that person was elected. At the biennial general election in the year 2000, and every four years thereafter, a Mayor shall be elected for a term of four years.

Section 10. MANAGER, JUDGE, AND OTHER OFFICERS. Additional officers of the City shall be a City Manager and Municipal Judge, and such other officers as the Council, or the board of water commissioners within its jurisdiction, deem necessary. The Council may combine any two or more appointive offices, except the offices of City Manager and Municipal Judge. In no such combination shall a Municipal Judge be subject to supervision by any other officer in the performance of judicial duties.

Section 11. SALARIES.

- (1) Appointed Officials. The compensation for the services of the City Manager and of the Municipal Judge shall be in the amount approved by the Council. The compensation for services of all other appointed City officers and employees, except employees and officers of the water commission, shall be the amount fixed by the City Manager, subject to budgetary limitations and other general limits set by ordinance of the City Council.
- (2) Elected Officials. The Mayor and Councilmembers shall not receive a salary for services rendered in that capacity except for reimbursement of actual expenses incurred in carrying out the duties thereof.

Section 12. QUALIFICATIONS OF ELECTIVE OFFICERS. No person shall be eligible for an elective office of the City unless at the time of election the person is a qualified elector within the meaning of the state constitution and has resided in the City during the six months immediately preceding the election. If the person is a resident of an area

annexed less than six months prior to election, total continuous residency in the area annexed shall be counted towards the 6-months requirement. The Council shall be final judge of the qualifications and election of its own members.

CHAPTER IV COUNCIL

Section 13. MEETINGS. The Council shall hold regular meetings at least twice each month in the City at a time and at a place which it designates. It shall, by ordinance enacted by two-thirds vote of the whole Council, adopt rules for the government of its members and proceedings. The Mayor or any two Councilmembers may call a special meeting of the Council. Notice of a special meeting shall be in such form and delivered or otherwise given in such manner as may be prescribed by the Council's rules of government and state statute.

Section 14. QUORUM. A majority of members of the Council shall constitute a quorum necessary for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

Section 15. PRESIDENT OF THE COUNCIL. At its first meeting of each year, the Council shall elect a president and vice-president from its membership. In the Mayor's absence from a Council meeting, the president, or in the president's absence the vice president, shall preside over it, but shall retain the right to vote on each question. In any event, the president or vice-president may vote only once on each question before the Council. Whenever the Mayor is unable to perform the other functions of the office, the president, or in the president's inability the vice-president, shall act as Mayor.

Section 16. VOTE REQUIRED. Except as this charter otherwise provides, the express concurrence of a majority, but not less than three, of those voting on the question shall be necessary and sufficient to decide any question before the Council.

CHAPTER V POWERS AND DUTIES OF OFFICERS

Section 17. MAYOR. The Mayor shall be the presiding officer of the City Council but shall not vote upon any question except in case of a tie and the Mayor shall then cast the deciding vote. Except as otherwise provided herein or by ordinance, the Mayor shall appoint the members of committees or commissions of the City. Within ten days after the Council adopts an ordinance the Mayor may sign it and shall thereupon take effect, or, the Mayor may return it unsigned to the City Recorder with a signed statement of objection, and the ordinance shall be deemed vetoed. If the Mayor neither signs the ordinance nor submits a veto to the City Recorder within ten days, the ordinance shall take effect at the end of ten days without the Mayor's signature. If the Mayor vetoes an ordinance, the Council may at its next regular meeting, or at a special meeting called for that purpose, reconsider the ordinance and, if two-thirds of the Councilmembers present vote for such ordinance, it shall become immediately operative as though approved by the Mayor.

Section 18. CITY MANAGER.

- (1) Qualifications. The City Manager shall be the administrative head of the government of the City. The Manager shall be chosen by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. The Manager need not be a resident of the City or of the state at the time of appointment, but promptly thereafter shall become, and during tenure remain, a resident of the City. Before taking office, the Manager shall give a bond in such amount and with such surety as may be approved by the Council. The premiums on such bond shall be paid by the City.
 - (2) Term. The Manager shall be appointed for an indefinite term and may be removed at the pleasure of the Council. Upon any vacancy occurring in the office of Manager, the Council at its next meeting shall adopt a resolution of its intention to appoint another Manager. Not later than one year after adopting the resolution, the Council shall appoint a Manager to fill the vacancy.
 - (3) Powers and Duties. The powers and duties of the Manager shall be as follows:
 - (a) The Manager shall devote his or her entire time to the discharge of official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, keep the Council advised at all times of the affairs and needs of the City, and make reports annually, or more frequently if requested by the Council, of all the affairs and departments of the City.
 - (b) The Manager shall see that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits, and privileges granted by the City are observed.
 - (c) The Manager shall designate a City Recorder, shall appoint and may remove appointive City officers and employees except as this charter otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. The Manager shall supervise the departments to the end of obtaining the utmost efficiency in each of them. The Manager shall have no control, however, over the Council or over the judicial activities of the Municipal Judge.
 - (d) The Manager shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such reports as that body requests.
 - (e) Except as provided in Section 21 with respect to the jurisdiction of the Board of Water Commissioners, the City Manager shall supervise the operation of all public utilities owned and operated by the City and shall have general supervision over all City property.
 - (4) Seats at Council Meetings. The Manager and such other officers as the Council designates shall be entitled to sit with the Council but shall have no vote on questions before it. The Manager may take part in all Council discussions.
 - (5) Manager Pro Tem. If the office of City Manager shall be vacant, the Mayor shall be empowered to appoint a City Manager pro tem who shall serve as City Manager; provided that the City Manager pro tem shall not have the power to appoint or dismiss officers or employees of the City except with the approval of the Council.
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Provided further that the City Manager pro tem shall hold office only until a City Manager shall have been agreed upon and in no event to exceed a longer period of time than one year. Provided further that the City Manager pro tem shall not be eligible for reappointment to the office of City Manager pro tem.

- (6) Interference in Administration and Elections. No member of the Council shall, in any manner, directly or indirectly, by suggestion or otherwise, attempt to coerce or influence the City Manager in the making of any appointment or any removal or in the award of any contract within the Manager's authority or in any disciplinary action against a City employee; nor shall any member of the Council exact any promise relative to any appointment from any candidate for City Manager or discuss directly or indirectly with any such candidate the matter of appointments to any City office or employments. Any violation of the foregoing provisions of this section shall work a forfeiture of the office of the offending member of the Council who may be removed therefrom by the Council or any court of competent jurisdiction. Nothing contained herein, however, shall be construed as prohibiting the Council, while in open session, from discussion with or suggesting to the City Manager anything pertaining to City affairs.
- (7) Ineligible Persons. Neither the Manager's spouse nor any person related to the Manager or the Manager's spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the City.

Section 19. WATER COMMISSION.

- (1) Water Commission; Appointment; Terms; Officers. The board of water commissioners of the City of Medford, created in 1922, shall continue as presently constituted and shall consist of five members who are residents of the City and serve without compensation. Each commissioner is appointed by the Mayor to serve for five years or until a successor is appointed and qualified, and, before assuming office, each must be confirmed by the City Council and file with the City Recorder a written oath to faithfully perform the duties of the office. Each commissioner in office on the effective date of this act shall remain in office until the expiration of the term for which appointed and each successor shall serve for five years or until another successor is appointed and qualified. Vacancies in the board shall be filled in like manner for the unexpired term. The City treasurer and City Recorder shall be ex-officio treasurer and clerk of the board. As clerk of the board of water commissioners, the City Recorder shall be the custodian of all official documents, papers and records thereof.
- (2) Authority.
 - (a) The board of water commissioners, in the name of the City of Medford, shall have full power and authority to construct, extend, maintain and operate facilities and water systems within and without the City for the appropriation, diversion, treatment, transmission and distribution of water from Big Butte Creek, the Rogue River and all other sources; to protect and preserve the watersheds upon which such water sources rely; to distribute, furnish, sell and dispose of waters, and provide water service, to water users and distributors, both public and private, within and without the City on such terms and

conditions as the board of water commissioners determines to be in the best interests of the City; to enter into contracts for periods not to exceed twenty (20) years for the furnishing of water service, the sale of water or the operation or ownership of water systems, provided that in connection with the execution of any contract for the furnishing of such services or water outside the City, the board shall first find that the water or water service, or system's capacity, thus furnished, provided or sold, is surplus to the needs of the inhabitants of the City; to exercise all authority granted by ORS 225.030 in connection with the ownership, operation and maintenance of water works and water systems; to acquire by purchase, gift or eminent domain any and all real and personal property of every kind and character, including real property, water rights, rights-of-way and all other property rights, which it may find to be necessary or convenient for the carrying out of its powers hereunder, and to possess and to use the said property and property rights for said purposes and to dispose of such as it may from time to time find to be surplus to the needs of the City water system.

- (b) Except as provided in Paragraph (3) and subject to the duties imposed in Paragraphs (4) and (5), the board of water commissioners shall have full control of the Water Fund and the power to disburse the same for the carrying out of all of the powers herein granted the board; to establish rates to be paid by water users for the use of City water service and facilities, and to collect and enforce the collection of such amounts in the name of the City of Medford; and to make all necessary rules and regulations for the sale, disposition and use of the water and water service of and from said City water system or systems.
 - (c) The board shall also have such other duties and powers, not inconsistent with this charter and the provisions of this chapter, as may from time to time be provided by ordinance of the City Council, and authority is hereby granted to the City Council to grant to said board of commissioners such additional powers as shall be necessary to enable the board of water commissioners to fully manage and operate the City water system.
- (3) Water Fund. All monies received by the board of water commissioners from the sale of water service or from users of the services furnished from the water systems, or otherwise, shall be deposited in the treasury of the City to the credit of a fund to be known as the "Water Fund" and shall be kept separate and apart from other monies of the City, and money shall be drawn from said fund only upon demand previously approved by vote of three members of the board taken with "ayes" and "noes" spread on the minutes; provided that the City Council shall have the power to draw upon the said water fund for the payment of interest and principal amounts of general obligation bonds of the City issued for the construction, improvement or expansion of the water system as such interest and principal payments from time to time fall due.
- (4) Rate Policy. It shall be the duty of the board to fix and maintain water service rates adequate to raise funds sufficient to pay operating expenses of the system, the

principal and interest on all bonds issued for the improvement and expansion of said system as the same fall due, and such replacements and additions to the water system as the board finds to be required by the needs of the users thereof. The board shall hold a public hearing sixty (60) days prior to any water service rate change.

- (5) Municipal Purposes. It shall be the duty of the board to furnish water to the City of Medford for fire protection and other like public purposes, and to receive into the water fund from the general fund of the City such amount as may be mutually agreed upon by the board and the City Council for said services.
- (6) Reports. It shall be the duty of the board to make full reports to the City Council of the business transacted by it and of the condition of its funds once every three months, and it shall also make special reports to the City Council on matters relating to the water system when called for by the City Council.

Section 20. MUNICIPAL JUDGE.

- (1) Municipal Judge; Qualifications; Appointment; Judges Pro Tem. The Municipal Judge shall be the judicial officer of the City. The judge shall be admitted to practice law by the Oregon Supreme Court. The judge shall be appointed by the Mayor, with the approval of the Council for a term of three years, subject to being removed by a two-thirds vote of the whole Council for cause as defined by ordinance in effect prior to the occurrence of the grounds for cause. The judge shall hold within the City a court to be known as the Municipal Court for the City of Medford, Oregon. The City Council may provide for the appointment of Municipal Judges pro tem to serve in the absence or inability of the Municipal Judge and for compensation thereof, and may appoint such judges pro tem to thus serve, but any such appointment shall be subject to the approval of the Municipal Judge.
- (2) Jurisdiction and Limitations. The court shall be open for the transaction of judicial business at times specified by ordinance. All area within the City and, to the extent provided by state law, area outside the City shall be within the territorial jurisdiction of the court. The Municipal Judge shall exercise original and exclusive jurisdiction of all offenses defined and made punishable by ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances of the City. The judge shall have authority to issue process for arrest of any person accused of an offense against the ordinances of the City, to commit any such person to jail or admit him to bail, to provide for subpoenas, to compel witnesses to appear and testify in court on a hearing or trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court and to punish witnesses and others for contempt of court.

When not governed by ordinances or this charter, all proceedings in the municipal court for the violation of a City ordinance shall be governed by general laws applicable to state courts. The City Manager shall execute, or cause to be executed, all lawful orders of the Municipal Judge or court or of any court which succeeds to its jurisdiction. Except as otherwise provided for in a special, or

commitment order, an accused shall be released from custody in accordance with the terms of a general order of the municipal court. The laws of arrest, warrants, searches, seizures, rights to bail, counsel, and due process for violation of an ordinance shall be the same as those applying within the state of Oregon to misdemeanors.

- (3) Transfer of Jurisdiction. If by general statute, or by constitutional amendment, the state of Oregon makes available a state court for the enforcement of all or a part of the ordinances of the City of Medford, then notwithstanding the above provisions, the City Council may in its discretion, by ordinance, transfer all or any part of the jurisdiction of the municipal court to such state court on such terms as the City Council may deem to be in the best interests of the citizens of Medford, but any such ordinance may be subject to referendum on petition of legal voters or by resolution of the City Council as provided by law.

Section 21. RECORDER. The recorder shall serve ex officio as clerk of the Council, attend all its meetings unless excused therefrom by the Council, keep accurate record of its proceedings, and sign all orders on the treasury. In the recorder's absence from a Council meeting, the Manager shall appoint a clerk of the Council pro tem who, while acting in that capacity, shall have all the authority and duties of the recorder.

CHAPTER VI ELECTIONS

Section 22. ELECTIONS. The City Recorder shall be the elections officer of the City. A person may be nominated in a manner prescribed by general ordinance to run for an elective office of the City. City elective offices shall be filled at regular City elections held at the same times and places as biennial general state elections in accordance with applicable state election laws. The Council may provide for special elections in accordance with such laws. The result of all elections shall be entered into the record of the proceedings of the Council. To the extent permitted by the Constitution and the Laws of the State of Oregon and the provisions of this charter, the Council may enact ordinances governing the conduct of City elections.

Section 23. COMMENCEMENT OF TERMS OF OFFICE. The term of office of a person elected at a regular City election shall commence on the day of the first Council meeting of the year immediately following the election.

Section 24. OATH OF OFFICE. Before entering upon the duties of an elective office, each officer shall take an oath or shall affirm that he or she will support the constitutions and laws of the United States and of Oregon and faithfully perform the duties of the office.

CHAPTER VII VACANCIES IN OFFICE

Section 25. WHAT CREATES VACANCY? An elective office becomes vacant: (1) Upon the incumbent's (a) death, (b) adjudicated incompetence, or (c) recall from the office; or (2) Upon declaration by the Council of a vacancy in case of the incumbent's (a) failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin, (b) absence from the City for over 30 days without the Council's consent or from all meetings of the Council within a 90 day period, (c) ceasing to reside in the ward from which elected, (d) ceasing to be a qualified elector under state law, (e) conviction of a public offense punishable by loss of liberty, or (f) resignation from the office.

Section 26. FILLING OF VACANCIES. Vacant elective offices in the City shall be filled by a majority vote of the whole Council. The appointee's term of office shall begin immediately after appointment and shall continue throughout the unexpired term of the predecessor. However, if an appointed Councilmember's term begins at least thirty (30) days prior to the last day for filing nominating petitions for the general election which comes in the middle of the predecessor's unexpired term, the appointee's term shall terminate at the end of such election year, and the vacancy shall then be filled at the mid-term general election for the balance of the original term, so that the system of overlapping four-year terms in each ward shall be preserved.

CHAPTER VIII ORDINANCES

Section 27. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted shall be, the City of Medford ordains as follows:

Section 28. MODE OF ENACTMENT.

- (1) Except as the second and third paragraphs of this section provide to the contrary, every ordinance of the Council shall, before being put on its final passage, be read fully and distinctly in open Council meeting on two different days.
- (2) If such ordinance has been available for public inspection in the office of the City Recorder not less than three days prior to the meeting, the ordinance, and any amendments thereto, may be enacted at a single meeting of the Council unless there is more than one dissenting vote, upon being read first as in this chapter provided.
- (3) Any of the readings may be by title only, if no Councilmember present at the meeting requests to have the ordinance read in full, or if a complete copy of the ordinance is provided for each Councilmember prior to the meeting.

CHAPTER IX
PUBLIC IMPROVEMENTS

Section 29 IMPROVEMENTS.

- (1) Procedure. The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state. Any such general procedural ordinances shall be passed by a vote of at least two-thirds of the whole Council.

- (2) New Paving Based on Initiating Petitions Only. Except as provided in subsection (3), the City Council shall not have power to levy special assessments for paving hereafter to be made except upon petition signed by the owners, according to the records in the office of the county recorder, of property to an aggregate amount of a majority of the lineal frontage upon the improvement to be made and of the area within the limits of the assessment district to be created therefor.

- (3) Arterial Streets. Subject to the limitations herein contained, the Council may, without an initiating petition, levy special assessments for paving an arterial street, but such project may be defeated by a remonstrance signed by the beneficial and record owners of more than half of the lineal frontage of the property to be assessed, if the remonstrances are filed with the City Recorder prior to the first public hearing on the proposed project; and, if so defeated, such project may not be proposed for another year on an assessment basis. Nothing herein shall be construed to compel any property owner to pay any portion of the cost of curbs or sidewalks abutting the property, where at the time of initiating the project, there are existing curbs or sidewalks in good condition abutting the property, constructed to the grade and specifications of the City. An arterial street for the purposes of this section is a street designated by the City Council to be widened and improved for major traffic flow, when public funds are to be provided in an amount sufficient to provide for such additional capacity. Where an assessment project is initiated hereunder without petition, the notices of the first public hearing shall set forth the maximum amount or rate of special assessment to be levied and no special assessment in excess of said amount or rate made thereafter shall be validly levied for said project.

Section 30. SPECIAL ASSESSMENTS. The procedure for levying, collecting, and enforcing the payment of special assessment for public improvements or other services to be charged against real property shall be governed by general ordinance. Such ordinance shall be passed by a vote of at least two-thirds of the whole Council.

CHAPTER X
MISCELLANEOUS PROVISIONS

Section 31. BONDED INDEBTEDNESS. No general obligation bonded indebtedness shall be incurred without the consent of the voters, except as otherwise authorized by state law.

Section 32. CONTRACTS AND FRANCHISES. The City shall not be bound by any deed or by any contract, unless the contract or deed has been authorized or ratified by

ordinance of the Council, or, where within the province of the board of water commissioners, by resolution of the board of water commissioners. Except leases of real property and the covenants and undertakings therein, no contract or franchise shall be entered into by the City binding it for a longer period than ten years; provided, that the City shall have authority to enter into contracts not exceeding twenty (20) years in duration with other municipal or quasi-municipal corporations for the construction, operation, or maintenance of public systems and facilities for domestic water supply or sewage collection or treatment or other public utilities to serve areas outside the City. The City shall not enter into any lease, as lessor or lessee, for a period longer than fifty years. No franchise shall grant any exclusive right or rights. This section shall not be construed to prevent the issuance of bonds of the City otherwise authorized for a longer period than ten years if, in the opinion of the Council, such longer term will be for the best interests of the City, but no bonds of the City shall be issued for a longer period than thirty years.

Section 33. EXISTING ORDINANCES CONTINUED. All ordinances of the City consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

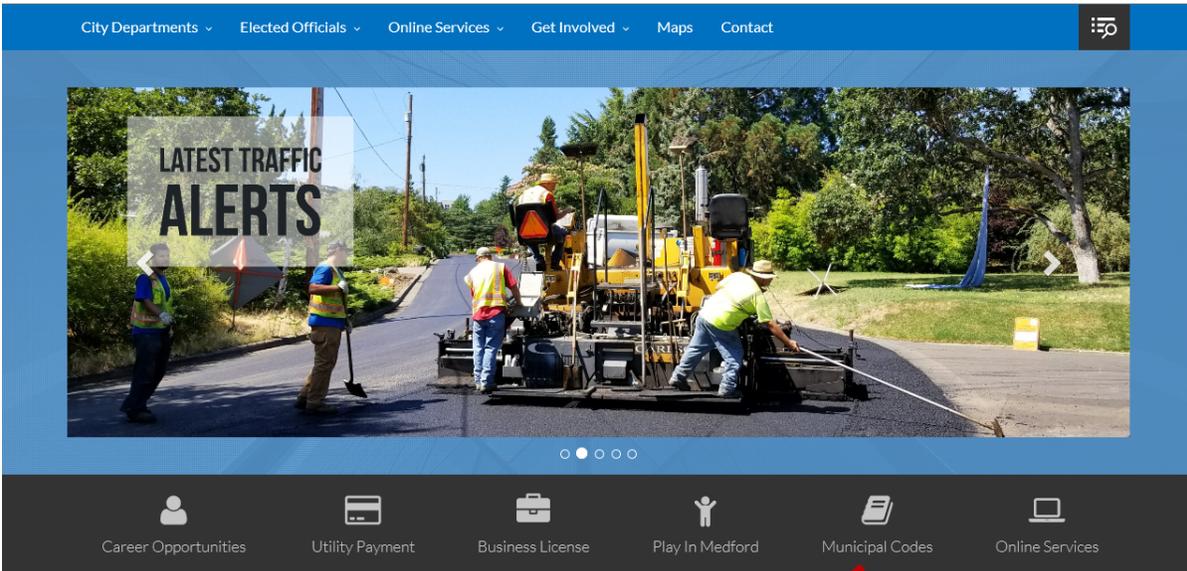
Section 34. REPEAL OF PREVIOUSLY ENACTED PROVISIONS.

- (1) All charter provisions of the City enacted prior to the time that this charter was adopted are repealed, except as provided in Subsections (2) and (3) of this Section.
- (2) The following provisions enacted by the voters of Medford are not repealed: Section 67-C, adopted August 5, 1975, authorizing transient lodgings tax.
- (3) The following provisions contained in the legislative charter of Chapter 292, Oregon Special Laws of 1905, are not repealed:
 - (a) Section 98, relating to the authority of the City regarding county roads within the City;
 - (b) Section 101, requiring publication of information before selling City-owned utilities.

Section 35. TIME EFFECT OF CHARTER. This charter shall take effect January 1, 1999.

Medford Municipal Code

A complete version of the Medford Municipal Code is available on the city website at www.cityofmedford.org. The hard copy official version of the Medford Code is on file in the City Attorney's Office.



- + 1 General Provisions
- + 2 Government and Administration
- + 3 Public Improvements
- + 4 Utilities and Sanitation
- + 5 Offenses
- + 6 Streets, Highways, Public Parking and Public Right of Way
- + 7 Public Protection
- + 8 Business
- + 9 Building
- + 10 Land Development Code
- + 11 Industrial Waste Pretreatment
- + 12 Emergency Management Responsibility



City Council Meetings

General Information

The Medford Municipal Code outlines the procedures of the City Council meetings.

Meeting Information

2.005 Meeting Time

Unless the Council sets a different date and time for a particular meeting, the Council shall meet at 6:00 p.m. on the first and third Thursdays of each month in the Council Chambers. If business is not finished by 10:00 p.m., the Mayor shall adjourn the meeting, unless a majority of the Councilmembers present vote to continue in session. Unfinished business shall automatically be placed on the next regular Council agenda, unless the Council specifies a different time for consideration of such items. On holidays, the Council shall meet on the Thursday next following the holiday.

2.010 Meeting Procedure

The presiding officer shall conduct all meetings of the Council in accordance with Robert's Rules of Order, Revised. However, the validity of an act of the Council shall not be affected by failure to observe Robert's Rules of Order, Revised.

2.035 Quorum

The Mayor, or in his absence the Council President or Vice-President, shall call the meeting to order at the hour designated for the meeting. If a quorum is not present, the City Recorder shall immediately inform the absent members, except those known to be unavoidably detained, that their presence is required to enable the Council to proceed. If the absent member or members do not appear after the notice, the members present shall adjourn until a specific time or until the next regular meeting.

NOTE: Five Councilmembers constitutes a quorum.

2.040 Agenda

The Manager shall prepare an agenda of the business to be presented at a regular Council meeting. Agenda items should be submitted at the time determined by the City Manager per Administrative Regulation. The agendas shall be prepared in accordance with [Municipal Code] Section 2.050. Councilmembers and the Mayor shall endeavor to have subjects they wish considered submitted in time to be placed on the agenda.

2.050 Order of Business

The order of business at Council meetings shall be as follows:

- (a) Roll call
- (b) Recognitions, community group reports

- (c) Oral request and communications from the audience
- (d) Public hearings
- (e) Approval or correction of the minutes of the preceding meeting
- (f) Consent calendar
- (g) Items removed from the consent calendar, if any
- (h) Ordinances and Resolutions
- (i) Council Business (including propositions and remarks from the mayor and councilmembers)
- (j) Manager and staff reports
- (k) Adjournment

2.045 Consent Calendar

In order to make more efficient use of meeting time, the Manager shall place all ordinances, resolutions which are routine in nature and concerning which no debate is expected on a "consent calendar." Any item placed on the consent calendar shall be removed at the request of the Mayor or a Councilmember prior to the time a vote is taken on the consent calendar items. All remaining items on the consent calendar shall be disposed of by a single motion "to adopt the consent calendar," which shall not be debatable. Adoption of the consent calendar shall be by the affirmative vote of all Councilmembers present at the time the vote is taken and shall have the same effect as a separate vote for each item. If there are dissenting votes, each item on the consent calendar shall be voted upon separately in the usual manner.

2.060 Committee Reports

All committees shall report in writing on the subject or matter referred to them. A committee report shall:

- (a) Contain the names of the persons who have appeared before or been consulted by the committee on the matter contained in the report;
- (b) Contain the recommendations of the committee;
- (c) Contain the recorded vote of the committee members on any recommendation; and
- (d) Be signed by a majority of the committee.

2.055 Voting

- (1) Only a member who is present shall be permitted to vote when the "ayes" and "nays" on a question are called for. Presence shall be determined by the following:
 - (a) When a member's name is called in the regular order, in the case of a roll call vote; or
 - (b) In any other case, when the question is put.
- (2) The president of the Council or a Councilmember acting as president pro tem may vote on all questions in all cases in which he might vote if not so acting.
- (3) On a motion to adopt an ordinance, or to adopt a resolution authorizing any disposition of public funds, or in the course of special assessment proceedings, there shall be a roll call vote. On all other motions it is sufficient to put the question in the following form: "All in favor say 'aye', opposed 'nay'." If the presiding officer

is then uncertain of the votes cast or if a division is called for, the presiding officer shall call for a roll call vote.

- (4) In order to carry an authorization to expend public funds, at least three members of the Council shall vote affirmatively for the proposition.

Summary of Council Voting Requirements

Medford Charter

Section

- 14 **QUORUM:** Majority of members of Council
- 16 **VOTE REQUIRED:** Concurrence of a majority of members present is required for passage
- 28(2) **VOTE ON ORDINANCES:** More than one dissenting vote on first reading requires a second reading
- 17 **TIE VOTE:** Mayor shall not vote except in case of a tie, and he shall then cast the deciding vote
- 17 **VETO:** Mayor can veto an ordinance within 10 days by returning it unsigned to the City Recorder with a signed statement of the objection. The Council may at its next regular meeting, or at a special meeting, reconsider the ordinance and if it receives two-thirds vote of Council present, it becomes effective immediately. If the Mayor neither signs it nor submits his statement within the ten days, the ordinance shall take effect at the end of the 10 days
- 20(1) **REMOVAL OF JUDGE:** Requires two-thirds vote of the whole Council
- 26 **FILLING OF VACANCIES:** Requires majority vote of the whole Council
- 29(1) **PUBLIC IMPROVEMENTS:** Ordinance shall be passed by a vote of at least two-thirds of the whole Council
- 30 **SPECIAL ASSESSMENTS:** Ordinance shall be passed by a vote of at least two-thirds of the whole Council

Medford Code

Section

- 2.045 **CONSENT CALENDAR:** Affirmative vote of all members present
- 2.055(1) **PRESENCE:** Determined when member's name is called
- 2.055(4) **EXPENDITURE OF PUBLIC FUNDS:** Minimum of three affirmative votes
- 2.070 **CONFLICT OF INTEREST:** Must be declared and explained before taking part in any discussion, voting or abstaining
- 2.075 **SUSPENSION OF RULES:** Affirmative vote of at least two-thirds of members present

2.070 Conflict of Interest

Each Councilmember shall be entitled to vote when present at a regular or special meeting of the Council, except that a Councilmember shall not vote when he has a conflict of interest. A conflict of interest exists if the action to be taken can confer on him a significant economic benefit or impose a significant economic loss not shared by the public generally. If there is such a conflict of interest, the Councilmember shall identify it before taking part in any discussion.

2.065 Decorum

- (1) Except by permission of the Presiding Officer, a Councilmember shall address any remarks to the Council, and not to the audience. Upon recognition and with permission of the presiding officer, a person in the audience may address the Council relative to any matter being considered by the Council at that time.
- (2) All members shall preserve order and decorum during meetings and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Presiding Officer.
- (3) All members shall:
 - (a) Confine themselves to questions or issues then under discussion;
 - (b) Not engage in personal attacks;
 - (c) Not impugn the motives of any speaker;
 - (d) Not chastise, denigrate, or criticize anyone;
 - (e) Set an example of good ethical conduct; and,
 - (f) At all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.

City Council Ground Rules

1. Honor the expertise in the room
2. Avoid blame, speculation, and inflammatory language
3. Ensure that all are heard and encourage participation
4. Acknowledge and respect differences
5. Agree to disagree
6. Look for common ground
7. Come to meetings prepared
8. Ask questions to staff in advance whenever possible
9. Active listening – Listen to understand, not to respond
10. WAIT – Why am I talking?
11. Stay on topic
12. Provide actual direction
13. Respectful to all (MMC 2.065 Decorum)
14. Functional procedural rules
 - Amendments, tabling, vote on items (piece meal)

Censure and Violations

To assure the public confidence in the integrity of the City of Medford, Council members are held to a high standard of conduct. For this reason, Council members developed a Code of Conduct and believe it is as important to the public process as other rules and procedures. It is also recognized that, there may be times when action is required to correct and/or prevent behavior that violates the Code of Conduct.

A Council member may be censured by the other Council members for misconduct, nonperformance of duty or failure to obey the laws of the federal, state, or local government. Misconduct includes not honoring the provisions of the Council Ground Rules.

Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the Council member but is not required prior to passage of a Council Resolution of Censure by the other Council members.

A violation of the Code of Conduct will not be considered a basis for challenging the validity of any Council decision.

Implementation

Council members will receive a copy of the Council Ground Rules and will affirm in writing that they have received the rules including the code of conduct, understand the provisions, and pledge to conduct themselves by the ground rules. A periodic review of the ground rules will be conducted to ensure that they are an effective and useful tool.

2.020 Ordinance and Resolution Procedure

Subject to the provisions of sections 2.010 to 2.075, ordinances and resolutions shall be introduced and passed at regular or special sessions of the Council. Before introduction, all proposed ordinances and resolutions shall be delivered to the City Recorder, who shall endorse on them the Council bill number assigned to each. The number shall begin with the year in which the bill was introduced followed by the consecutive number identifying each bill, beginning each year with the number 1 for the first bill of that year (i.e., 1998-1, 1998-2, etc.) Proposed ordinances and resolutions shall from the time of numbering be referred to in the minutes or records of the City Recorder as Council Bills. The proposed ordinances and resolutions then shall be introduced in open Council meeting, and the following action may be taken:

- (1) A motion that the proposed ordinance or resolution be adopted as read. When seconded, the motion may be disposed of in accordance with section 2.010.
- (2) A motion that no action be taken with regard to the proposed ordinance or resolution or that consideration of the ordinance or resolution be postponed until a particular subsequent meeting or until a later time during the same meeting. The motion may contain instructions relative to the preparation or modification or referral to committee of the ordinance or resolution. When seconded, the motion may be amended to specify or change the time of future consideration of the ordinance or resolution. The motion shall not be subject to any other incidental, subsidiary or privileged motion or amendment.
- (3) A motion that the proposed ordinance or resolution be adopted with changes as made by the motion. The motion shall not be acted upon until the proposed change has been reduced to writing and attached to the original draft of the ordinance or resolution. When seconded, the motion may then be disposed of in accordance with section 2.010.
- (4) Every resolution of the Council shall, before being put on its final passage, be read once in open Council meeting. However, in the case of a resolution of intent to rezone property, if there is more than one dissenting vote on first reading, the resolution shall require a second reading on another day before final passage. All resolutions shall be read, either in full or by title, in the manner prescribed for ordinances in section 34 of the charter.

2.025 Ordinance Recording

The City Recorder shall record all ordinances passed by the Council and approved by the Mayor in a book to be kept for that purpose.

Legislative Actions

The City Council is the legislative body of the City. The Council may adopt laws or policies applicable to all persons within the City, subject to any limitations imposed by the City Charter or conflicting or preemptive provisions in state or federal law. The manner in which the Council acts depends to some degree on the subject matter under consideration. In some instances, state statutes or City code provisions dictate the form the action must take.

Ordinances

Ordinances constitute the City's local laws. Formal action, with adoption by a majority of the Council, is required to enact an ordinance. Under most charters, the Mayor may veto an ordinance, and the Council may override the veto by an affirmative vote of two-thirds of the Councilmembers. If the ordinance contains an emergency clause, it becomes immediately effective upon passage by an affirmative vote of two-thirds of the Councilmembers. An ordinance may also include provision of a specific effective date (subject to the limitations noted above) in order to implement its provisions at a time certain.

An ordinance will be utilized to add, amend, or repeal sections of a City's code (the City's compilation of local laws), and may also involve any other subject matter where the intent is to establish a permanent or long-term rule, policy or procedure. In addition, some state statutes, City Charter or code provisions may require that the Council act by ordinance in specific situations. Some common examples include: (a) authorizing agreements; (b) granting franchises; (c) withdrawing annexed territories from special districts (water, parks, etc.); (d) condemning real property; (e) levying assessments; and (f) amending comprehensive land use plans.

Unless an ordinance directs a specific action or contains its own expiration date, it remains in effect until amended or repealed by another ordinance. Some ordinances will contain findings that in essence provide a legislative history for the action being taken, while others, such as land use ordinances, are required to contain findings that show conformance with statewide planning goals.

Resolutions

Resolutions generally deal with matters of a special or temporary nature and reflect an expression of Council opinion or policy. Resolutions are adopted by majority vote. They are, however, separate written documents that can be readily accessed to confirm the nature of the action taken. Resolutions often contain findings or recitals that provide information about the action being taken.

Resolutions may:

- (a) Call public hearings
- (b) Adopt specific policies or plans (other than land use plans)
- (c) State an official position on global or statewide political concerns
- (d) Commend or honor an individual's service to the City or community
- (e) Adopt the budget
- (f) Establish City funds and authorize transfers between funds
- (g) Form a local improvement district
- (h) Call an election.

Because resolutions generally deal with matters of a special or temporary nature, when the purpose of the resolution has been accomplished it ceases to have any further effect. However, in those instances where specific procedures of an on-going nature are involved, such as adoption of a specific program or procedures to be followed in

administering a specific program, those procedures remain in effect until amended or repealed by another resolution or an ordinance.

Administrative Rules and Orders

As mentioned before, the City Manager is responsible for the day-to-day operations of the City, and therefore, the Medford Code grants the City Manager authority to adopt regulations to carry out the functions of that office. These regulations or rules may implement provisions of the City code or other ordinances, or may be administrative orders establishing fees or delegating duties. Specific procedures must be set forth for the manner in which rules are to be adopted to ensure adequate public notice and an opportunity to be heard before implementation. City Managers also need authority to adopt emergency or temporary rules without prior notice when necessary because of newly enacted code provisions or an imminent threat to public safety that would occur if the rules were not effective immediately.

The City Manager may also utilize administrative orders to appoint department heads, create or disband City departments, or delegate authority to others to act on the City Manager's behalf, such as limited contract signing authority or authority to enforce specific provisions or chapters of the code or ordinances.

2.075 Suspension of Rules

A rule prescribed in sections 2.005 to 2.070 which relates to a particular item of business in a Council meeting may be temporarily suspended by the Council upon an affirmative vote of at least two-thirds of the Councilmembers present.

2.085 Procedure for Filling Certain Vacancies

- (1) Before filling a vacancy in an elective office, the Council shall:
 - (a) Cause a notice of the vacancy to be published once a week for two consecutive weeks in the newspaper published in the City that has the largest local circulation. The notice shall indicate the vacant position and state the deadline for submitting a written application for the position, which shall not be less than fourteen days after first publication.
 - (b) Prescribe a form of application to be used by all applicants and a form of nominating petition to be signed by 25 electors of the applicant's ward. Until the Council directs otherwise by motion or resolution, the existing form of "Candidate Information Sheet" (CMO/101) may be used by applicants.
 - (c) Appoint a committee of five citizens from the applicants' ward to interview all applicants and make recommendations to the Council as to who is most qualified.
 - (d) Offer all eligible persons who submitted an application and a nominating petition signed by 25 electors of his or her ward before the deadline an opportunity to appear before both the citizen's committee and the Council for interviews.
- (2) No one shall be selected to fill a vacancy in elected office unless that person applied in writing, presented a nominating petition signed by 25 electors of his or her ward and appeared in person before both the citizens committee and the Council for interviews. If the Council is not satisfied with the field of applicants, it may repeat the process as many times as it deems necessary. Once an applicant has submitted

an application and has been interviewed, it is not necessary to submit a new application or appear for another interview for the same position, unless specifically requested by the Council to do so.

- (3) The procedures prescribed by this section shall not be temporarily suspended.

Other Types of Meetings

ORS 192.660 Executive Session

Executive sessions are regulated by the Oregon Revised Statutes. The City Council may hold an executive session for very specific reasons, mainly to protect confidentiality of the topic. Executive sessions are closed to the public and attendance is limited. Members of the press may be present, but cannot report on matters discussed. All information and discussions during an executive session are confidential and not to be discussed outside of the session.

ORS 294.414 City Budget Committee

All Councilmembers are members of the City Budget Committee along with nine members of the public. The City Budget Committee reviews the budget document and may either approve it as submitted by the City Manager or revise it. At budget hearings, the Committee hears the budget presentation by the City Manager and staff, and hears persons wishing to speak on the budget.

2.030 Finance Committee

- (1) The finance committee shall consist of three members of the Council, one of whom shall be the vice-president of the Council, who shall be the chair. Two members shall constitute a quorum of the committee for the transaction of business. The committee shall meet at such times as the committee shall determine.
- (2) The Finance Director shall not approve payment of a claim submitted by the Mayor and Councilmembers for expenses incurred in the performance of their functions unless it has been reviewed and approved by the finance committee. A member shall not vote on his own claim.
- (3) The Council shall prescribe by resolution the types of expenses that may be allowed by the Finance Committee.
- (4) All requests for reimbursement shall be submitted on forms approved by the finance committee and shall be accompanied by receipts if possible.
- (5) If the finance committee rejects all or part of a claim, the claimant may appeal the decision to the Council.

- (6) The finance committee shall give public notice of its meetings, hold its meetings in public, keep written minutes of its proceedings, and file the minutes with the City Recorder.

2.015 Special Sessions Procedure

The rules of procedure for special sessions shall be the same as provided for regular sessions of the Council insofar as the provisions of sections 2.010 to 2.075 are applicable.

2.080 Study Sessions

- (1) Council study sessions shall be held on the second Thursday when there is not a regular Council meeting at 6:00 p.m. in City Hall with the option to utilize the fourth Thursday for special and time sensitive subjects. Any study session may be canceled at the discretion of the City Manager, unless the session was specifically requested by the Council. If a meeting falls on a holiday, it shall not be held.
- (2) A quorum is not required for a study session and members are not under any obligation to attend.
- (3) The purpose of a study session shall be for Councilmembers to informally receive background information on City business and to give Councilmembers an opportunity to ask questions and to express their individual views.
- (4) Particular cases involving quasi-judicial decisions shall not be discussed at study sessions.
- (5) No decision shall be made and no vote shall be taken at any study session, except on a point of order.
- (6) The agenda for a study session shall be made up by the City Manager and distributed at least 24 hours in advance. The Council may, at any regular meeting, direct the City Manager to schedule appropriate matters which the Council wants discussed at study sessions. However, appropriate non-agenda items may be discussed if a majority of members present agree.
- (7) Minutes of each study session shall be kept by the City Recorder or Deputy City Recorder and filed in the City Recorder's Office. Council approval of such minutes is not required.
- (8) The study session agenda shall be posted in City Hall and made available to interested persons including news media which have requested notice at least 24 hours prior to the meeting.
- (9) The rules contained in this section may not be suspended.

Medford Urban Renewal Board

All Councilmembers serve as the Urban Renewal Board and make decisions for the Urban Renewal District.

Medford Urban Renewal Budget Committee

The Urban Renewal Budget Committee is an advisory committee to the Urban Renewal Board. All Councilmembers are members of the Urban Renewal Budget Committee, along with nine citizens. The committee is an advisory committee to the Urban Renewal Board and reviews the budget for consistency with the City Center Revitalization Plan as submitted by the Executive Director.

Parliamentary Procedure

Parliamentary Procedure is the basic method of conducting business. Business is brought before an assembly by means of a motion. Business meetings are generally governed by Roberts Rules of Order, Newly Revised.

The City Manager's Office has copies of the latest Roberts Rules of Order available to checkout for review.

Basic Principles

1. All members must receive a notice of the meeting
2. There must be quorum present at the meeting
3. There can be only one main motion or resolution before the assembly at a time.
4. Motions have a definite and logical order of precedence.
5. Every member has the right to express his/her opinion fully and freely without interruption, and must be given the opportunity to do so
6. A question must be decided by taking a vote, decided by the majority, and that vote becomes the decision of the assembly. A subject once decided may not be presented again in the same form
7. Action cannot be taken outside the scope of the organization's object or purpose
8. The Mayor must remain impartial

Quorum

Before calling the meeting to order, it is the duty of the Mayor to know whether a quorum is present. See the Oregon Public Meetings Law Section of this handbook for additional information regarding quorum.

Motions

A motion is the means by which business is brought before an assembly. A motion is sometimes referred to as "the question". The following steps are essential in handling a motion.

To Obtain the Floor

1. Address the Mayor by proper title
2. Receive recognition from the Mayor
3. Then states the motion by saying "I move that..."
4. Another Councilmember seconds the motion
5. Mayor repeats the motion and then says
"It has been moved and seconded that (motion) Is there any discussion?"
6. Councilmembers discuss the motion
7. When discussion ceases, Mayor requests the roll call
8. Mayor announces the result of the vote

A motion is a formal proposal and once made and seconded, the Mayor places the question before the meeting body by restating the motion. Exact wording is of the utmost importance in recording motions and amendments. Motions require a second before being opened for discussion or being put to a vote. If there was no second to the motion, the motion dies.

Types of Motions

Main Motion: A main motion is a motion brought before the body for its consideration on a particular subject. Only one main motion can be considered at a time.

Amendment: There are three basic processes of amendment, to:

- (1) Insert a word or add words
- (2) Strike out words or a paragraph
- (3) Combine both of these. An amendment needs a second and is debatable. It needs a majority vote to pass. To amend a pending motion is the most widely used form of subsidiary motion. An amendment must be germane or closely related to the subject of the main motion.

Second Amendment: A secondary amendment must relate to the primary amendment and cannot introduce a totally different subject. The second amendment must be made by motion and seconded. After discussion, Mayor takes the vote on the second amendment first; announces the vote; and proceeds to take the vote on the primary amendment; and then takes the vote on the main motion as amended if the amendments pass.

Previous Question: Previous question is the motion used to bring the body to an immediate vote on one or more pending questions. It closes debate and stops further amendment. It is out of order when another has the floor. It must be seconded and is not debatable and non-amendable. Previous question requires a two-thirds vote (super majority). If a motion for the previous question fails to gain the two-thirds vote, debate continues as if the motion had not been made.

Division of the Assembly: When a Councilmember doubts the correctness of a vote taken by voice, he or she may call for division of the assembly by calling out "Division". No second is needed and the Mayor must immediately take the vote again and ask the Councilmembers to either raise their hands or to rise.

Reconsider: A motion to reconsider is in order during the meeting after a motion has been acted upon either at the same meeting or the next meeting. It must be made by a member who voted on the prevailing side, i.e. if a motion fails to pass, reconsideration must be moved by one who voted against the motion. It is debatable and requires a majority vote.

Point of Order: When a Councilmember believes the parliamentary rules are being violated, he or she can make a “point of order” by calling upon the Mayor to request the parliamentarian for the rule which the Mayor should enforce.

Division of the Question: If a question contains more than one part, each of which could stand as a separate questions, a motion may be made to divide the question and vote on each part separately. The motion to divide requires a second and may be amended, but is not debatable.

Lay on the Table: The motion to “lay on the table” enables the Council to lay the pending question aside temporarily in such a way that (1) there is no set time for taking the matter up again; and (2) its consideration can be resumed at the will of the majority. By adopting the motion to “lay on the table”, a majority has the power to halt consideration of the question immediately without debate.

This motion takes precedence over all subsidiary motions. It is out of order when another has the floor. It must be seconded and is non-debatable and non-amendable, but it is appropriate for the maker of the motion to explain the reasons for the motion. It requires a majority vote.

Take from the Table: When a matter is taken from the table, everything is in the same condition as it was when laid on the table. A motion that has been taken from the table can be laid on the table again when an unforeseen matter requires immediate attention. If a matter is laid on the table, it remains there until taken from the table or until the close of the next regular meeting. If not taken up by that time, the motion dies.

To consider another motion on the same subject, it is necessary first to take the question from the table and then move the new proposal as a substitute or to make whatever other motion is appropriate to the cases.

Adjourn: This means to close the meeting immediately. It requires a second and it is non-debatable and non-amendable. It requires a majority vote. Councilmembers should not leave their seats until this motion is made. If an hour has been set by adoption of the Council, no motion to adjourn is necessary when the hour arrives. The Mayor declares the meeting adjourned. When it appears there is no further business, the Mayor can ask if there is any further business to be considered, instead of waiting for a motion. If there is no response, the Mayor can say, “Since there is no further business, the meeting is adjourned.”

Fix the time to which to Adjourn: The object of this motion is to set the time and place for another meeting to continue business of the session with no effect on when the present meeting will adjourn. It is appropriate to use this motion when there are no existing

provisions for another meeting. It must be seconded and is debatable. It can be amended and a vote on it can be reconsidered.

Amending a Motion

Changing the wording of a motion is amending it. The main motion and some secondary motions can be amended. Here are some rules to remember:

1. The motion to amend requires recognition and a second, and must be stated by the Mayor. It is debatable and may be amended. The amendment must be voted on; then another amendment is in order, each acted on in order. The fact that the amendment has been acted on does not mean that the main motion is also acted on. After all amendments are acted on, the final vote is on the main motion as amended.
2. If the amendment has failed to carry, it cannot be made again.
3. An amendment improves the main motion. The purpose is to express more clearly and definitely the intent of the motion, therefore an amendment cannot change one form into another.
4. An amendment is debatable in all cases except where the motion to be amended is un-debatable.
5. An amendment is out of order if it nullifies the proposition or if it makes it dilatory.
6. An amendment is out of order if it strikes out words NOT consecutive or if it strikes out and inserts in separate places.
7. No amendment is in order that increases the modification of the rule to be amended.
8. The word "Substitute" is used correctly when referring to a paragraph not to a word. A completely reworded motion is a substitute.

Ways to Amend a Motion

1. By adding words at the end
2. By inserting a word or consecutive words
3. By striking out a word or consecutive words
4. By striking out a word or consecutive words and inserting a word or consecutive words
5. By substitution (replacing the motion with a similar motion)

Correct way to state amendment:

"I move to amend the motion by (one of the ways listed above)..."

Motions not Specifically Classified

There are some motions that are not specifically classified. The ones most commonly used are:

1. To make a nomination: This is a motion not formally moved, but an assumed motion "That...be elected". A member rises and without recognition says, "I nominate..." No second is required but as an assumed motion, it is debatable.
2. To fill a blank: This is closely related to the motion to amend. While there can be only one primary and one secondary amendment pending at the same time, there are times when a number of choices would be more advantages; such as, - selecting a date, time, place, amount, number of persons, or names, or places.

A member may move that a blank be spent for books: or a blank may be created by a motion to strike out a date, time, place, amount, number, names, etc. and insert a blank. If the motion to strike out and insert a blank has carried, then any number of members may suggest, without a second, a different date, time, amount, etc. Each suggestion can be debated if necessary. When all suggestions have been made, a vote is taken on the suggestions until one suggestion receives a majority vote, then that suggestion is placed in the blank and the remaining suggestions are not voted upon. The motion with the blank filled is then considered.

3. Call up the motion to reconsider: If the Mayor neglects to announce the reconsideration of a motion, any member may 'call up' the consideration by rising and obtaining the floor and saying, "I call up the motion to reconsider the vote taken on the motion (state the motion)..." No second is necessary. The Mayor then proceeds to state the motion by saying, "The motion to reconsider the vote on (state the motion)...is called up. Those in favor of reconsidering the vote on the motion will please say Aye." pause "Those opposed will please say no." If the Ayes have it, the motion is open to debate (if it is a debatable motion). After debate, a vote is taken on the motion that was reconsidered.

TABLE 1 - MOTION

MOTION	DEBATABLE	PRIVILEGED	SUBSIDIARY
Fix the time to which to adjourn *	NO	YES	
Adjourn	NO	YES	
Take a Recess *	NO	YES	
Raise a question of privilege	NO	YES	
Call for the orders of the day	NO	YES	
Lay on the table	NO		YES
Previous question (stop debate) (two-thirds)	NO		YES
Limit or extend debate * (two-thirds)	NO		YES
Postpone to a certain time *	YES		YES
Commit or refer *	YES		YES
Amend *	YES		YES
Postpone indefinitely	YES		YES
Main Motion *	YES		

* Can be amended; the others cannot be amended.

Highest ranking motion is listed at the top; lowest ranking motion is at the bottom.

When any one of them is immediately pending, the motions above it are in order and those below it are not in order.

TABLE 2 - RULES GOVERNING MOTIONS

RANKING MOTIONS Order of Precedence

PRIVILEGED MOTIONS	Can interrupt speaker	Requires Second	Debatable	Amendable	Vote Required	Can be Reconsidered
Fix the time TO WHICH to adjourn	No	Yes	No	Yes	Majority	Yes
Adjourn (Unqualified)	No	Yes	No	No	Majority	No
Take a recess	No	Yes	No	Yes	Majority	No
Question of privilege	Yes	No	No	No	*	No
Orders of the Day	Yes	No	No	No	*	No
SUBSIDIARY MOTIONS						
Lay on the table (temporarily)	No	Yes	No	No	Majority	No
Previous Question (Vote immediately)	No	Yes	No	No	2/3	Yes
Limit or Extend Debate	No	Yes	No	Yes	2/3	Yes
Postpone to certain time	No	Yes	Yes	Yes	Majority	Yes
Refer to committee	No	Yes	Yes	Yes	Majority	Yes
Amend	No	Yes	Yes	Yes	Majority	Yes
Postpone Indefinitely	No	Yes	Yes	No	Majority	Aff. only
MAIN MOTION	No	Yes	Yes	Yes	Majority	Yes

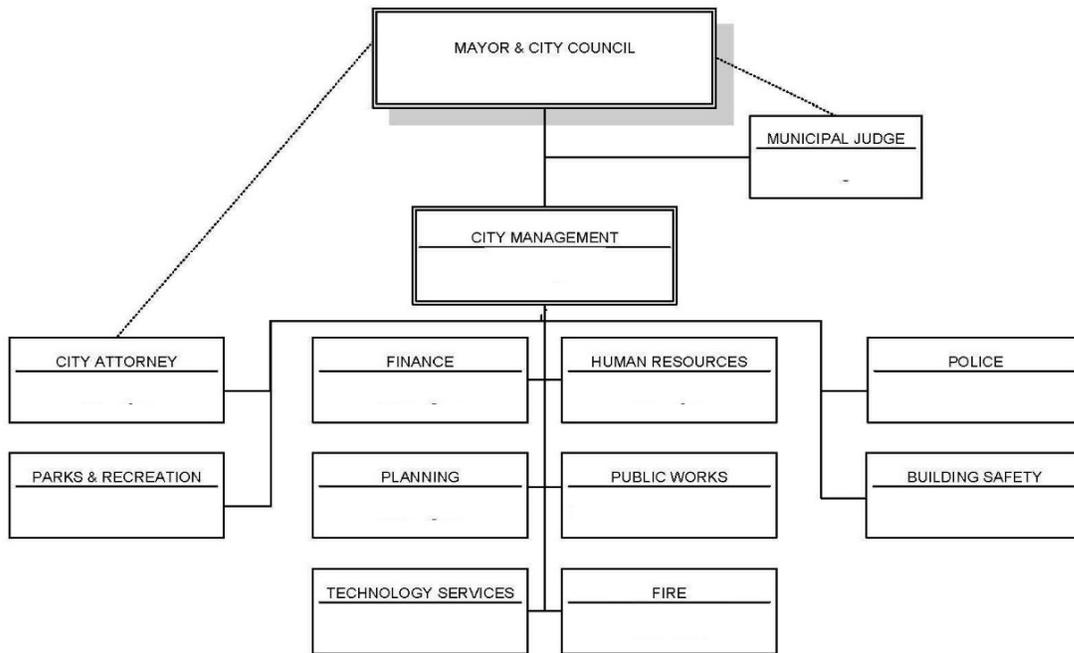
*Mayor usually decides. Majority if put to vote.

Those marked with a (2/3) require a two-thirds vote for adoption; the other motions require only a majority vote.



City Departments

CITY OF MEDFORD ORGANIZATIONAL CHART



The complete Organizational Chart is available on the City's website at www.cityofmedford.org, under forms and documents/homepage.

CITY'S MISSION STATEMENT

Medford - A Fantastic Place to Live, Work & Play

Communication with Staff

Communication With Staff

Channel Communications Through the Appropriate Senior City Staff

Questions of City staff should be directed to the City Manager, Deputy City Manager or to the appropriate Department Head. The City Manager will be copied on responses to Council by the City staff. Councilmembers should not set up meetings with department staff directly, but work through Department Heads, who will attend any meetings with Councilmembers. When in doubt about which staff contact is appropriate, Councilmembers should ask the City Manager for direction. However, nothing in these protocols is intended to hinder Council from gaining information that is required to fulfill their duties.

All Councilmembers Should Have the Same Information

When responding to a Council request for information, the response will be sent to the entire Council and the City Manager. This allows for full disclosure of information to all of the elected officials.

Staff's Preferred Form of Communication – Email

Staff prefers that email be sent to them with a request for information. Staff also prefers the City Manager be copied on all email.

Phone Calls

Staff will respond to requests for information via phone calls as well. Staff will return the call, but will follow-up with an email to inform the City Manager.

Respect the “One Hour” Rule for Staff Work

City staff will make every effort to respond in a timely and professional manner to all requests for information or assistance made by individual Councilmembers. Requests for staff support should be made to the appropriate Department Head, according to the protocol for channeling communications. Any request, which requires more than one hour of staff time, will need to be approved by the City Manager.

Submit Questions Regarding Council Agenda Items Ahead of the Meeting

In order to provide the Council with timely information, Councilmembers are encouraged to submit their questions on agenda items to the City Manager as far in advance of the meeting as possible so that staff can be prepared to respond at the Council meeting. Having a practice of “no surprises” between the Council and City staff and vice versa fosters a productive working relationship.

Avoid Attendance at Staff Meetings Unless Requested by Staff

Even if the Councilmember does not say anything, your presence may imply support, show partiality, intimidate staff, or hamper staff's ability to do its job objectively.

Depend Upon Staff to Respond to Citizens Concerns and Complaints

It is the role of Councilmembers to pass on concerns and complaints on behalf of their constituents. Refer citizen complaints to the appropriate senior staff member, according to the protocol on channeling communications or to the City Manager if not sure of the appropriate staff. The senior staff member should respond accordingly. Senior staff is responsible for making sure the Councilmember knows how the complaint was resolved.

Depend Upon Staff to Make Independent and Objective Recommendations

Staff is expected to provide its best professional recommendations on issues, providing information about alternatives as appropriate, as well as pros and cons for recommendations and alternatives. Staff respects the role of Council as policy makers for the City and understands that Council must consider a variety of opinions and community values in their decision-making in addition to staff recommendations.

The City Manager and Staff are Supporters and Advocates for Adopted Council Policy

Regardless of whether it was staff's preferred recommendation or not, staff will support and act upon the adopted Council policy and direction.

Senior Staff List

Note that all City staff have the same email format. It is their first and last name, separated by a period @ cityofmedford.org. For example, John Smith's email would be John.Smith@cityofmedford.org. All extensions begin with 774. For example, extension 2362 would be 774-2362.

Department	Senior Staff	Title	Ext.
Building	Sam Barnum	Building Safety Director	2362
Building	Chad Wiltrout	Assistant Building Safety Director	2363
Building	Carol Wedman	Development Services Manager	2367
City Manager's Office	Brian Sjothun	City Manager	2002
City Manager's Office	Eric Zimmerman	Deputy City Manager	2009
City Manager's Office	Donna Holtz	Executive Office Manager	2090
City Manager's Office	Karen Spoons	City Recorder	2088
Finance	Ryan Martin	Chief Financial Officer/Asst. City Manager	2033
Finance	Lorraine Peterson	Controller	2030
Fire	Brian Fish	Fire Chief	2301
Fire	Justin Bates	Deputy Chief of Operations	2306
Fire	Greg Kleinberg	Fire Marshal	2317
Fire	Melissa Cano	Emergency Management Coordinator	2322
Human Resources	Bonnie Barasch	Human Resources Director	2011
Human Resources	Jill Auburn	Senior Human Resources Analyst	2012
Legal	Lori Cooper	City Attorney	2021
Legal	Eric Mitton	Deputy City Attorney	2024
Parks & Recreation	Rich Rosenthal	Parks, Recreation & Facilities Director	2483
Parks & Recreation	Tim Stevens	Parks, Recreation & Facilities Asst. Director	2689
Parks & Recreation	Jesse Nyberg	Recreation Superintendent	2482
Planning	Matt Brinkley	Planning Director	2381
Planning	Kelly Akin	Assistant Director – Current Planning	2383
Planning	Carla Paladino	Principal Planner – Long Range	2395
Planning	Angela Durant	Principal Planner – Housing & Comm. Dev.	2390
Police	Randy Sparacino	Police Chief	2273
Police	Brett Johnson	Deputy Chief of the Support Bureau	2260
Police	Scott Clauson	Deputy Chief of the Operations Bureau	2209
Public Works	Cory Crebbin	Public Works Director	2101
Public Works	Alex Georgevitch	Deputy Director/City Engineer	2114
Public Works	Brice Perkins	Deputy Director/Operations	2601
Technology Services	Barbara Madruga	Interim Technology Services Director	2064

City Departments

Building Department

(541) 774-2350

The Building Safety Department is responsible for administering adopted building codes and standards to protect the life, property, and health of those who work, live and visit the City of Medford. The department reviews building plans, and issues permits for all construction within the City for new buildings, additions, remodels, fences, retaining walls, swimming pools, etc. City inspectors make routine and scheduled inspections during each phase of construction. The Building Safety Department also abates dangerous buildings and structures.

City Manager's Office (CMO)

(541) 774-2000

The City Manager serves as the chief administrative officer over City operations, oversees preparation and management of the fiscal budget, and implements City Council policy. The City Manager and his staff provide direct support to the Mayor and City Councilmembers.

All City employees except the Municipal Judge are under the City Manager's supervision. The City Manager's staff assist him by coordinating various interdepartmental projects, developing reports, reviewing the budget, and conducting financial and other analyses.

The City Recorder is responsible for maintaining City contracts, ordinances, and resolutions. The City Recorder serves as the clerk for the Council and Medford Water Commission and is responsible for recording and preparing official minutes of their meetings. Records in this office date back to 1885, when Medford was first incorporated as a City.

The City Recorder also publishes notices of official meetings and public hearings and co-signs checks and warrants issued by the City. The City Recorder serves as elections officer for the City by issuing official measures to be voted on by Medford citizens, takes applications for the position of Mayor or positions on the City Council, and administers the oath of office to elected officials and police officers.

Finance Department

(541) 774-2030

The Finance Department Includes general accounting, purchasing, and supervision of the Municipal Court. The department provides for effective fiscal management and accounting in accordance with generally accepted accounting principles and Oregon Revised Statutes.

The Administration Division provides general accounting services for the City of Medford and the Medford Urban Renewal Agency including the issuing of bonds; the processing of accounts receivable, accounts payable, special assessment collections, payrolls, banking and investments, budget preparation, and fixed asset accounting.

The Purchasing Division provides for procurement of City materials and services and equipment, processes bids and contracts and oversees management of City property.

Municipal Court staff set up court and jury trials, and process and maintain court records. Municipal Court handles citations for various City ordinance and traffic violations and issues warrants, subpoenas, summons, and driver license suspension requests.

Fire Department

(541) 774-2300

The mission of the Medford Fire Department is to serve, educate, and protect its citizens from the effects of hostile fire, medical emergencies, hazardous material exposures, and natural and manmade disasters. The members of the department serve in five divisions: Administrative, Operations, Prevention, Training/EMS, and Planning.

The Administrative Division provides budget administration, management of daily business activities, and clerical support for the entire department. The Operations Division provides firefighting and emergency medical response to save lives, limit property damage and manage emergencies. The division manages daily field activities for three shifts utilizing five fire stations. It also coordinates the regional hazardous materials efforts for the department.

The Prevention Division provides enforcement of fire and life safety codes, fire suppression systems, determination of fire causes, arson investigations and fire safety information to the public. The Training/EMS Division manages human resource development including specialized training, hiring, promotions and the department's safety program. The division also manages emergency medical services.

Human Resources Department

(541) 774-2010

The Human Resources Department provides administrative support to all City departments. Responsibilities include wage and benefit administration; labor negotiations and contract administration; guidance in employee discipline and processing of labor contract grievances; worker's compensation and unemployment claims; compliance with labor law; and compensation and benefit surveys. Additional functions include recruitment, testing and certification of job candidates; equal employment opportunity; employee orientation; maintenance of position classification specifications; personnel records; administrative support for City safety programs; and advisory assistance in training.

The Risk Management Division is tasked to safeguard the physical, financial and human resources of the City of Medford. Property, liability, worker's compensation and unemployment insurances as well as employee benefits are administered by the Risk Manager.

Legal Department

(541) 774-2020

The City Attorney and staff provide legal services to City elected officials, all City departments, and boards and commissions. The City Attorney's Office represents the City Council, but not individual City Councilmembers. The attorneys represent the City in civil litigation and administrative proceedings; review or prepare ordinances, contracts and other legal documents; and perform legal research and prepare legal opinions. This office is also responsible for prosecution of traffic and ordinance violation cases in municipal court. The Legal Department publishes and distributes the Medford

Code and provides regular updates to subscribers. The Medford Code is also available to the general public on the City's website at www.cityofmedford.org. The Legal Department only handles legal questions and issues directly involving the City of Medford. Our attorneys cannot give legal advice to citizens. If you are seeking legal advice or representation, please consult a private attorney.

Medford Urban Renewal Agency (MURA) (541) 774-2000

The mission of the Medford Urban Renewal Agency is to eliminate blight and depreciating property values in the Urban Renewal Area as defined in the City Center Revitalization Plan. The authority of the Agency to implement the City Center Revitalization Plan is authorized by both state and local law.

The Agency shall be exercised by a Board of Directors consisting of nine members made up of the Mayor and City Council.

Medford Water Commission (541) 774-2430

Responsibility for operation of the City's water supply system lies with the Medford Water Commission. While wholly owned by the City of Medford, the Commission functions independently from other City operations. It is governed by a five-member Board of Water Commissioners, who serve five-year overlapping terms. In addition to providing water service to the citizens of Medford, the Commission also serves two water districts and the White City area. Additionally, the Commission currently provides water to the cities of Ashland, Central Point, Eagle Point, Jacksonville, Phoenix and Talent on a wholesale basis.

The Medford Water Commission's primary source of water is the Big Butte Springs, located about thirty miles northeasterly of Medford, near Butte Falls. The springs supply the system with up to 26.4 million gallons of water per day (MGD), requiring no treatment except disinfection. The Rogue River is used as a supplemental source during the summer months. Rogue water is withdrawn and treated through a process of coagulation, settling, filtration and disinfection at the Robert A. Duff Water Treatment Plant. Located near TouVelle Park, the Duff Treatment Plant has a current capacity of 45 MGD, with an expansion ability to meet future needs.

Parks and Recreation Department (541) 774-2400

The mission of the Parks and Recreation Department is to provide opportunities for a full range of recreational facilities and programs for all age groups within our expanding population. Through provision of recreation and park services, the department enhances Medford's quality of life and nurtures the health and well-being of its citizens, the environment, and economy.

The Parks and Recreation Department has six operating divisions: Administration, General Recreation, Arts and Cultural Events, Parks Maintenance, Street Trees, and Facilities Management.

The Administration Division is responsible for the overall direction and coordination of the entire department as well as the City's park acquisition and development program.

The Recreation Division is responsible for providing opportunities year round for recreation programs, leisure activities, athletic leagues and special interest classes for youth, adults and families as well as seasonal aquatic lessons and swim activities.

The Parks Maintenance Division is responsible for the care and maintenance of all City owned park land. The Street Tree program is responsible for the trees in the right-of-way on arterial and collector streets within the City. The Facilities Management Division is responsible for the care and maintenance of all City facilities.

Planning Department

(541) 774-2380

The responsibilities of the Medford Planning Department include:

- Developing, maintaining, and administering the Medford Comprehensive Plan and Medford Land Development Code
- Assisting citizens in regard to land use regulations
- Administering development review and permit applications Enforcing land use regulations

The Comprehensive Plan is the official statement of the City's long-range goals and policies governing growth, development, public facilities, and environmental protection. Oregon land use law requires comprehensive plans to be consistent with the Statewide Planning Goals. The City Council adopts periodic changes to the plan to keep it in conformance with the vision and goals of the community, as well as with changes in state land use law. The plan is implemented through the Land Development Code, as well as through capital improvement planning.

The Planning Department reviews land development applications and coordinates public review of proposals, including public hearings before the various commissions and the City Council. It also reviews business license and building permit applications to assure compliance with the *Land Development Code*, and enforces zoning, subdivision, and sign ordinances.

Police Department

(541) 774-2200

The Police Department provides services to protect the life and property of Medford citizens, including patrol operations, criminal investigations, and code enforcement. Community service officers, school resource officers, and additional personnel who are responsible for property, records and statistical maintenance and retrieval further support these operations.

Public Works Department

(541) 774-2100

The Public Works Department's mission is to plan, design, build and maintain quality public facilities that will provide the citizens of Medford with a trouble-free environment in which to live.

Public Works - Engineering and Development Division (541) 774-2100

The Engineering and Development Division provides services related to the expansion of the public infrastructure. The Development Engineering and Administration Support Section reviews all privately financed (developer) projects for compliance with City standards. It also administers the street, storm drain and sanitary sewer SDC fees and

monthly utility fees. The Civil Engineering Section plans, funds, designs, contracts and inspects the City's street, storm drain, sanitary sewer and sidewalk projects. It also reviews and inspects privately financed public infrastructure projects. The Traffic Engineering Section provides for safe and efficient traffic flow through the use of transportation planning, traffic signal and street light construction, signal timing, traffic surveys and traffic accident analysis.

Public Works Operations Division

(541) 774-2600

The Public Works Operations division plans, coordinates and performs maintenance activities for streets and public rights of way, storm and sanitary sewer systems, traffic control systems such as signals, signing and pavement markings. The division also maintains the City's fleet of fire, police, public works and parks vehicles and equipment.

Public Works - Water Reclamation Division

(541) 774-2750

Public Works operates and maintains the Regional Water Reclamation Facility (RWRF), as well as overseeing the planning, design and construction of capital improvements. Under a regional agreement, the RWRF provides wastewater treatment for the cities of Central Point, Jacksonville, Medford, Phoenix and Talent, and for the sewered areas served by the Bear Creek Valley Sanitary Authority. The WRD also manages the regional industrial waste pretreatment program, and the application of treated bio-solids to farmland as an agricultural soil amendment.

Technology Services Department

(541) 774-2050

Computer automation has now become an integral part of doing business with the City of Medford. Technology Services (TS) is very proactive in evaluating the needs of the City and formulating a plan to implement computer automation. TS manages and supports Citywide information systems and services; including planning and project management, analysis and programming, network administration, and user assistance and training. The department also represents the City on multi-agency projects. The Technology Services Department is responsible for forming multi-departmental user groups that deal with major issues pertaining to financial, budgeting and other citywide computer applications, Geographic Information Systems (GIS), and Imaging Systems. TS focuses on computer automation that will cut costs, increase productivity, as well as increase the level of service to both internal and external customers.

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Boards and Commissions

The City Council invites involvement from citizens through the following Boards and Commissions (not including various ad hoc committees):

Audit Committee

Housing Advisory Commission

Community Development Grants Commission

Multicultural Commission

Parking Commission

Parks & Recreation Commission

Arts Commission

Cemetery Commission

Mayor's Youth Advisory Committee (currently disbanded)

Tree Committee

Planning Commission

Landmarks & Historic Preservation Commission

Site Plan & Architectural Commission

Police Advisory Commission

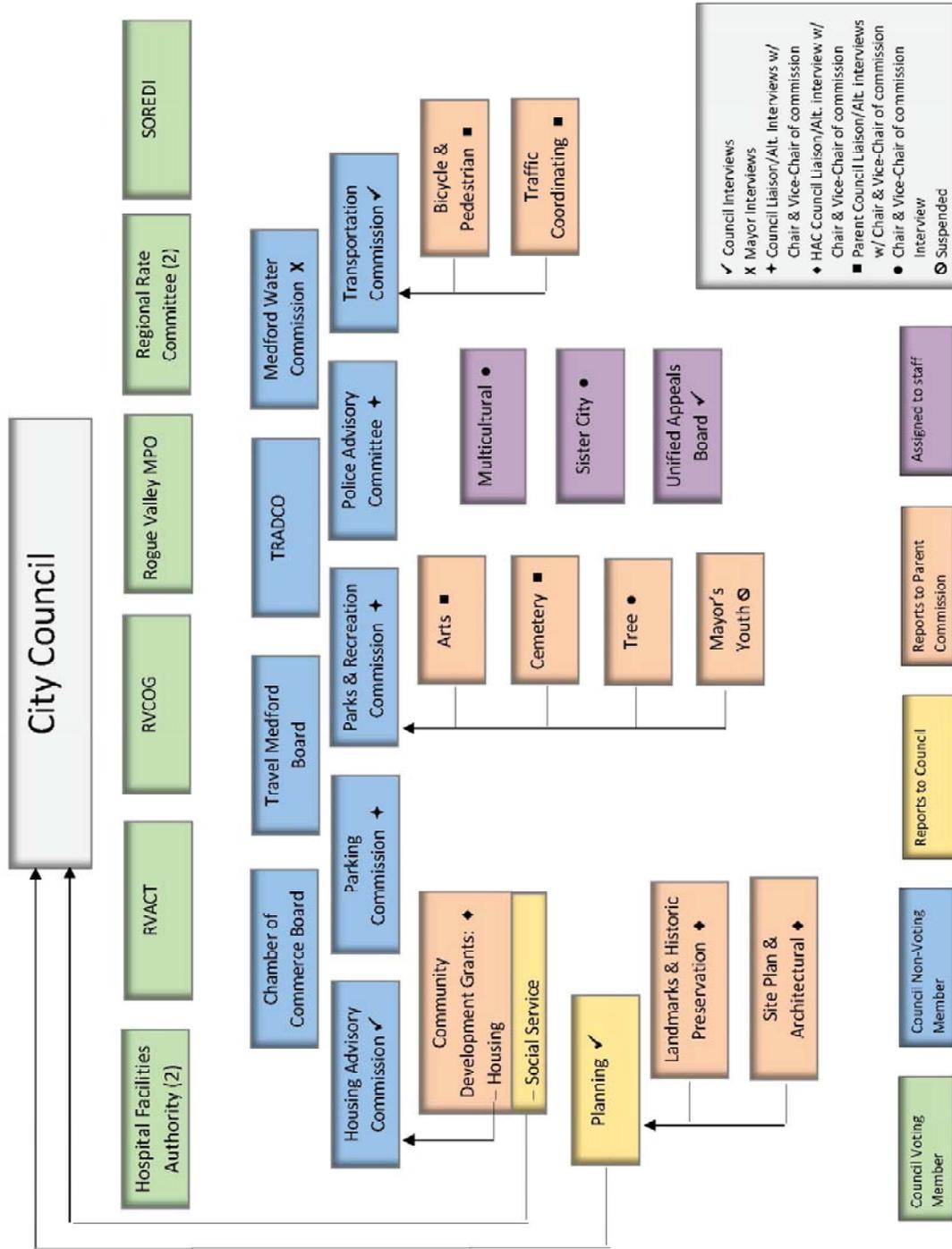
Transportation Commission

Bicycle & Pedestrian Advisory Committee

Traffic Coordinating Committee

Unified Appeal Board

Boards & Commission Organizational Chart



Responsibilities of Boards and Commissions

All Boards and Commissions should regularly solicit public testimony under guidelines established by the City Council and City Code. Public forums should be held for issues with major public impact.

Communications from Boards and Commissions to Council

The Council relies on various Boards and Commissions to increase the variety of viewpoints and talents brought to bear on City problems. By concentrating on specific areas, board and commission members can expand the level of expertise and conduct detailed analyses that Council itself may not have the time to pursue.

It is expected that Boards and Commissions will adopt positions of advocacy within their specific spheres of interest. However, the Council's role is to take into consideration the many varied and sometimes conflicting public needs and render its judgment of what will best serve the public good. The Council must weigh the effect of any given recommendation, not only on the particular area of interest, but on all other City goals and programs.

Council Liaison to Boards and Commissions

Medford Code 2.436 Council Liaison

- (1) At the second regular City Council session of a new calendar year, the Council president shall appoint Council liaisons to the following City Boards and Commissions:

- Hospital Facilities Authority (2 positions)
- Rogue Valley Area Commission on Transportation (RVACT)
- Rogue Valley Council of Governments (RVCOG)
- Rogue Valley Metropolitan Planning Organization (RVMPO)
- Regional Rate Committee (2 positions)
- Southern Oregon Regional Economic Development Inc. (SORED)
- Housing Advisory Committee
- Parking Commission
- Parks & Recreation Commission
- Police Advisory Committee
- Transportation Commission
- TRADCO
- Chamber Board
- Travel Medford Board
- Medford Water Commission

The role of Council liaison shall include the following:

- (a) Secure alternate if unable to attend;
 - (i) If an alternate is attending, brief alternate regarding materials for meeting and issues that could arise;
- (b) Provide regular updates to the entire Council as to the concerns or issues for this board or commission during a Council meeting, under the Committee Reports and Communications portion of the agenda;
- (c) Provide the communication link from the Council to the board or commission;

- (d) Relay Council direction to board or commission to assist them in fulfilling their goals and duties as defined by the Medford Code; and
 - (e) Be knowledgeable regarding issues and vision of the board or commission.
- (2) Council liaisons shall not be considered members of, nor count towards a quorum of, the board or commission they are appointed to.
 - (3) Council liaisons shall not deliberate on nor vote on any matter presented to their commission or board. Liaisons are communicators between the volunteer commission/board and the City Council. Liaisons should assist with problems and clarifications which develop, but should not stifle the work of the commission/board.
 - (4) With respect to City boards and commissions that make quasi-judicial decisions (explained in further detail on page 62) that can be appealed to the City Council, Council liaisons shall not participate in any discussion of the matter that can be appealed. These types of Boards and Commissions include but are not limited to: Site Plan and Architectural Commission, Planning Commission, Landmarks and Historic Preservation Commission.
 - (5) When the City Council is sitting as the Board for the Urban Renewal Agency, no Council liaison will be appointed.
 - (6) Some boards and commissions are not City of Medford boards and commissions, but instead include a member from the governing body of the City as a voting member of the board or commission. In these instances, the council member may act as a voting member of the Board, not as a council liaison. Those council members, when appropriate, should obtain direction from the entire council prior to voting on a matter. Staff appointed as representatives, including alternates, to such boards and commissions shall follow the guidelines of this subsection.

Support Staff for Boards and Commissions

Each Board and Commission has at least one staff person assigned to the group. City staff perform the ministerial and housekeeping functions outlined below and do not vote. These City employees have a responsibility to assure that the board or commission is aware of laws and administrative processes affecting proposed policy and operational recommendations.

Support staff must be constantly aware of the responsibility to represent overall Council priorities and administrative policies of the City. The staff coordinator's main responsibilities are to assist the board or commission in its functions and to represent the City of Medford.

Other responsibilities include the following:

- Provide professional and technical advice
- Provide clerical assistance for the preparation, duplication, and distribution of board and commission letters, reports and minutes

- Maintain public records created by the board or commission, including minutes or action summaries, reports, recommendations, and letters as required by State law
- Prepare the board or commission agenda in consultation with the Chair
- Notify board and commission members of upcoming meetings
- Secure meeting rooms for board and commission meetings

Relationship between Staff and Board or Commission

City staff members should take the initiative to inform board and commission members about activities, projects, and work that is taking place elsewhere in the organization and among other boards or commissions. Staff should also present a balanced report on controversial issues, so that both positive and negative aspects can be readily identified.

If a Board or Commission desires information or a report that will require an excessive amount of staff time, the Chair should request the City Manager or Department Director approval prior to pursuing the project. The Board or Commission Chair should inform the staff person with regard to the urgency of the referral. Following this procedure will prevent staff from being diverted from priority projects.

Boards and Commissions Communication Guidelines

Volunteer members of City Boards, Commission and Committees are expected to adhere to Municipal Code 2.065 regarding decorum as well as the following guidelines:

- Treat everyone with respect
- Agree to disagree
- Resolve issues and move on, don't re-live the same issues
- Share information freely
- Keep a balance of "air time" in meetings to avoid domination of ideas
- Deal directly and respectfully if a conflict occurs
- Share responsibility for information or decisions that come from a meeting
- Openly support decision, once it has been made
- Encourage and support team members at all levels
- Query participants frequently; ask for input and feedback on issues
- Be flexible and open for change
- Be aware of others discomfort/anxiety
- Take responsibility for your feelings, biases and attitudes and know how they can impact your ability to treat others with respect or make the right decision
- Have a sense of humor; be able to laugh at the funny moments

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Land Use Matters

Land use matters are highly regulated by state statutes. Not only is there significant substantive regulation (i.e. what use can be made of land), but there also are pervasive regulations governing how a local government must make decisions that involve the use of land.

State Land Use Laws

In 1973, the Legislature adopted Senate Bill 100 which established the standards by which local governments must make land use decisions. The legislation also established the Land Conservation and Development Commission (LCDC) to develop Statewide Planning Goals and Guidelines. Local governments were required to adopt comprehensive land use plans to implement the Goals developed by LCDC. Local governments' comprehensive plans have to be approved, or "acknowledged" by LCDC to ensure Goal compliance.

As a result of a 1973 decision by the Oregon Supreme Court, the courts began to separate land use decisions into different types: legislative, quasi-judicial, and administrative/ministerial actions, which are detailed in subsequent sections.

Comprehensive Plan

A Comprehensive Plan sets out a City's goals and direction for land use and public facility planning and must cover a period of 20 years. Medford's Comprehensive Plan includes provisions which implement each Statewide Planning Goal in a way that applies to the specific area covered by the Comprehensive Plan, i.e., lands within the Medford Urban Growth Boundary (UGB). It contains data, inventories, analysis of the data, conclusions based on the analysis, policies and findings related to the conclusions, and goals. The policy provisions prevail when implementing or interpreting the plan. Other textual provisions may help to interpret the policies, but may not be given greater weight than the policies. The Comprehensive Plan also contains the General Land Use Plan (GLUP) Map which depicts the City's Urban Growth Boundary and the land use designations within that boundary.

City Land Use/Development Code

In addition to a comprehensive plan, cities have a land use/development code that implements the land use policies and map contained in the comprehensive plan. The code contains specific zoning designations, consistent with the land use designations on the land use plan map. In addition, the code sets out procedures for making land use decisions, and the criteria and standards that the decision-maker must apply for each type of decision.

The Medford Land Development Code is found in Chapter 10 of the Municipal Code and contains a description of each of the City's land use zones and what types of uses are allowed. In each zone, there may be uses that are permitted outright, without the need for

a hearing. Other uses may be allowed if certain standards and criteria are found to be met after a public hearing. These may include such requirements as the proposed development not causing unreasonable street congestion or preventing access to adjoining property. The code also contains development standards that govern how a particular use may be developed. These standards include such things as setbacks, parking, and landscaping.

The procedural provisions in the code designate a decision-maker for each type of decision and whether or not there is an opportunity for an appeal to another local decision-maker. The Code sets out the procedures that must be applied during the initial local-level decision and the procedures that must be adhered to on appeal. These procedures must be as required by state law.

Types of Land Use Decisions

In general, there are four types of land use decisions. For each, there is a different procedure to follow.

Ministerial Decisions

A ministerial decision is one that requires the decision-maker to use no discretion because the applicable standards are clear and may be applied mechanically. Examples of this type of decision include issuance of building permits and sign permits. For this type of decision, the state imposes no notice or hearing requirements.

Administrative Decisions

An administrative decision is one that requires little discretion. City staff usually makes the initial decision, and, if appealed, a hearing will be conducted before a commission or City Council. An example of an administrative decision is a planning director approval of a minor change to a Planning Unit Development (PUD).

Quasi-Judicial Decisions

Quasi-judicial decisions require a public hearing at which the decision-maker takes evidence and hears arguments. Common examples of quasi-judicial decisions include consideration of subdivisions zone changes, or applications for a conditional use permit. A quasi-judicial decision requires a hearing prior to the initial decision. In most cities, the hearing and decision is conducted by the Planning Commission. The City Council is the decision-maker at an appeal hearing. In Medford, some quasi-judicial decisions are made by the City Council, such as General Land Use Plan Map amendments.

Quasi-judicial decisions have the following procedural requirements:

1. Notification of pending decision. This may include publication, mailing and/or posting. There are detailed requirements for the content of the notice
2. Providing public access to application materials and staff reports prior to the hearing

3. Reading of a script at the beginning of the hearing describing participants' rights at the hearing and the procedures to be used
4. Providing an opportunity for the applicant and general public to be heard. This includes the opportunity for the applicant to rebut evidence;
5. Providing an impartial decision-maker whose impartiality is ensured through rules addressing conflict of interest, ex parte contacts and bias
6. In certain circumstances, allowing a continuance of the hearing, or leaving the record open for more evidence or argument
7. Adopting a decision that includes findings
8. Keeping a record of the hearing
9. Notification of final decision

Legislative Decisions

Legislative decisions are those which result in policy-making by the City Council. They affect the community as a whole rather than a small area or a few individuals. These decisions give the government body a great deal of discretion. The most common example of a legislative decision is the adoption or amendment of an ordinance or large area plan. For these decisions, there are fewer criteria for the Council to consider. Rather, the Council makes determinations about the legislative decision's consistency with other land development code provisions (if the decision is regarding a code provision), the Comprehensive Plan and Statewide Planning Goals.

Notice is generally required through publication according to Medford Municipal Code section 10.124 and ORS 222.120 and 197.610. Because these decisions result in the adoption of policy or legislation, the final decision is made by the City Council.

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Local Budgeting in Oregon

Oregon's Local Budget law (ORS Chapter 294) does two important things:

- It establishes standard procedures for preparing, presenting, and administering the budget; and
- It requires citizen involvement in the preparation of the budget and public disclosure of the budget before its formal adoption.

Most local governments in Oregon must prepare and adopt an annual budget. Note: Local governments have the option of budgeting on a 24-month "biennial" budget period which is the cycle utilized by the City of Medford. The City of Medford fiscal year begins on July 1.

Citizens rely on the elected and appointed officials to see that the budget is prepared correctly and that the programs they want and need are adequately funded. State officials check to see that the budget is prepared and administered according to law. This makes budgeting in Oregon a joint effort between the people affected by the budget and the appointed and elected officials responsible for providing the services.

To give the public ample opportunity to participate in the budgeting process, local budget law requires that a budget officer be appointed and a budget committee formed. The budget officer draws together necessary information and prepares the first draft of the budget. In Medford, this is the City Manager or staff designee. By law, the budget officer is required to present the Budget Committee with a balanced budget. The Budget Committee then reviews and revises the proposed budget before it is formally approved. Notices are published, budgets are made available for public review, and at least two opportunities for public comment are provided. The Budget Committee consists of the Mayor and Councilmembers and nine representatives of citizens at large. The citizens are appointed by the Mayor and Council and serve terms of three years.

Under local budget law, the budget must follow a basic format. Expenditures are broken down first by fund, then by organizational unit or program, and then, more specifically, by object classification and object. Revenues are broken down by fund. A fund is a fiscal and accounting entity with self-balancing accounts set aside to carry on a specific activity or to meet certain objectives in accordance with a specific regulation. The requirements and resources of a fund must always balance. Every budget has at least one fund (commonly called the General Fund) which is used for everyday operation of the local government. In addition to the General Fund, the City of Medford has a number of special funds. The special funds are established to account for a revenue source whose use is limited to a particular kind of expenditure. For example, debt service funds, construction funds, reserve funds, street funds, water funds, etc.

Revenues

Budget revenues are divided into two types: ensuing year property tax and non-property tax revenues. Property taxes shown in the budget will not be the same as the property tax “levy” submitted to the County assessor.

There are three reasons for this. First, not all taxpayers pay their taxes in the year billed. Second, discounts are given for timely property tax payments. Third, the Oregon Constitution sets a limit on the amount of taxes that can be collected from an individual property. The total of these amounts plus estimated taxes to be received cannot exceed the City’s taxing authority, which includes its rate limit, voter approved locale option levies, and levies to repay bonded debt. This total is the amount of tax levy that is certified to the County assessor.

Expenditures

Under the law, budget expenditures must be itemized to show all estimated expenses. The estimates may be prepared either by program or department. Within any fund each expenditure must be detailed and identified, arranged by organizational unit if applicable, and put into one of these major object classifications:

- Personnel Services includes all salaries, fringe benefits, and miscellaneous costs associated with salary expenditures.
- Materials and Services includes contractual and other services (example: audit or legal services), materials, supplies, and other charges.
- Capital Outlay includes acquisition of land, buildings, improvements, machinery and equipment.

Some expenditures do not fit into one of these classifications. These are put in special categories such as:

- Debt service includes repayment of principal and interest on bonds, interest-bearing warrants, and short-term loans.
- Transfers are an amount to be given as a resource to another fund in the budget.
- General operating contingencies are special amount set aside in the upcoming year for unforeseen expenses.
- Unappropriated ending fund balance is a special amount set aside in a budget for use as a resource in the beginning of the next fiscal year after it was budgeted.

Budget Process

City staff begin planning for the budget cycle in the fall of the last year of the current budget. Each department prepares a preliminary budget and presents the budget to the Department Head management team. The Department Head management team works together to review all budgets and compile a balanced budget to be presented to the Budget Committee in public meetings. These meetings are typically held in the spring and the full budget is presented over the course of four to five meetings. Once reviewed and recommended by the Budget Committee for adoption, the City Council formally

adopts the budget at a June meeting. A new budget must be adopted before the end of the current budget period.

Once the budget is adopted, the City then works from appropriations. Amounts listed in the appropriation resolution provide the authority for the expenditure of public funds. However, appropriations may be made in broader categories than the detail presented in the adopted budget. Spending is limited to the schedule of appropriations but a process is available to address a situation where it is necessary to exceed the original appropriations. This is done after transferring appropriations or preparing a supplemental budget.

Appropriation Transfers

The City's spending authority in existing appropriations may be changed by: 1) transferring amounts among appropriations in the same fund, or 2) transferring from an appropriation in one fund to an appropriation in another fund. In order to transfer an appropriation, the City Council must enact a resolution or ordinance authorizing the transfer.

Supplemental Budgets

By transferring appropriations, the City usually has enough flexibility to carry out the programs prescribed in an adopted budget. But there are times when an adopted budget gives no authority to make certain expenditures or when revenues are received for which the City had no knowledge (i.e. grants awarded to the City). In these cases, it is possible to use a supplemental budget to authorize expenditures or spend additional revenues in a current fiscal year. Supplemental budgets cannot be used to authorize a tax levy.

Local budget law does not contemplate the involvement of the budget committee in adopting supplemental budgets. The City may adopt a supplemental budget at a regular public meeting if prior notice is given and the expenditures in the supplement budget are 10 percent or less than the budget fund being adjusted. If the expenditures are more than 10 percent of the budget fund being adjusted, the City must publish the supplemental budget and hold a public hearing.

Public officials who spend money unlawfully, in excess of authorized amounts or for purposes not provided by law are civilly liable.

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Frequently Used Acronyms

AASHTO	American Association of State Highway & Transportation Officials
ADAAA	Americans with Disabilities Act Amendments Act – federal statute prohibiting discrimination against those with physical/mental disabilities.
ADEA	Age Discrimination in Employment Act
ADT	Average Daily Trips
ADU	Accessory Dwelling Unit
AES	Advanced Encryption Standard – asymmetric block cipher used to encrypt sensitive data
AFSCME	American Federation of State, County and Municipal Employees
AIC	Agenda Item Commentary
AICP	American Institute of Certified Planners
AMS	Alternative Mobility Standards
AP	Access Point – a device used to connect wireless devices to a wired network
APA	American Planning Association
APCR	Agreement Processing Control Record
APWA	American Public Works Association
ArcCatalog	Desktop software product for organizing and managing spatial (GIS) information
ArcGIS	A suite of desktop and server computer software for making and using spatial (GIS) information
AGOL	ArcGIS Online – A cloud based service for making and using maps and other map related services and products
AGS	ArcGIS for Server – a server software for creating and managing spatial (GIS) web-based services
AS400/iSeries	IBM server used to support SunGard Naviline (also known as H.T.E.) applications including Finance, Community Development, Municipal Court, Fleet, etc.
BCD	Building Codes Division, State Department of Consumer and Business Services.
B&C	Boards & Commissions
BPAC	Bicycle & Pedestrian Advisory Committee
BSIA	Building Site Improvement Agreement
BID	Business Improvement District
BLM	Bureau of Land Management (federal agency)
BMP	Best Management Practices
BOLI	Bureau of Labor & Industries – Oregon state agency responsible for enforcing employment laws.
BOM	Board Officers Meeting (MURA)

CAD	Computer Aided Dispatch – used for dispatching emergency services.
CC&Rs	Conditions, Covenants and Restrictions
CDBG	Community Development Block Grant – federal grant received annually
CFR	Code of Federal Regulations
CIP	Capital Improvement Project
CMAQ	Congestion Mitigation/Air Quality (federal funding program)
CMO	City Manager’s Office
CMS	Corrections Management System – software management system that is linked to the computer aided dispatch system.
COE	Corp. of Engineers
COM	Council Officers Meeting <i>or</i> City of Medford
COOP	Continuous Operations
CPSC	Consumer Product Safety Commission
CRM	Customer Relationship Management
CRS	Community Rating System
CUED	Council for Urban Economic Development
CUP	Conditional Use Permit; permit granting permission to conduct a use that is not normally allowed in a zone, granted only with specified conditions
CWA	Clean Water Act (federal act)
DCA	Development Code Amendment
DDA	Development and Disposition Agreement
DEQ	Oregon Department of Environmental Quality – state agency responsible for enforcing environmental laws.
DIA	Deferred Improvement Agreement
DLCD	Department of Land Conservation and Development (state agency)
DSL (ODSL)	Division of State Lands (state agency)
DU/AC	Dwelling Unit/Acre, as in SFR/10 (Single Family Residential/10 per acre)
EA	Environmental Assessment
ECC	Emergency Coordination Center
EEOC	Equal Employment Opportunity Commission – federal agency responsible for enforcing civil rights in employment matters
EFU	Exclusive Farm Use (land use designation)
EGDB	Enterprise Geodatabase – a RDBMS-based format for storing spatial (GIS) datasets
EIA	Environmental Impact Analysis
EID	Economic Improvement District
EIS	Environmental Impact Statement
EMS	Emergency Medical Service
EPA	Environmental Protection Agency (federal agency)

ERB	Employment Relations Board (State of Oregon)
ERP	Enterprise Resource Planning
ESA	Endangered Species Act (federal legislation)
EZ	Enterprise Zone
FC	Feature Class – a format for storing GIS dataset layers in a geodatabase
FEMA	Federal Emergency Management Agency (federal agency)
FGDB	File Geodatabase – a file-based format for storing spatial (GIS) datasets
FHWA	Federal Highway Administration (federal agency)
FLSA	Fair Labor Standards Act
FLSD	Fire and Life Safety Division (Fire Prevention Bureau)
FMLA/OFMLA	Family Medical Leave Act (Federal)/Oregon Family Medical Leave Act – regulating employee leave for medical/family purposes.
FTE	Full-time equivalent – City of Medford has approx. 400 FTE staff
FTP	File Transfer Protocol – used to facilitate data exchange between internal and external entities.
FY	Fiscal year
GDB	Geodatabase – a database for storing spatial information
GIS	Geographical Information Systems. An organized collection of computer hardware, software, geographic data, and personnel designed to efficiently capture, store, update, manipulate, analyze, and display all forms of geographically referenced information.
GPS	Geographic (graphic) Position System. An electronic device that allows for computer tracking of movement on a computer monitor and/or pinpoint location.
GLUP	General Land Use Plan
GLUPM	General Land Use Plan Map
HUD	Housing and Urban Development (federal agency)
IAFF	International Association of Fire Fighters
I&I	Inflow and Infiltration (into sewer system)
ICC	International Code Council
ICMA	International City/County Management Association
IGA	Inter-governmental Agreement
IOF	Immediate Opportunity Fund is a joint program between ODOT and OEDD (Oregon Economic Dev Dept) that “accesses” or “uses” state gas tax funds in an effort to capture new industrial business to Oregon and keep what we have from leaving for other states.
ISO	International Organization for Standardization
JJTC	Jackson/Josephine Transportation Committee (provides technical support to Rogue Valley Area Commission for Transportation).
JTS	Joint Transportation Subcommittee – meets monthly to advise the Council and Planning Commission on all matters affecting transportation policy in the City and surrounding area.

LCDC	Land Conservation and Development Commission
LDC	Land Development Code
LDP	Land Development Partition; division of a parcel into three (3) or less lots.
LDS	Land Development Subdivision; division of a parcel into four (4) or more lots
LEAH	Law Enforcement Agency Heads
LEDS	Law Enforcement Data System
LHPC	Landmarks & Historic Preservation Commission
LID	Local Improvement District
LOC	League of Oregon Cities
LOS	Level of Service
LTE/4G LTE	Long Term Evolution – current high speed data technology used by cellular providers
LUBA	Land Use Board of Appeals
LX Database	Land parcel management database used to correlate property address to assessor plat identification.
MADGE	Medford Area Drug Gang Enforcement Team
MAV	Mobile Audio Video recording system used by Medford Police
MDC	Mobile Data Computer
MFR	Multi-family Residential
MFR	Medford Fire-Rescue
MID	Medford Irrigation District
MLDC	Medford Land Development Code – Chapter 10 of the Code of Medford.
MMC	Medford Municipal Code
MPO	Metropolitan Planning Organization – an organization designated by the Governor to coordinate transportation planning in an urbanized area of the state.
MPOA	Medford Police Officers Association
MPO TAC	Metropolitan Planning Organization Technical Advisory Committee
MPRD	Medford Parks & Recreation Department
MURA	Medford Urban Renewal Agency
MWC	Medford Water Commission
NCIC	National Crime Information Center
NeoGov	City's recruitment and selection web based software
NEPA	National Environmental Policy Act (federal legislation which Environmental Impact Study must comply with)
NFPA	National Fire Protection Association
NFIP	National Flood Insurance Program
NHD	National Historic Districts
NLC	National League of Cities

NPDES	National Pollutant Discharge Elimination System (federal regulations for discharge to natural water bodies)
NRHP	National Register of Historic Places
NSP	Neighborhood Stabilization Program
NTHP	National Trust for Historic Preservation
OAR	Oregon Administrative Rules: State agency rules adopted after public comment to implement the provisions of the Oregon Revised Statutes
OBOA	Oregon Building Officials Association
ODF&W	Oregon Department of Fish and Wildlife
ODOT	Oregon Department of Transportation
ODSL (DSL)	Oregon Division of State Lands
OECD	Oregon Economic and Community Development Department
OEESC	Oregon Energy Efficiency Specialty Code (International Energy Conservation Code as amended by Oregon)
OESC	Oregon Electrical Specialty Code (National Electrical Code as amended by Oregon)
OLPC	ODOT Local Policy Committee
OMSC	Oregon Mechanical Specialty Code (International Mechanical Code as amended by Oregon)
OPSC	Oregon Plumbing Specialty Code (Uniform Plumbing Code as amended by Oregon)
ORPA	Oregon Recreation and Park Association – state professional organization providing continuing education support for Parks and Recreation profession.
ORS	Oregon Revised Statutes: Oregon laws codified by legislative counsel.
ORSC	Oregon Residential Specialty Code (International Residential Code as amended by Oregon)
OS	Operating System
OSHA	Occupational Safety Health Administration (federal agency)
OSP	Oregon State Police
OSSC	Oregon Structural Specialty Code (International Building Code as amended by Oregon)
OTC	Oregon Transportation Commission
OTET	Oregon Teamsters Employers Trust
OTIB	Oregon Transportation Infrastructure Bank
OWIN	Oregon Wireless Interoperability Network
PAC	Police Advisory Committee
PC	Planning Commission
PEO	Professional Engineers of Oregon
PERS	Public Employee Retirement System
PLSO	Professional Land Surveyors of Oregon

PMS	Pavement Management System (database for pavement maintenance)
PMT	Particulate Matter per Thousand
PRMS/RMS	Police Records Management System – software program for management of police records
PSAP	Public Safety Answering Point (911 dispatch)
PSCC	Public Safety Coordinating Council
PUD	Planned Unit Development; a plan for development of an area one (1) acre or larger that allows deviations from standard code and allows a 20% increase in density of the
QRT	Quick Response Team (Public Works Operations Division)
RFP	Request for pricing; Request for proposal
R-O-W, R/W	Right-of-way
RPS	Regional Problem Solving
RRC	Regional Rate Committee
RTP	Regional Transportation Plan
RVACT	Rogue Valley Area Commission for Transportation (advisory to Oregon Transportation Commission)
RVCOG	Rogue Valley Council of Governments- voluntary association of 16 local governments and five other jurisdictions in southwestern Oregon’s Jackson and Josephine Counties that support local and regional problem solving.
RVMPO	Rogue Valley Metropolitan Planning Organization – federal law for transportation planning.
RVS	Rogue Valley Sewer Services
RVTD	Rogue Valley Transportation District is the local transit provider
RVPSA	Rogue Valley Public Service Academy
RVTV	Rogue Valley Television – provides management of public access and government televised programming
RWRF	Regional Water Reclamation Facility (sewage treatment plant)
SDC	System Development Charge (impact fee for new development)
SDMP	Storm Drain Master Plan
SE Plan	Southeast Medford Development Plan
SFR	Single Family Residential
SHPO	(Oregon) State Historic Preservation Office
SHP	Shapefile – format for storing GIS data layers
SIC	Standard Industrial Classification
SOCOAAA	Southern Oregon Council on American Asian Affairs
SORED	Southern Oregon Regional Economic Development, Inc.
SPAC	Site Plan and Architectural Commission – meets twice a month to review procedures, purposes, and objectives as outlined in the Medford Code.
SSMP	Sanitary Sewer Master Plan
STIP	State Transportation Improvement Plan

SV	Street Vacation
SWAT	Special Weapons and Tactics
TAG	Technical Advisory Group
TAZ	Transportation Analysis Zone
TDM	Transportation Demand Management is the use of a variety of techniques to modify transportation demand to reduce automobile usage and/or VMT. TDM can also include strategies to shift the time of automobile usage. It includes promoting such activities as walking, bicycling, transit use, carpooling, telecommuting, compressed workweeks, etc., through such methods as employer worksite evaluation, parking management, tax benefits and other incentives, and school/public education programs.
TF	Transportation Facility
TI	Tax Increment
TIA	Transportation Impact Analysis is a study of the potential impacts of proposed development on the transportation system, including the street system. It also determines the mitigation measures necessary to maintain facility adequacy and ensure safe multi-modal travel in the area. It identifies the potential traffic generation and distribution rates that a project is expected to generate.
TIF	Tax Increment Financing
TIP	Transportation Improvement Program
TIS	Traffic Impact Study (See TIA) A TIS is similar to a TIA except that the area encompassed by the study is larger.
TLBI	The Last Bond Issue
TMDL	Total Maximum Daily Load
TOD	Transit Oriented Development is development influenced by and oriented to transit service. It is characterized by a pedestrian-friendly environment, including a mix of land use types, such as retail commercial, offices, services, and higher density residential units. TOD is also an acronym for a Transit Oriented District
TPR	Transportation Planning Rule is a State administrative rule (OAR 660-12) designed to implement Statewide Planning Goal 12 (Transportation).
TRADCO	Transportation Advisory Committee is a committee consisting of community and business members that meets to discuss transportation issues in the Rogue Valley
TS	Technology Services Department
TSP	Transportation System Plan
UAB	Unified Appeals Board
UGB	Urban Growth Boundary
USCCP	U.S. Cellular Community Park
WRD	Water Reclamation Division (division in Public Works Department)
ZC	Zone Change

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Policies

Council Expenses

Councilmembers serve without pay, although Councilmembers may receive a data stipend for their cell phone use. Expenses incurred in the performance of their official duties may be reimbursed with Finance Committee approval according to MMC 2.030. The City Manager's Office assists you with the preparation of necessary paperwork for reimbursements.

Meals at Local Meetings and Functions: Councilmembers officially designated as liaison or representative to an organization who attend local meetings and functions may be reimbursed for meals served during the meeting or function. Authorized meetings and functions include the following: meetings of Boards, Commissions, or other groups if the Councilmember is appointed to represent the City Council at the meeting; and any other event/trip approved for reimbursement by the Finance Committee.

Local Travel: A Councilmember may be reimbursed for local travel mileage if the travel was necessary for the performance of the Councilmember's official duties. Council Officers approve trainings and travel, which may include the following: Council meetings, meetings of Boards, Commissions, or other groups for which the Councilmember is appointed to represent the City Council; trips to City Hall to pick up mail, as required; and any other event or trip approved for reimbursement by the Finance Committee. Mileage will be measured from the Councilmember's home or normal place of work.

Office Supplies, Postage and Services: Office supplies shall be requisitioned through the City if needed by a Councilmember for the performance of duties. Items to be mailed shall be delivered to the City Manager's Office for posting. City staff will perform any necessary services. No reimbursements will be allowed for these items.

Other Expenses: Other legitimate expenses incurred in the performance of official duties may be allowed at the discretion of the Finance Committee if the Committee determines it is in the best interest of the City.

Out-of-Town Conferences and Events: Council Officers approval all trainings and travel for all budgeted conferences and events. Non-budgeted conferences and events must also be approved in advance by the City Council for reallocation of funds.

Councilmembers may submit a daily per diem for meals, incidentals and mileage prior to the date of travel; checks will be available within one week of departure date, unless provided with a written request for early issuance. Approved requests must be submitted to the City Manager's Office more than two weeks in advance.

All receipts and paperwork must be submitted to the City Manager's Office for Processing within 30 days upon arriving back to work.

The per diem is set by the General Services Administration (GSA) by city and county in which the travel and hotel stay take place. The following website lists the per diem rates by city, <http://www.gsa.gov/portal/content/104877>.

To determine the county in which travel takes place, please visit the following website, <http://www.naco.org/Counties/Pages/CitySearch.aspx>. If the city or county in which the employee is traveling to is not listed, the base per diem default rate will apply. Meals provided by the hotel, training or conference will not be deducted from the per diem rates. If the City pays an additional charge for any meals, the per diem will be reduced accordingly.

The per diem is 75% of the daily rate for the first and last day of a multi-day conference and for conferences, meetings or training which do not require an overnight stay.

Spouses may attend conferences at their own expense. Any additional costs, such as spouse's meals and additional room costs must be paid by the Councilmember.

Councilors who wish to extend a conference for personal purposes will be responsible for all expenses above those that would be incurred for direct travel to and from the event/trip.

Alcohol: The City will never reimburse the cost of alcoholic beverages.

Technology Policy

iPad/Technology Policy

City Councilmembers are provided with technology, which is to be used for City of Medford business purposes only. Technology is defined as including cell phones, iPads, laptops, desktop computers and other devices. Technology equipment, its component parts, all hardware and software and its stored electronic memory are the sole property of the City and are subject to Oregon Record Retention rules. Therefore, no expectation whatsoever of privacy as to any communication generated, received by, sent by or stored in the technology device(s) should be assumed.

The City maintains an electronic mail (email) system and internet access. This is provided to assist in the conduct of the business of the City and should be used for City-related work purposes only. Use of email and/or Internet access is prohibited for personal, recreational, or non-City business. Users of the City's email system have no expectation of privacy regarding email or internet use. The City utilizes an automated archive system that captures all emails and may be accessed by the City as needed.

Administrative Regulations



City of Medford Administrative Regulation

Regulation No.: 02-06-R3

Page: 79 of 4

Subject Area: Workplace Violence

Effective Date: October 2018

Supersedes: 02-06-R2

Title: Violence Free Workplace

PURPOSE

This regulation is intended to protect public health and safety and to minimize the city's liability exposure, and provide a workplace safe from threats or incidents of violence of any form.

POLICY

All employees, volunteers, members of the public, elected or appointed officials, vendors, or contractors are responsible for maintaining a safe and healthful work environment. Acts or threats of physical violence, including intimidation, harassment, coercion, or other disruptive behavior which involves or affects the City of Medford or which occur on City property will not be tolerated. Consistent with the City's Administrative Regulation 85-09 regarding unlawful discrimination and harassment, it is expected that employed, contracted, elected or appointed individuals with the City treat their coworkers and other members of the public with dignity and respect at all times. Civility in the workplace is an expected form of behavior.

Further, the City will respond appropriately to all reported incidents; will act to stop inappropriate behavior; and supervisors and all of the departments involved in responding to incidents will be supported by the City's management team in their efforts to deal with violent and potentially violent situations.

ACTS OR THREATS OF VIOLENCE DEFINED

"Threats or acts of violence" include conduct against persons or property that is sufficiently severe, offensive, or intimidating to alter the workplace conditions at the City of Medford, or to create a hostile, abusive, or intimidating work environment for one or more City of Medford employees, volunteers, elected or appointed officials.

EXAMPLES OF WORKPLACE VIOLENCE

General examples of prohibited workplace violence include, but are not limited to, the following:

All threats or acts of violence occurring on City of Medford property, regardless of the relationship between the City and the parties involved in the incident.

All threats or acts of violence not occurring on City property but involving someone who is on work time or acting in the capacity of a representative of the City of Medford.

All threats or acts of violence not occurring on City property involving employees, volunteers, elected or appointed officials of the City of Medford if the threats or acts of violence affect the legitimate interests of the City of Medford, including but not limited to conduct committed while in City uniform or while driving a City vehicle .

Any threats or acts resulting in the conviction of an employee or agent of the City of Medford, or of an individual performing services on the City's behalf on a contract or temporary basis, under any criminal code provision relating to threats or acts of violence that adversely affect the legitimate interests and goals of the City of Medford.

SPECIFIC EXAMPLES OF "THREATS OR ACTS OF VIOLENCE"

Specific examples of conduct that may be considered "threats or acts of violence" prohibited under this policy include, but are not limited to, the following:

Hitting or shoving an individual.

Threatening to harm an individual or his/her family, friends, associates, or their property.

The intentional destruction or threat of destruction of property owned, operated, or controlled by the City of Medford.

Making harassing or threatening telephone calls, letters or other forms of written or electronic communications.

Intimidating or attempting to coerce an individual to do wrongful acts that would affect the business interests of the City.

Harassing surveillance, also known as "stalking", the willful, malicious and repeated following of another person and making a credible threat with intent to place the other person in reasonable fear of his or her safety.

Suggesting or otherwise intimating that an act to injure persons or property is "appropriate."

Unauthorized possession or inappropriate use of firearms, weapons, or any other dangerous devices on City property.

While employees of the City may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices, or permitted to carry them as authorized by law, it is the City's policy that employees are to use them only in accordance with departmental operating procedures and all applicable City codes and regulations and State and Federal laws.

APPLICATION OF PROHIBITION

The City of Medford's prohibition against threats and acts of violence applies to all persons involved in the City's operation, including but not limited to City personnel, contract and temporary workers, elected or appointed officials and anyone else on City of Medford property. Violations of this policy by any individual on City property, by any individual acting as an employee or agent of the City while not on City property, or by any individual not on City property when his/her actions affect the public interest or the City's business interests will be followed by legal action, as appropriate.

Violation of any provision of this policy may lead to disciplinary action up to and including termination, as provided in the Municipal Codes, City Administrative Rules and Regulations or applicable collective bargaining agreement.

ACTIONS TO BE TAKEN

Any person who makes substantial threats, exhibits threatening behavior, or engages in violent acts on City of Medford property will be removed from the premises by a police officer as quickly as safety permits, and shall remain off the City of Medford's premises pending the outcome of an investigation. The City will initiate a decisive and appropriate response. This response may include, but is not limited to, suspension and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or criminal prosecution of the person or persons involved.

Whenever the Human Resources Department, after consultation with the affected department and the Police Department, determines that an individual terminating employment with the City of Medford may pose a threat to employees of the City, the employee shall be advised that he/she is barred from City property, and the HR department shall notify other city departments of the trespass order, and the need for precautionary actions pursuant to departmental safety plans and procedures. The HR department shall divulge only information necessary to protect the safety of all employees.

EMPLOYEE OBLIGATIONS

Each employee of the City is required to report incidents of threats or acts of physical violence of which he/she is aware. The report must be made to the reporting individual's immediate supervisor, or if the immediate is not available or the employee does not feel comfortable reporting the issue to the immediate supervisor, to either a management level supervisory employee or the City's Human Resources Department. The City understands the sensitivity of the information reported and will recognize and respect the privacy of the reporting individual(s) to the extent possible. Identification of the reporting party shall be provided on a confidential basis to the fullest possible extent consistent with the purposes of this policy.

SUPERVISORY OBLIGATIONS

Each supervising employee shall promptly refer any such incident to the Human Resources Department and an appropriate management level supervisor, who shall take

corrective action in accordance with the Municipal Codes, City Administrative Rules and Regulations and any applicable collective bargaining agreement. Concurrently with the initiation of any investigation leading to a proposed disciplinary action, the management level supervisor shall report the incidents of threats or acts of physical violence to the Medford Police Department, which shall make a follow-up report to the City's Human Resources Department.

Nothing in this policy alters any other reporting obligation established in City policies or in state, federal or other applicable law.

NON-EMPLOYEE REPORTING

In cases where the reporting individual is not a City employee, the report should be made to the City of Medford Police Department. The Police Department will advise the Human Resources Department of the reported incident to ensure appropriate action.

RESTRAINING OR PROTECTIVE ORDER

All individuals who apply for or obtain a protective or restraining order which lists specific City locations as being protected areas shall provide to a management representative of the City a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent.

DISSEMINATION OF POLICY

All employees, elected or appointed officials will be given copies of this policy, and asked to acknowledge that they have read and understand it. All new employees, elected or appointed officials will be given a copy of this policy as part of their orientation by the Human Resources Department.

EMPLOYEE QUESTIONS

Questions regarding an employee's rights and obligations under this policy should be directed to the employee's department head or the Human Resources Department.

Approved:



Brian Sjothun, City Manager

10-15-18
Date



City of Medford
Administrative Regulation

Regulation No.: 85-09-R6
Subject Area: Human Resources
Effective Date: August, 2018
Supersedes: 85-09-R5

Title: Harassment and Non-Discrimination

Purpose:

The City is committed to providing equal employment opportunities to all persons regardless of race; color; religion; ancestry; national origin; age; marital or veteran status; physical or mental disability; on-the-job injuries; sex or pregnancy; sexual orientation, gender expression, or gender identity; military service; domestic violence victim; or any other legally protected status under State or Federal law, unless it is a bona fide occupational requirement reasonably necessary to the operation of the City's business. This includes but is not limited to hiring, termination, layoffs, job assignments, promotions, and pay.

Objective:

We are also committed to providing a work environment that is free of all forms of unlawful harassment or discrimination. We will not tolerate the harassment or discrimination of our employees by anyone, including but not limited to: supervisors, co-workers, volunteers, members of the public, elected or appointed officials, vendors, or contractors.

Definitions:

SEXUAL HARASSMENT

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature if (1) submission to the conduct is in any way made a term or condition of employment; (2) submission to (or rejection of) the conduct is used as the basis for any employment-related decision; or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. This means no sexual or sexist language, jokes or innuendo; nude, profane, or obscene cartoons, drawings or photographs; whistling or catcalling; staring or leering; pinching, patting, inappropriate touching, unwelcome touching, unwelcome hugging or kissing; etc., or other conduct that might create or contribute to a hostile or offensive working atmosphere.

OTHER FORMS OF UNLAWFUL HARASSMENT

We want to maintain a working environment free from all forms of unlawful harassment, whether based on race; color; religion; ancestry; national origin; age; marital or veteran status; physical or mental disabilities; on-the-job injuries; sex or pregnancy; sexual orientation or gender identity; military service; domestic violence victim; or any other legally protected characteristic or status. This means no ethnic jokes; religious slurs; use of offensive "slang" or derogatory terms or slurs denoting race, age, national origin, disability, etc.; mimicking one's speech, accent, or disability; derogatory comments

regarding protected statuses or characteristics; or other conduct that might create or contribute to a hostile or offensive working atmosphere.

Policy:

REPORTING UNLAWFUL DISCRIMINATION OR HARASSMENT

Supervisors, managers, and department heads are held to a higher standard and are responsible to ensure that harassment does not occur in their work areas. They are expected to exercise reasonable care to prevent and promptly correct any discrimination, workplace harassment, or sexual harassment they know about or should know about. Supervisors and managers who know or should know of conduct in violation of this policy and who fail to report such behavior or fail to take prompt, appropriate action may be subject to disciplinary action up to and including termination.

If you believe that you have been harassed, or if you witness any violation of this policy, you are encouraged to report the matter to a supervisor, department head OR directly to the Human Resources Director if you are not comfortable doing so at the supervisor or department head levels.

The Human Resources Director is responsible for ensuring that all complaints are promptly and thoroughly investigated in as confidential a manner as possible under the circumstances. To this end, whenever a supervisor witnesses or receives a complaint of harassment or discrimination, he/she shall report the incident to the Human Resources Director. Appropriate corrective action will be taken, up to and including termination, where violations have occurred.

No employee will be discriminated or retaliated against in any way for bringing a question or complaint to our attention or cooperating in an investigation of harassment.

RETALIATION

This policy prohibits retaliation against employees as a result of them:

- filing a complaint;
- participating in an investigation;
- reporting observing discrimination, workplace harassment or sexual harassment.

Employees who believe they have been retaliated against for actions cited herein are encouraged to report the matter to their supervisor, manager, department head OR directly to the Human Resources Director if they are not comfortable doing so at the supervisor, manager or department head levels.

CONFIDENTIALITY

All complaints will be dealt with in a discreet and confidential manner, to the extent possible. All parties are required to cooperate with the investigation and keep information regarding the investigation confidential.

NOTICE OF COMPLETION

The Human Resources Director/designee will notify the complainant and the accused when the investigation is concluded. The complainant will be advised if any part of the complaint is substantiated and that action has been taken. The complainant will not be given the specifics of the action. The complainant and the accused will be notified if the complaint is not substantiated.

Approved:



Brian Sjothun, City Manager



Date

Social Media Policy for Elected Officials

1. Purpose. The City maintains an official City website and other official social media, and has adopted a policy related to such media, which does not apply to Elected Officials. This policy outlines the roles, responsibilities, and best practice recommendations for use of social media by the City's elected officials ("Council members"), when they may be using personal or professional social media to communicate in their official capacity, including as a means to disseminate information or provide for engagement with constituents. It is primarily each Council member's responsibility to ensure compliance with this Policy.

2. Definitions:

Social media: Any digital platform that allows the user to create and share information, ideas or questions with other users or audiences. Social media channels include but are not necessarily limited to Facebook, Twitter, Instagram, Pinterest, and others.

Post: Any content generated or shared on social media presences. Posts can include, but are not limited to, messages, links, images, maps, videos and emoticons.

Content: The text, messages, maps, links, photos, images, or videos used in a post.

Comment: A post made in response to a post or another comment.

Political Advocacy: Only that political advocacy restricted by ORS 260.432 - supporting or opposing ballot measures, candidates, recalls, political committees, or petitions. Supporting or opposing political issues which do not fall into any of these categories is not restricted by the statute or this policy.

3. Public Records Act Compliance. Any content maintained in social media format that is related to City business, including communication between an individual Councilmember and constituents or the general public, or a site's listing of "friends" or "followers," may be considered a public record subject to disclosure under the Oregon Public Records Act. The Council member is responsible for maintaining records for any required retention periods.

4. Open Meetings Act Compliance. Communication between Councilmembers via social media, as with email, may constitute a "meeting" under the Open Public Meetings Act if it involves the discussion of public business subject to open meetings laws. For this reason, Council members are discouraged from commenting or posting on each other's social media pages.

In addition, receiving or making comments regarding quasi-judicial matters via social media may violate rules for quasi-judicial proceedings. Councilors are encouraged to exercise caution in inviting any comments related to land use proceedings that may include a quasi- judicial matter, and to refrain from making comments on any pending

application. Council members should also be cognizant that any statements they make on an issue that involves or eventually involves a quasi-judicial proceeding could be raised as evidence of bias, prejudice, or personal interest that the Council member would then be obligated to address in response to a challenge on that basis.

5. Link to City Website. A social media site used by a Council member to communicate with a constituent on City business should include a link back to the City's official website for detailed information if relevant to the specific discussion.

6. Political Advocacy and Campaigning. Council members who use social media for political advocacy may not request public employees on the job or in an official capacity to engage in political advocacy, including by editing, reviewing, or creating political advocacy content.

7. Blocking. If a Council member uses social media in their official capacity for communication with constituents, they may be creating a limited public forum subject to First Amendment speech protections. Therefore, Council members shall not deny access to social media to any individual based in whole or in part on content or viewpoint, which includes disagreement with or opposition to the Council member or their viewpoints.

8. Notice. Any Council member who uses social media for City business should include a notice on his or her platform stating the following:

This page expresses the personal opinions of the Councilor. It is not the official page for the City of Medford and does not represent the position of the City of Medford.

All content submitted by members of the public may be subject to public disclosure to third parties under Oregon Public Records law.

Comments should relate to the post and issue being discussed. Once comments are posted, the Elected Official reserves the right to determine which submissions are unacceptable for its page and delete them, including those that contain profane or obscene language, personal attacks of any kind, or language or content that targets, disparages, or discriminates against individuals or groups based on race, ethnicity, religion, color, gender, age, sexual orientation, mental or physical disability, gender identity, national origin, or other protected status under applicable law. Further, the Elected Official reserves the right to delete comments, when possible, that: (i) are spam or include links to other sites; (ii) are clearly off topic; (iii) advocate illegal activity; (iv) promote particular services, products or political organizations; (v) infringe on copyrights or trademarks; (vi) are comments in support of or opposition to current political campaigns, candidates, or ballot measures; or (vii) contain solicitations of commerce or charitable or other contributions, except for official City-sponsored activities.

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Oregon Laws

Oregon Public Meetings Law

The Public Meetings Law, ORS 192.610-192.690, was enacted by the Oregon Legislature in 1973 and establishes state policy the public is entitled to know how public organizations operate. Almost all deliberations and decisions of public bodies are open to attendance by interested persons.

The Public Meetings Law applies not only to the state, but also the cities and counties despite any conflicts with their charters, ordinances or other rules. The Public Meetings Law applies to meetings of the “governing body of a public body.” A “public body” is the state or local government council, board, commission, bureau, committee, subcommittee or advisory group.

Public Meeting

Public Meetings Law defines a meeting as the convening of any governing body “for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter”.

Quorum Requirements

A quorum is reached by the presence of 51% of the number of members of the governing body. Medford City Council has a quorum with 5 members present (8 members total). A gathering of less than a quorum is not a meeting under the meetings law. The law applies to committees, subcommittees and other advisory groups that are charged by the Council with making recommendations. The recommendations must be the result of formal votes taken at meetings at which a quorum was present.

Councilors unable to attend a meeting for pre-planned or unexpected reasons must notify the City Recorder and City Manager at (541) 774-2000 as soon as the member knows they will be absent.

Before calling the meeting to order, it is the duty of the Chair to know whether a quorum is present. If there is not a quorum, the meeting is called to order, the absence of a quorum is announced, and the meeting is adjourned.

NO BUSINESS CAN BE TRANSACTED IN THE ABSENCE OF A QUORUM.

A recess may be called to provide time to call absent members in hope of obtaining a quorum for an important meeting. A motion may be made to fix the time to which to adjourn, which provides for a continuation of business scheduled for the meeting. The requirement of a quorum serves to protect against an unrepresented action taken by a

small number of individuals on behalf of the entire meeting body. Any actions taken without a quorum can be declared null and void at the next meeting.

Notice of Meetings

Public Meetings Law requires that public notice be given of the time and place of meetings. This requirement applies to regular, special and emergency meetings. The public notice requirements apply to any “meetings” of a “governing body” subject to the law, including committees, subcommittees and advisory groups. Staff support will work with the Chair to ensure notice is given appropriately.

Meeting Minutes

Minutes must be kept of all standing and ad-hoc board and commission meetings. Minutes shall include members present; motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition, results of all votes and the vote of each member by name, the substance of any discussion on any matter, and a reference to any document discussed at the meeting.

Role of the Mayor

The Mayor is the Chair and the Presiding Officer of the Council and his duties include:

- Open the meeting on time and call the meeting to order
- Announce in proper sequence the business on the agenda
- Recognize Councilmembers who are entitled to the floor
- State and put to a vote all legitimate questions that arise during the meeting. If a motion is out of order, the Mayor should rule it out of order
- Protect the Council from frivolous or delaying motions by refusing to recognize them
- Enforce the rules regarding debate and keep order
- Expedite business in a way compatible with the rights of the Councilmembers
- Decide all questions of order
- Respond to inquiries of Councilmembers
- Declare the meeting adjourned

Role of the Councilmembers

- Councilmembers should make every effort to attend every meeting and be on time
- Effective Councilmembers understand the rules of procedure as well as parliamentary procedure and abide by them
- Councilmembers should address all remarks through the Mayor
- Councilmembers should use their parliamentary knowledge in a constructive manner, rather than hindering or obstructing the business of the meeting
- Councilmembers should be knowledgeable and familiar with the issues before them so they can participate in the meeting by:
 1. Introducing motions;
 2. Seconding another Councilmember’s motion;
 3. Debating the issue according to the rules or asking questions of information regarding issues; and

4. Voting
 - a. A Councilmember may vote but cannot be forced to do so. A Councilmember should not vote on questions of direct personal or pecuniary interest not common to other Councilmembers.
 - b. A Councilmember may change a vote before the Mayor announces the result of the vote. After the result is announced, a majority of the Council must vote to allow the change.
 - c. A Councilmember may request a rising vote by calling "Division" when a voice vote or show of hands is in doubt.

Questions the Mayor or a Councilmember can ask to improve discussions

To Open Discussion:

- "Could we clarify the terms connected with this topic?"
- "What do you think the general idea or problem is?"
- "What are the elements essential to understanding the topic?"
- "Would anyone care to offer suggestions on facts we need to better our understanding of the problem or topic?"

To Broaden Participation:

- "Now that we have heard from a number of our Councilmembers, would others who have not spoken like to add their ideas?"
- "How do the ideas presented thus far sound to those of you who have been thinking about them?"

To Limit Participation:

- "We appreciate your contributions. However, it might be well to hear from some of the others. Would some of you who have not spoken care to add your ideas to those already expressed?"
- "You have made several good statements, and I am wondering if someone else might like to make some remarks."
- "Since all Councilmembers have not yet had an opportunity to speak, I wonder if you could hold your comments until a little later?"

To Focus Discussion:

- "Where are we now in relation to our goal for this discussion?"
- "Would you like to have me review my understanding of the things we have said and the progress we have made in this discussion?"
- "Your comment is interesting. However, I wonder if it is quite on target for the problem we are discussing."

To Help the Group Move Along:

- "I wonder if we have spent enough time on this phase of the problem. Should we move to another aspect of it?"
- "Have we gone into this part of the problem far enough so that we might now shift our attention and consider this additional area?"

“In view of the item we have set for ourselves, would it not be well to look at the next question before us?”

To Help the Group Reach a Decision:

“Am I right in sensing agreement on these points?” (Mayor provides brief summary.)

“Since we tend to be moving in the direction of a decision, should we consider what it will mean for our group if we decide the matter in this way?”

To Lend Continuity to the Discussion:

“Since we had time for a particular consideration of the problem at the last meeting, would someone care to review what we covered then?”

“Since we cannot reach a decision at this meeting, what are some of the points we should take up at the next meeting?”

“Would someone care to suggest points which need further study before we convene again?”

Oregon Public Records Law

Oregon Public Records Law represents the public's right to information. Under these laws, the written record of public business is available to any person, regardless of the person's identity, motive, or need, with some important exceptions. Thus, the basic principle behind the Public Records Law is the burden of proof regarding no disclosure of a public record falls on the public body or public official, not on the person asking for the record. Exceptions to Public Records Law are known as "exemptions." Despite the lengthy catalogue of exemptions contained in Public Records Law, it must always be viewed in favor of disclosure, unless the law expressly prohibits disclosure.

Public Records Law (ORS 192.311 to 192.478) applies to all "public bodies," including governing bodies, officers, departments, commissions, etc. Based on the above definition, all City Councils are subject to the Public Records Law and the Law will by extension apply to all departments, committees and agencies of the City.

Records Covered by Public Records Law

Public Records Law applies to "...every state officer, agency, department, division, bureau, board and commission; every county and City governing body, school district, special district, municipal corporation, and any board, department, commission,, Council or agency thereof, and any other public agency of this state." A "public record" is "**any writing that contains information relating to the conduct of the public's business...prepared, owned, used or retained by a public body regardless of physical form or characteristics.**" In ORS 192.311(5)(a), "writing" is broadly defined to incorporate all formats, from handwriting to electronic. Handwritten notes taken during Council meetings and all forms of electronic communications including e-mails, so long as the record contains information relating to the conduct of public business are considered public records.

Records Retention Requirements

Oregon Public Records Law requires that public records must be retained as set forth in the Secretary of State's Record Retention Manual. This manual sets the retention periods based on the information contained within the public record, NOT based on the medium of the record. Nearly every record has a retention period, ranging from one year to permanent. The City Recorder is the City's resource person for questions regarding retention of public records.

Disclosure Obligations and Procedures

Public Records Law requires a designated records officer and a public records disclosure policy. The City Recorder is the City's public records officer and has an established policy for records requests. The records request form is available online on the City's website at www.cityofmedford.org.

Public Records Exemptions

ORS 192.345 and 192.355 outline the exemptions to Public Records Law. Section 192.501 outlines “conditional exemptions”, noting records may be withheld from disclosure “unless the public interest requires disclosure.” The City’s decision to apply a conditional exemption must indicate that the need for confidentiality outweighs the public interest in disclosure. Conditional exemptions include, but are not limited to, records pertaining to litigation, trade secrets, criminal investigations, personnel examinations, private business operations, real estate appraisals (prior to acquisition or sale), employee relations or personnel discipline actions.

ORS 192.355 lists additional conditional exemptions for records such as internal advisory communications, information of a personal nature and confidential submissions.

The exemptions are stated in absolute terms and do not require a balancing of interest because the state legislature has already determined that the confidentiality interests outweigh public disclosure interests as a matter of law.

Ethics and Conflicts of Interest

Government Ethics

Public office is a public trust. This concept is enforced through state law in provisions that prohibit public officials from using their positions to enrich themselves, their families or businesses with which they or their close relatives are associated.

For more information, please refer to the Government Standards & Practices Manual or contact the Oregon Government Ethics Commission (www.oregon.gov/ogec).

Actual and Potential Conflicts of Interest

Public officials may face situations in which their actions may, or will, result in pecuniary benefit for themselves, their relatives, or businesses with which they or their relatives are associated. In such cases, the state ethics law describes the proper response. The response depends upon whether the conflict is an **actual** conflict or a **potential** conflict. Keep in mind, however, that under no circumstances may an official use their office for the purpose of benefiting the official, a relative or an associated business.

Actual Conflict of Interest

An actual conflict of interest exists when a public official is faced with acting, deciding or recommending an action, and the effect of that action certainly **would** be to the private pecuniary benefit or detriment of the official, the official's relative, or any business with which the person or a relative of the person is associated.

Example: A Councilmember owns one of two well-digging companies in the City. The Council is voting upon whether to adopt a proposed ordinance that would impose licensing fees on well-digging companies. His vote will certainly have the effect of a financial detriment or benefit upon his company.

Example: A systems operation official approves an employment agreement with a technical support company that employs her son. The approval would be to the pecuniary benefit of a business with which her relative is associated.

ORS 244.040(6) also states "No person shall attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member".

Example: The member of the Planning Commission is prohibited from appearing before that same Planning Commission to represent a client for a fee, but a business partner of the Planning Commission member could represent the same client for a fee.

Potential Conflict of Interest

A potential conflict of interest exists when a public official is faced with acting, deciding or recommending an action, and the effect of that action **could** be to the private pecuniary benefit or detriment of the official, the official's relative, or any business with which the person or a relative of the person is associated.

Example: If the public official as an independent contractor performs services for a business that comes before the public body upon which the official sits, a potential conflict exists. The decisions of the public body could result in private pecuniary benefit to the official.

Conflict of Interest Exceptions

Actions affecting an entire class do not create a conflict of interest. In other words, no conflict exists if the public official's action would affect other members of a large class of people in the same way it would affect the public official.

For example, if the City Council was voting to adopt a City-wide tax cut for retail businesses, Councilmembers who owned retail businesses would not have a conflict because of the exception.

However, if the Council was voting to adopt a tax cut for software companies, and a Councilmember owned one of only three software companies in the City, the Councilmember would have an actual conflict of interest for which the "class" exemption would not apply. In this case, three software companies would not be considered a large enough class to gain the exemption.

Other exceptions include the following:

1. Membership in a particular class required by law as a prerequisite to holding office does not give rise to a conflict of interest. For example, a commission which recommends fees for the use of certain chemicals requires that one of its positions be filled by a representative of a company which uses such substances. That person is not faced with conflict when deliberating upon the amount of a fee.
2. No conflict exists when the pecuniary benefit or detriment arises out of unpaid membership in or membership on the board of directors of a nonprofit corporation which is tax-exempt under section 501(c) of the Internal Revenue Code.

Methods of Handling Actual or Potential Conflicts of Interest

In every case in which a public official is met with an actual or potential conflict of interest, the official must disclose the conflict. Elected or appointed officials serving on a board or commission must publicly announce the nature of the conflict. The conflict must be recorded in the official minutes of the public body. A public official need only announce a conflict of interest once during the course of the particular meeting, even though discussion or action may be interrupted.

When faced with an actual conflict of interest, a public official must, after disclosing the conflict, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue. The public official should make certain that the minutes reflect that the public official did not participate in the discussion or vote.

Rule of Necessity: If the official's vote is necessary to meet a requirement of minimum number of votes to take official action, then the official is eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

CAVEAT: If voting under the "rule of necessity" would violate the code of ethics (for example, where a vote would constitute "using" the office to obtain financial gain or avoid financial detriment), then the public official may not vote.

When faced with a potential conflict of interest, a public official must announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official. Following the declaration of the conflict, the official may discuss and vote on the matter.

CAVEAT: A public official may not take official action after declaring a potential conflict of interest if such action would violate any provision of the code of ethics.

The following article was printed in the League of Oregon Cities weekly newsletter in 2010. It can be found at http://www.oregocities.org/Portals/17/publications/newsletters/weekly/lessonsfromlanecounty_final.pdf.

Lessons from Lane County

How a recent lawsuit in Lane County might just change the way cities conduct business.

At the beginning of 2010, two citizens sued Lane County and three of its commissioners, alleging violations of Oregon's public meeting laws, (ORS 192.610 – 192.710). The circuit court recently issued a 44-page written decision in the case holding two of the three commissioners personally liable for violations of the law. The circuit court's decision does not necessarily dictate how the issues litigated in this case will be decided if raised in a different case in the future. Nonetheless, the court's decision raises at least four issues to which city officials and employees should pay attention. Even though this article briefly summarizes these issues, city officials and employees are encouraged to read the court's decision and seek advice from their respective city attorneys about how best to comply with Oregon Public Meeting Laws.

Lesson #1 – Use of a personal computer and a private e-mail account to conduct city business may subject your personal computer or private e-mail account to disclosure under a public records request or in a litigation discovery request.

The League of Oregon Cities and city attorneys across the state have advised city officials and employees for several years that using a personal computer or a private e-mail account to conduct city business may subject the hard drive of the personal computer or the private e-mail account to disclosure under a public records request or in a litigation discovery request. This issue first arose several years ago in a litigation matter where the court required city councilors to have the hard drives of their personal computers searched as part of a litigation discovery request. In the Lane County case, once again, local government officials were asked about and required to produce documents sent from private e-mail accounts. While the issue of whether disclosure was required was not a significant issue in the case, the fact that it occurred is another reminder to city officials and employees that conducting city business on a personal computer or using a private e-mail account will not shield those communications from disclosure.

Lesson #2 – Use of e-mail by a quorum of a public body might constitute a meeting under Oregon's Public Meeting Laws.

It has long been an open question regarding whether a quorum of a governing body could violate the public meeting laws by communicating through the use of e-mail. (See the League's April 2009 edition of *Local Focus*, available at www.oregocities.org, for a more in-depth article on this issue.) ORS 192.670(1) states that "[a]ny meeting, including an executive session, of a governing body of a public body which is held through the use of telephone or other electronic communication shall be conducted in accordance with [the public meeting laws]." In the Lane County case, the circuit court concluded that e-mail is an "electronic communication" as that term is used in ORS 192.670(1). (Slip Opinion at p. 33.) Thus, for the first time in Oregon, a court has concluded that a meeting can occur through the use of e-mail.

Notwithstanding that the court concluded that e-mail was an electronic communication for the purposes of the public meeting laws, the question remained whether the e-mail communications in

question constituted a “meeting.” ORS 192.610(5) defines a meeting as “the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.” The defendants argued that the e-mails in this case were more like a letter or short telephone message that didn’t amount to making a decision or deliberating toward a decision. The court, however, rejected this argument, stating, “[b]ased on the evidence presented in the present case, this court rejects defendants’ analogy to e-mail as the equivalent of a letter. As the various e-mails show, they are far more like the normal back and forth in conversation than correspondence in letter form. There is the opportunity for immediate viewing and response. That in fact occurred in several e-mails in this case.” (Slip Op. at p. 34, n. 32.)

In the end, the court stated that its determination that the use of e-mail could result in a meeting was “probably of no consequence” to its final decision that a violation of the public meeting laws occurred. This is because e-mails in question were about a decision for which that statute of limitations period had expired. Nonetheless, the court’s determination is the strongest warning yet for city officials and employees that communications made through e-mail involving a quorum of a governing body might constitute a meeting under the public meeting laws.

Lesson #3 – Serial meetings may violate Oregon’s Public Meeting Laws

As discussed above, the public meeting laws define a meeting as “the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter” (ORS 192.610(5)). Historically in Oregon, this definition required the convening of a quorum of a governing body in the same place (or on the same conference call) before a meeting could occur. However, in the Lane County case, the court concluded for the first time in Oregon that a violation of the public meeting laws can occur even when a quorum of a public body never meets at the same time to make a decision or deliberate toward a decision.

The court set forth the following test to determine whether a meeting occurred:

- (1) did at least a quorum of the governing body;
- (2) make a decision or deliberate toward deciding a matter; and
- (3) in any setting that was private and not open to the public. (Slip Op. p. 34.)

In this case, the court reached a factual conclusion that a quorum of the Lane County Board of Commissioners had private conversations and meetings in which they deliberated and reached a collective decision on what to include in a supplemental budget even though a quorum of the commission never discussed the issue together at the same time outside the scope of a public meeting. As explained by the court, “[t]he evidence did not show that any three [of the five] commissioners were ever in the same room at the same time talking about this matter. That does not mean that the continuing multiple conversations were not a deliberation. All involved knew that a quorum of the board was working towards a final decision outside of the public meeting context. . . . In effect, the public meeting vote on December 9 was a sham. It was orchestrated down to the timing and manner of the vote to avoid any public discussion.” (Slip Op. at pp. 36-37.)

Although this is the first time in Oregon that a court has found that these types of communications constitute a meeting, courts and attorney generals in other states have reached similar conclusions for many years. (See, e.g., *Roberts v. City of Palmdale*, 20 Cal. Rptr. 2d 330, 337 (Cal. 1993),

Dewey v. Redevelopment Agency of the City of Reno, 119 Nev. 87, 64 P. 3d 1070 (2003), Fla. Atty. Gen. Op. 96-35 (1996), 2/23/94 Idaho Atty. Gen. Op. to Mike Wetherall.)

These types of meetings, often called “serial” or “seriatim” meetings, occur when deliberations or decisions of a quorum of a governing body take place through one-on-one meetings or in meetings with groups less than a quorum, outside of official public meetings, in a deliberate attempt to build a majority for or against a matter. As explained by the California Supreme Court in the *Roberts* case mentioned above, “[o]f course the intent of [California’s open meeting laws] cannot be avoided by subterfuge; a concerted plan to engage in collective deliberation on public business through a series of letters or telephone calls passing from one member of the governing body to the next would violate the open meeting requirement.” (20 Cal. Rptr. 2d at 337.)

Thus, for example, in the *Dewey* case mentioned above, the Nevada Supreme Court analyzed whether a violation of that state’s public meeting laws occurred when staff of a redevelopment agency met with the entire governing body of the agency outside the scope of a public meeting in separate groups of less than a quorum. The Nevada Supreme Court concluded that no violation occurred because staff did not share the thoughts, questions, or opinions of the members who attended one briefing with the members who attended another briefing. Further, the court stated that there was no evidence of polling by the staff to determine the opinions or votes of the members of the governing body. In addition, the court concluded that there was no evidence in the record that the briefings resulted in the governing body taking action or deliberating on the issue outside of a public meeting. *Dewey v. Redevelopment Agency of the City of Reno*, 119 Nev. 87, 64 P. 3d 1070 (2003)

Likewise, the Florida attorney general has advised that a school board member may prepare and circulate an informational memorandum or position paper to other board members without violating that state’s open meeting laws. However, the attorney general cautioned that use of a memorandum to solicit comments from other board members or the circulation of responsive memoranda by other board members would violate the open meeting laws as such actions would constitute deliberations. (Fla. Atty. Gen. Op. 96-35 (1996); see also, Fla. Atty. Gen. Op. 01-20 (e-mail communication of factual background information from one council member to another is a public record but does not constitute a meeting subject to the Florida’s open meeting laws when it does not result in the exchange of council members’ comments or responses on subjects requiring council action).

Following in the footsteps of these other states, the Lane County decision provides the first instance in Oregon where a court has found a violation of the state’s public meeting laws because of the use of serial meetings. Because of this, city officials and employees in Oregon should be careful not to engage in serial meetings where the thoughts, questions or views of a quorum of a governing body are shared. One-way communications are likely still permissible, but communications that could constitute deliberations or even worse reaching a decision should be avoided.

Lesson #4 – Knowledge of the requirements of the public meeting laws and failure to comply with those requirements might constitute willful misconduct that would subject individual city councilors to personal liability.

State law includes provisions that require a public body to pay the attorney fees of a plaintiff that is successful in proving a violation of Oregon’s open meeting laws. (ORS 192.680(3).) The law further provides that if the violation is the result of willful misconduct by any individual member or members

of the governing body, that the member or members shall be jointly and severally liable to the public body for the amount required to be paid to the plaintiffs. (ORS 192.680(4).) The open meeting laws, however, do not define what constitutes “willful misconduct” for the purposes of determining the liability of individual members of a governing body.

In the Lane County decision, the court set forth two different tests that could be used to determine if a public official engaged in willful misconduct in the context of a violation of the public meeting laws. First, the court explained that willful misconduct could require that a public official act with “a conscious objective to violate those particular statutory provisions.” In other words, it is conduct that is intended to cause a particular result – a violation of the law. Second, the court explained that, willful misconduct could occur if an official “had knowledge of the law's requirements and thereafter failed to follow those requirements.” (Slip Op. at 39.) Because the court concluded that two of the commissioners engaged in willful misconduct under either standard, the court did not decide which standard the public meeting laws require to be proven before liability may be imposed on individual public officials. As part of its conclusion, however, the court specifically mentioned the fact that the commissioners ignored advice from the county counsel to cease engaging in deliberations outside the scope of a public meeting. (Slip. Op. at p. 41.)

As a consequence of the court’s decision, city officials should be mindful that a court could very well apply the lesser standard – knowledge of the law’s requirements and a failure to follow those requirements – to any violations of the public meeting laws. As such, city officials are encouraged to ask their city staff and city attorneys questions when there is uncertainty about what the public meeting laws require. Likewise, city officials should adhere to advice provided by their city staff members and city attorneys, as failure to do so might result in a finding of willful misconduct.

The Lane County decision may still be appealed to the Oregon Court of Appeals and the Oregon Supreme Court, either of which could reverse the decisions made by the circuit court. Nonetheless, until such time as a reversal occurs, city officials and employees should be mindful of the lessons learned from the Lane County decision.

A copy of the circuit court’s decision in the Lane County case is available on the League’s web site at:
<http://www.orcities.org/Portals/17/Publications/Newsletters/Weekly/dumdi-andyopenmeetingdecision-2011-01-18.pdf>.

Editor’s Note: Because of the complexities and nuances of the law in this area and of the court’s opinion, this article is necessarily general and is not intended to provide legal advice. This article should not serve as a substitute for competent legal counsel. Please consult with your city attorney to ensure that that you fully comply with Oregon’s public meeting laws.

**OREGON
GOVERNMENT ETHICS
LAW**

A GUIDE FOR PUBLIC OFFICIALS



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DISCLAIMER

This guide has been approved by the Oregon Government Ethics Commission pursuant to ORS 244.320. ORS 244.320 requires this publication to explain in understandable terms the requirements of Oregon Government Ethics law and the Oregon Government Ethics Commission's interpretation of those requirements. Toward that end, statutes and rules have been summarized and paraphrased in this guide. Therefore, the discussion in this guide should not be used as a substitute for a review of the specific statutes and rules.

Any public official, business or any person shall not be liable under ORS Chapter 244 for any action or transaction carried out in accordance with Commission opinions set forth in this guide. "In accordance with" the opinions means that the fact circumstances of any action or transaction for which any public official, business or person shall not be liable must be the same fact circumstances for an action or transaction described in this guide as the basis for an opinion in this guide.

There may be other laws or regulations not within the jurisdiction of the Commission that apply to actions or transactions described in this guide.

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INTRODUCTION

In 1974, voters approved a statewide ballot measure to create the Oregon Government Ethics Commission (Commission). The measure established laws that are contained in Chapter 244 of the Oregon Revised Statutes (ORS).

When the Commission was established, it was given jurisdiction to implement and enforce the provisions in ORS Chapter 244 related to the conduct of public officials. In addition, the Commission has jurisdiction for ORS 171.725 through 171.992, related to lobbying regulations, and ORS 192.660, which are the executive session provisions of Oregon Public Meetings law.

The Commission publishes a guide for lobbyists and clients or employers of lobbyists regulated under provisions in ORS Chapter 171. This guide for public officials includes a discussion of some provisions that may also apply to lobbying activities, which are addressed by Lobbying Regulations. This is especially true when a lobbying activity involves paying the expenses for meals, lodging, travel, entertainment or other financial benefits of a legislative or executive official. Under specific circumstances, ORS Chapter 244 would allow the payment of such expenses, but the public official may have a reporting requirement under ORS Chapter 244 and the source of the payment may be required to register as a lobbyist or report the expenditure. If you have questions regarding registering as a lobbyist, lobbying activity or reports for lobbying expenditures, please refer to our Guide to Lobbying in Oregon.

ORS 192.660 lists the specific criteria a governing body must use when convening an executive session. The statutory authority for executive sessions is limited to specific topics or procedures. This guide does not discuss that portion of the Oregon Public Meetings law, but there is a detailed discussion of ORS 192.660 in the Attorney General's Public Records and Meetings Manual, available on-line at www.doj.state.or.us/public_records/manual.shtml.

This guide will discuss how the provisions in ORS Chapter 244 apply to public officials and will summarize Commission procedures. It should be used in conjunction with applicable statutes and rules. It is intended to be a useful discussion, in understandable terms, of topics and issues that are often the focus of inquiries the Commission receives from public officials and citizens. This guide should not be used as a substitute for a review of the specific statutes and rules.

You will find links to ORS Chapter 244, ORS Chapter 171.725 through 171.992, relevant Oregon Administrative Rules (OAR), and other publications referenced in this guide on the Commission's website at www.oregon.gov/ogec. Questions or comments may be submitted to the Commission by email at ogec.mail@state.or.us, by fax to 503-373-1456 or by telephone to 503-378-5105.

JURISDICTION

The jurisdiction of the Oregon Government Ethics Commission is limited to provisions in ORS Chapter 244, ORS 171.725 through 171.992 and ORS 192.660. Other Oregon statutes may also regulate the activities of elected officials and public employees. Some examples are:

- The Elections Division of the Secretary of State's Office regulates campaign finance and campaign activities.
- Criminal activity of any type would fall under the jurisdiction of federal, state or local law enforcement.
- The Commission does not have jurisdiction over the laws that govern public meetings or records, except for the executive session provisions in ORS 192.660.
- The Oregon Bureau of Labor and Industries investigates cases involving employment related sexual harassment or discrimination on the basis of race, religion, disability or gender.

There are occasions when a public official engages in conduct that may be viewed as unethical, but that conduct may not be governed by Oregon Government Ethics law. Without an apparent statutory violation, the following are some examples of conduct by public officials that are not within the authority of the Commission to address:

- An elected official making promises or claims that are not acted upon.
- Public officials mismanaging or exercising poor judgment when administering public money.
- Public officials being rude or unmannerly.
- Public officials using deception or misrepresenting information or events.

While the conduct described above may not be addressed in Oregon Government Ethics law, public agency policies and procedures may prohibit or redress the behavior. Please contact the Commission staff if you need further clarification regarding how the Oregon Government Ethics law may apply to circumstances you may encounter.

PUBLIC OFFICIAL: AN OVERVIEW

The provisions in Oregon Government Ethics law restrict some choices, decisions or actions of a public official. The restrictions placed on public officials are different than those placed on private citizens because service in a public office is a public trust and the provisions in ORS Chapter 244 were enacted to provide one safeguard for that trust.

Public officials must know that they are held personally responsible for complying with the provisions in Oregon Government Ethics law. This means that each public official must make a personal judgment in deciding such matters as the use of official position for financial gain, what gifts are appropriate to accept, or when to disclose the nature of conflicts of interest. If a public official fails to comply with the operative statutes, a violation cannot be dismissed by placing the blame on the public official's government employer or the governing body represented by the public official.

Since compliance is the personal responsibility of each public official, public officials need to familiarize themselves with the wide variety of resources that offer information or training on the provisions in Oregon Government Ethics law. First, there are the statutes in ORS Chapter 244 and the Oregon Administrative Rules (OAR) in Chapter 199. Second, the Commission website, www.oregon.gov/ogec, offers information, training and links to this guide, ORS Chapter 244 and OAR Chapter 199. Many government agencies offer training or the agency may request it from the Commission's trainers. There are a number of membership organizations, such as The League of Oregon Cities, Association of Oregon Counties, Oregon School Boards Association and Oregon Special Districts Association that provide training to public officials from their government members. It is imperative for government agencies or organizations that employ or represent public officials to ensure their public officials receive training in Oregon Government Ethics law. Those that fail to provide this training do a disservice to the public officials who they employ or who represent them.

One provision, which is the cornerstone of Oregon Government Ethics law, prohibits public officials from using or attempting to use their official positions or offices to obtain a financial benefit for themselves, relatives or businesses they are associated with through opportunities that would not otherwise be available but for the position or office held.

Public officials are allowed to receive salary and reimbursed expenses from their own government agencies. Under specific conditions public officials may also accept gifts. This guide will discuss those provisions.

Another provision that frequently applies to public officials when engaged in official actions of their official positions or offices is the requirement to disclose the nature of conflicts of interest. This guide will discuss the definition of a conflict of interest and describe the methods a public official must follow when met with a conflict of interest.

There is a requirement for some public officials who are elected to offices or hold other select positions to file an Annual Verified Statement of Economic Interest form. This guide

will discuss that filing requirement.

It is important for both public officials and members of the general public served by public officials to know that the provisions in Oregon Government Ethics law apply to the actions and conduct of individual public officials and not the actions of state and local governing bodies or government agencies. Each individual public official is personally responsible for complying with provisions in ORS Chapter 244. The statutes and rules discussed or illustrated in this guide do not and cannot address every set of circumstances a public official may encounter. When a public official is anticipating an official action or participation in an official event they must make a personal judgment as to the propriety of the action or the participation. The Commission staff is available to discuss the issues and offer guidance in making such judgments.

Oregon Government Ethics law addresses a wide range of actions, situations or events which a public official may encounter while serving a state or local government. This guide provides a discussion of the provisions that apply to circumstances that most public officials may encounter.

A PUBLIC OFFICIAL

Are you a public official?

“Public official” is defined in [ORS 244.020\(14\)](#)¹ as any person who, when an alleged violation of ORS Chapter 244 occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

There are approximately 200,000 public officials in Oregon. You are a public official if you are:

- Elected or appointed to an office or position with a state, county or city government.
- Elected or appointed to an office or position with a special district.
- An employee of a state, county or city agency or special district.
- An unpaid volunteer for a state, county or city agency or special district.
- Anyone serving the State of Oregon or any of its political subdivisions, such as the State Accident Insurance Fund or the Oregon Health & Science University.

The Commission has adopted, by rule, additional language used to clarify the use of “agent” in the definition of “public official.” The following is OAR 199-005-0035(7):

“As defined in ORS 244.020(14), a public official includes anyone serving the State of Oregon or any of its political subdivisions or any other public body in any of the listed capacities, including as an “agent.” An “agent” means any individual performing governmental functions. Governmental functions are services provided on behalf of the government as distinguished from services provided to the government. This may include private contractors and volunteers, depending on the circumstances. This term shall be interpreted to be consistent with Attorney General Opinion No. 8214 (1990).”

If I am a volunteer, does that make me a public official?

If the position for which you have volunteered serves the State of Oregon or any of its political subdivisions or any other public body, “irrespective of whether” you are “compensated” you are a public official. It is difficult to determine how many public officials are volunteers, but the number may approach 50,000. Volunteers may be elected, appointed or selected by the government agency or public body to hold a position or office or to provide services.

Among the public officials who volunteer, there are elected or appointed members of

governing bodies of state boards or commissions, city councils, planning commissions, fire districts, school districts and many others. There are also many who apply and are selected to perform duties for a government agency, board or commission without compensation, such as fire fighters, reserve law enforcement officers and parks or recreation staff members.

The Commission recognizes that there are many who volunteer to work without compensation for many state and local government agencies, boards, commissions and special districts. This guide provides criteria to identify volunteers who will be considered public officials when applying the provisions in ORS Chapter 244.

If any one of the following elements apply to a volunteer position, the person holding that volunteer position will be defined as a “public official”:

- Elected or appointed to a governing body of a public body
- Appointed or selected for a position with a governing body or a government agency with responsibilities that include deciding or voting on matters that could have a pecuniary impact on the governing body, agency or other persons
- The volunteer position includes all of the following:
 1. Responsible for specific duties
 2. The duties are performed at a scheduled time and designated place.
 3. Volunteer is provided with the use of the public agency’s resources and equipment.
 4. The duties performed would have a pecuniary impact on any person, business or organization served by the public agency.

For purposes of ORS Chapter 244, volunteers are not public officials if they perform such tasks as picking up litter on public lands, participating in a scheduled community cleanup of buildings or grounds, participating in locating and eradicating invasive plants from public lands and other such occasional or seasonal events.

How are relatives of public officials affected by Oregon Government Ethics law?

Public officials must always comply with state law when participating in official actions that could result in personal financial benefits and also when participating in official actions that could result in financial benefits for a relative. Public officials should also know there may be limits and restrictions on gifts their relatives may accept when offered.

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using or attempting to use official actions of the position held to benefit a relative; or may limit the value of financial benefits accepted by a relative of the public official or may require the public official to disclose the nature of a conflict of interest when a relative may receive a financial benefit. These provisions are discussed more comprehensively in the use of

position or office section starting on page 9, the gifts section starting on page 26 and the conflicts of interest section starting on page 21.

Who is a relative?

Public officials need to know how Oregon Government Ethics law defines who a “relative” is. In everyday conversation the use of “relative” is applied to a broader spectrum of individuals with “family ties” than those defined as relatives in [ORS 244.020\(15\)](#)². When a provision in ORS Chapter 244 refers to “relative” it means one of the following:

- **Spouse** of a public official or candidate
- **Children** of a public official or candidate
- **Children of the spouse** of a public official or candidate
- **Siblings** of a public official or candidate
- **Siblings of the spouse** of a public official or candidate
- **Spouse of siblings** of a public official or candidate
- **Spouse of siblings of the spouse** of a public official or candidate
- **Parents** of the of public official or candidate
- **Parents of the spouse** of a public official or candidate
- **Person** for whom the public official or candidate has a **legal support obligation**
- **Person benefiting from a public official** when benefits are from the public official’s public employment
- **Person who provides benefits to a public official** or candidate when benefits are from the person’s employment

For purposes of “relatives” defined by the last two bulleted items, examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

How do the laws apply to a public official who either owns or is employed by a private business?

As with the definition of relative, public officials need to know how Oregon Government Ethics law defines what a “business” is or what a “business with which the person is associated is.” The same sound judgment a public official exercises when participating in actions that could result in a financial benefit to the public official or a relative of the public official should be used when participating in actions that could result in a financial benefit to a business with which the public official or the relative is associated.

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using actions of the position held to benefit a business with which the public official or a relative is associated. The provisions may also require the public official to disclose the nature of a conflict of interest when a business may receive a financial benefit.

[ORS 244.020\(2\)](#)³ provides the definition of a “**business**,” paraphrased as follows: A “business” is a legal entity that has been formed for the purpose of producing income.

- Excluded from this definition are income-producing organizations that are not-for-profit and tax exempt under section 501(c) of the Internal Revenue Code, if a public official or a relative of the public official holds membership or an unpaid position as a member of the board of directors.
- It is important to remember that state and local government or special district entities are not formed for the purpose of producing income, which means they are not businesses.

[ORS 244.020\(3\)](#)⁴ provides the definition of a “**business with which the person is associated,**” paraphrased as follows:

In brief, a public official or the relative of the public official is associated with a business in the following circumstances:

- When, during the preceding calendar year, a public official or relative has held a position as director, officer, owner, employee or agent of a private business or a closely held corporation in which the public official or relative held or currently holds stock, stock options, equity interest or debt instrument over \$1,000.
- When, during the preceding calendar year, the public official or relative has owned or currently owns stock, equity interest, stock options or debt instruments of \$100,000 or more in a publicly held corporation.
- When the public official or relative is a director or officer of a publicly held corporation.
- When a public official is required by [ORS 244.050](#)⁵ to file an Annual Verified Statement of Economic Interest form and the business is listed as a source of household income.

USE OF POSITION OR OFFICE

What are the provisions of law that prohibit a public official from using the position or office held for financial gain?

As defined earlier, public officials become public officials through employment, appointment, election or volunteering. [ORS 244.040\(1\)](#)⁶ **prohibits every public official from using or attempting to use the position held as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for the position held by the public official.** The financial benefit prohibited can be either an opportunity for gain or to avoid an expense.

Not only is a public official prohibited from using the position as a public official to receive certain financial benefits, but the public official is prohibited from using or attempting to use the position as a public official to obtain financial benefits for a relative or a member of the public official's household. Also prohibited is the use or attempted use of the public official position to obtain financial benefits for a business with which the public official, a relative, or a member of the public official's household is associated.

Public officials often have access to or manage information that is confidential and not available to members of the general public. [ORS 244.040\(4\)](#)⁷ **specifically prohibits public officials from attempting to use confidential information** gained because of the position held or by carrying out assigned duties to further the public official's personal gain. [ORS 244.040\(5\)](#)⁸ **also prohibits a former public official from attempting to use confidential information for personal gain** if that confidential information was obtained while holding the position as a public official, from which access to the confidential information was obtained.

[ORS 244.040\(6\)](#)⁹ **also has a single provision to address circumstances created when public officials, who are members of the governing body of a public body, own or are associated with a specific type of business.** The type of business is one that may occasionally send a representative of the business who appears before the governing body on behalf of a client for a fee. Public officials who are members of governing bodies and own or are employed by businesses, such as a law, engineering or architectural firm, may encounter circumstances in which this provision may apply. For example, a member of a city council who is an architect has a developer as a client of the architect's business. If the developer has a proposed subdivision to be approved by the city council, the architect may not appear before the city council on behalf of the client developer. Another person representing the client developer on behalf of the architect's business may appear, but not the councilor/architect.

There are a variety of actions that a public official may take or participate in that could constitute the prohibited use or attempted use of the public official position. The use of a position could be voting in a public meeting, placing a signature on a government agency's document, making a recommendation, making a purchase with government agency funds, conducting personal business on a government agency's time or with a government agency's resources [i.e. computers, vehicles, heavy equipment or office machines].

The following examples are offered to illustrate what may constitute prohibited use or attempted use:

- The mayor of a city signs a contract obligating the city to pay for janitorial services provided by a business owned by a relative of the mayor.
- A city treasurer signs a city check payable to an office supply business that is owned by a relative.
- A city billing clerk alters water use records so that the amount billed to the clerk's parents will be less than the actual amount due.
- A volunteer firefighter borrows the fire district's power washer to prepare the exterior of the volunteer's personal residence for painting.
- A county public works employee stores a motor home that is owned by the employee's parents in a county building used for storing heavy equipment.
- An employee of a state agency has a private business and uses the agency's computer to advance the business by promoting, corresponding and managing the activities of the private business.
- A school district superintendent approves and signs her own request for reimbursement of personal expenses the superintendent incurred when conducting official business.

NOTE: While these examples are offered to illustrate the use of a public official's position prohibited by ORS 244.040(1), the practices in the examples may also illustrate occasions where a public official may be met with a conflict of interest as defined in [ORS 244.020\(1\)](#)¹⁰ and [ORS 244.020\(12\)](#).¹¹ There are circumstances when a public official may comply with provisions in ORS 244.040(1) while violating conflict of interest provisions in ORS 244.120 or the reverse [ORS 244.040(7)]. Refer to the detailed discussion of conflicts of interest starting on page 21.

Are there any circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official?

Yes, [ORS 244.040\(2\)](#)¹² provides a list of financial benefits that would not otherwise be available to public officials but for holding the position as a public official. The following financial benefits are not prohibited and may be accepted by a public official and some may also be accepted by a public official's relative or member of the public official's household:

Official Compensation: Public officials may accept any financial benefit that is identified by the public body served by the public official as part of the “official compensation package” of the public official. If the public body identifies such benefits as salary, health insurance or various paid allowances in the employment agreement or contract of a public official, those financial benefits are part of the “official compensation package.” [ORS 244.040(2)(a)]

OAR 199-005-0035(3) provides a definition of “official compensation package:”

An “official compensation package” means the wages and other benefits provided to the public official. To be part of the public official's “official compensation package”, the wages and benefits must have been specifically approved by the public body in a formal manner, such as through a union contract, an employment contract, or other adopted personnel policies that apply generally to employees or other public officials. “Official compensation package” also includes the direct payment of a public official's expenses by the public body, in accordance with the public body's policies.

The Commission often receives complaints that allege that a public official is using or attempting to use the position held to gain financial benefits prohibited by ORS 244.040(1). Occasionally the financial benefits in these complaints are gained through the use of the public body's resources. Some examples are use of a vehicle for personal transportation, use of a computer for a personal private business enterprise or use of telecommunications equipment for personal business. Some respondents to complaints that involve the use of a public body's resources will defend their use as being consistent with an informal longstanding practice. The financial benefit to a public official, from the use of a public body's resources, from what may be understood as an informal and longstanding practice does not meet the definition of part of an “official compensation package.” This is because the practice has not been specifically approved by the public body in a formal manner.

Reimbursement of Expenses: A public official may accept payments from the public official's public body as reimbursement for expenses the public official has personally paid while conducting the public body's business [ORS 244.040(2)(c)].

The Commission has provided a definition in OAR 199-005-0035(4):

The “reimbursement of expenses” means the payment by a public body to a public official serving that public body, of expenses incurred in the conduct of official duties on behalf of the public body. Any such repayment must comply with any applicable laws and policies governing the eligibility of such repayment.”

There are occasions when someone will refer to the payment of a public official's expenses by a person or entity other than the public official's public body as a reimbursement of expenses. That is not the reimbursement of expenses as used in ORS 244.040(2)(c) and defined in OAR 199-005-0035(4). If the payment of a public official's personal expenses does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244.

There are occasions when public officials are reimbursed for travel expenses the public

official has paid while conducting official duties on behalf of the public official's public body. Sometimes the public body will prearrange for a public official's travel and pay the expenses in advance. Such advance payments are also viewed by the Commission as the reimbursement of expenses allowed by ORS 244.040(2)(c).

Some public officials hold positions identified in ORS 244.050 as having a requirement to file the Annual Verified Statement of Economic Interest (SEI) form in April of each year. This requirement will be discussed elsewhere in this guide, but some who must submit the SEI forms believe that travel related expenses paid by the public official's public body must be listed in the SEI form. That is not true. Expenses paid by the public body to their own public officials need not be reported by the public official under ORS 244.060 [OAR 199-005-0035(4)].

Honorarium: Public officials are allowed to accept honorarium by ORS 244.040(2)(b) as it is defined in [ORS 244.020\(7\)](#)¹³. A public official must know how honorarium is defined because there are many occasions when someone will offer them a financial benefit and call it an honorarium, but it does not meet the definition of honorarium in ORS 244.020(7).

A payment or something of economic value given to a public official in exchange for services provided by the public official is an honorarium when the setting of the economic value has been prevented by custom or propriety. The services provided by a public official may include but not be limited to speeches or other services provided in connection with an event. A public official may not accept honorarium if the value exceeds \$50 [[ORS 244.042\(3\)\(a\)](#)]¹⁴.

In brief, for a payment or something of economic value to be defined as an honorarium, several conditions must be met:

- The offer of a payment or something of economic value cannot be arranged or agreed to before the public official provides services.
- The services provided by the public official must precede the offer of payment or something of economic value.
- The payment or something of economic value must be delivered in return for and following the delivery of services.

Public officials may accept honorarium for services performed in relation to the private profession of the public official, although public officials must be sure, when they are offered a payment or something of economic value and it is referred to as an honorarium, that it does meet the definition in ORS 244.020(7). If it does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244.

Awards for Professional Achievement: Public officials may accept an award, if the public official has not solicited the award, and the award is offered to recognize a professional achievement of the public official [ORS 244.040(2)(d)].

Awards for professional achievement should not be confused with awards of appreciation, allowed by [ORS 244.020\(6\)\(b\)\(C\)](#)¹⁵, honorarium allowed by ORS 244.040(2)(b), or gifts that are allowed or restricted by other provisions in ORS Chapter 244.

Awards for professional achievement are best illustrated by awards that denote national or international recognition of a public official's achievement. These awards may also be offered by public or private organizations in the state that are meant to recognize a public official for an achievement. Professional achievements recognized may be identified as a single accomplishment or an accomplishment achieved during a period of time, such as a calendar year or a public official's career upon retirement. Public officials may be educators, lawyers, certified public accountants or may hold a doctorate in some field. These public officials may receive awards recognizing achievements in their fields and those awards would be considered by the Commission to be awards regulated by ORS 244.040(2)(d).

Contributions to Legal Expense Trust Fund: There are provisions in [ORS 244.209](#)¹⁶ that allow public officials who have become a respondent to a complaint under Oregon Government Ethics law to establish a legal expense trust fund. ORS 244.040(2)(h) allows a public official who has established this trust fund to solicit, accept and be the trustee for contributions to the established fund.

Gifts: Public officials may accept gifts [ORS 244.040(2)(e),(f) and (g)]. There are circumstances in which there are no limits on the quantity or aggregate value of gifts that can be accepted by a public official. On the other hand, there are circumstances when the aggregate value of gifts accepted by a public official is restricted. There may also be reporting requirements that apply to public officials who accept gifts and to sources that provide the gifts. Refer to the detailed discussion of issues related to gifts starting on page 26.

NEPOTISM

Does Oregon Government Ethics law prevent two or more relatives from being employees of the same public body?

No. Public officials who are relatives can be employed by the same public body employer at the same time, or serve on the same governing body of a public body at the same time.

However, ORS Chapter 244 does address the issue of “nepotism.” Nepotism, as used in ORS Chapter 244, is based on the relative relationship alone. The definition of “relative” in ORS Chapter 244 [ORS 244.175(4)] takes on a broader meaning when applying [ORS 244.175 through ORS 244.179](#)¹⁷:

- **Spouse** of a public official
- **Children** of the public official or spouse
- **Parents** of the public official or spouse
- **Stepparents** of the public official or spouse
- **Stepchildren** of the public official or spouse
- **Brothers** of the public official or spouse
- **Sisters** of the public official or spouse
- **Half-brothers** of the public official or spouse
- **Half-sisters** of the public official or spouse
- **Brothers-in-law** of the public official or spouse
- **Sisters-in-law** of the public official or spouse
- **Sons-in-law** of the public official or spouse
- **Daughters-in-law** of the public official or spouse
- **Mothers-in-law** of the public official or spouse
- **Fathers-in-law** of the public official or spouse
- **Aunts** of the public official or spouse
- **Uncles** of the public official or spouse
- **Nieces** of the public official or spouse
- **Nephews** of the public official or spouse

What are the provisions that address nepotism?

After complying with the conflict of interest provisions in [ORS 244.120](#)¹⁸, public officials cannot participate in any personnel action taken by the public agency that would impact the employment of a relative or member of the public official’s household. A public official may not participate in the following [\[ORS 244.177\(1\)\]](#):¹⁹

- Appointing, employing or promoting
- Discharging, firing or demoting
- Interviewing
- Discussing or debating the appointment, employment, promotion, discharge, firing or demotion

NOTE: Public officials who are elected members of the Oregon Legislative Assembly are not prohibited from participating in employment actions taken on positions held by relatives of the member's personal staff [[ORS 244.177\(2\)](#)]²⁰].

A public official who is assigned duties that include performing "ministerial acts" related to any stage of a relative's employment is not prohibited from performing such acts. "Ministerial acts" would include mailing or filing forms or correspondence, taking and relaying messages, scheduling appointments or preparing documents and minutes for public meetings.

A public official may serve as a reference or provide a recommendation for a relative who has applied for a position of employment, promotion or is subject to any personnel action.

If a public official has a relative or a member of the public official's household who has applied to be or serves as an unpaid volunteer, the public official may participate in any personnel action that involves the relative or member of the household. This provision only applies to unpaid volunteers who provide services to the public body and does not apply to unpaid volunteers who serve or seek appointment to a governing body of a public body. [[ORS 244.177\(3\)\(a\) and \(b\)](#)]²¹

A public official may not directly **supervise** a person who is a relative or member of the public official's household [[ORS 244.179](#)]²², except when:

- The public official is an elected member of the Oregon Legislative Assembly
- The public official is supervising an unpaid volunteer for the public body

Volunteers who are relatives or members of the household of a public official may be supervised by the public official. However, this would not apply if the volunteer position is as a member of the governing body of the public body. [ORS 244.179(3)]

ORS 244.179(4) allows a public body to adopt policies that specify when a public official, acting in an official capacity for the public body, may directly supervise a person who is a relative or member of the public official's household.

PRIVATE EMPLOYMENT OF PUBLIC OFFICIAL

Does Oregon Government Ethics law prohibit a public official from owning a private business or working for a private employer while continuing employment with or holding a position with a public body?

No. As mentioned earlier, many public officials are volunteers, meaning there is little or no compensation for the public position. Other public officials may receive compensation, but choose to seek additional sources of income. Some work for a private business and others establish a private business of their own. **NOTE: This guide does not address other statutes or agency policies that may limit private employment for public officials.**

[ORS 244.040\(3\)](#)²³ prohibits a public official from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment. Any employer who may directly or indirectly offer employment under these conditions may also violate this provision.

In general, public officials may obtain employment with a private employer or engage in private income producing activity of their own. They must not use the position held as a public official to create the opportunity for additional personal income. The public official must also ensure that there is a clear distinction between the use of personal resources and time for personal income producing activity and the use of the public body's time and resources. The Commission has created guidelines for public officials to follow in order to avoid violating Oregon Government Ethics law when engaged in private employment or a personally owned business.

GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

1. Public officials are not to engage in private business interests or other employment activities on their governmental agency's time.
2. A governmental agency's supplies, facilities, equipment, employees, records or any other public resources are not to be used to engage in private business interests.
3. The position as a public official is not to be used to take official action that could have a financial impact on a private business with which you, a relative or member of your household are associated.
4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.
5. When participating in an official capacity and met with a potential or actual conflict of interest related to a business, associated with the public official, relative or household member, the public official must disclose the nature of the conflict of interest using one of the following methods:
 - o Employees of governmental agencies must give written notice to their appointing authority.
 - o Elected or appointed public officials must publicly disclose once during each meeting convened by the governing body they serve.

EMPLOYMENT OF FORMER PUBLIC OFFICIALS

How would Oregon Government Ethics law apply when a former public official is employed by a business that has a contract with the public body previously represented by the former public official?

For two years after a public official ceases holding or being employed in a position as a public official, that public official may not have a direct beneficial financial interest in a public contract when one of the parties to the contract is the public official's former public body if the contract was authorized by [\[ORS 244.047\(2\) and \(3\)\]](#):²⁴

- The former public official, who authorized the contract while acting in the capacity previously held as a public official.
- The former public official, as a member of a governing body [board, commission, council, bureau, committee], participated in official action to approve the contract.

“Authorized by” is defined in OAR 199-005-0035(6) as meaning that the former public official had a significant role in the contracting process to include participating on a selection committee, recommending approval, voting, giving final authorization or signing a contract. The definition in the rule is as follows:

“As used in ORS 244.047, a public contract is “authorized by” a public official if the public official performed a significant role in the selection of a contractor or the execution of the contract. A significant role can include recommending approval or signing of the contract, including serving on a selection committee or team, or having the final authorizing authority for the contract.

What are the restrictions on employment after I resign, retire or leave my public official position?

- ORS 244.040(1) prohibits public officials from using their official positions or offices to create a new employment opportunity; otherwise, most former public officials may enter the private work force with few restrictions.
- ORS 244.040(5) prohibits a former public official from attempting to use confidential information for personal gain if the confidential information was obtained while holding the position as a public official.

Oregon Government Ethics law restricts the subsequent employment of certain public officials. The restrictions apply to positions listed below:

[ORS 244.045\(1\)](#)²⁵

State Agencies:

Director of Department of Consumer and Business Services
Administrator of Division of Finance and Corporate Securities
Administrator of Insurance Division
Administrator of Oregon Liquor Control Commission
Director of Oregon State Lottery
Public Utility Commissioner

1. One year restriction on gaining financial benefits from a private employer in the activity, occupation or industry that was regulated by the agency for which the public official was the Director, Administrator or Commissioner.
2. Two year restriction on lobbying or appearing as a representative before the agency on behalf of the activity, occupation or industry regulated by the agency for which the public official was the Director, Administrator or Commissioner.
3. Two year restriction on disclosing confidential information gained as the Director, Administrator or Commissioner for the agency.

[ORS 244.045\(2\)](#)²⁶

Oregon Department of Justice:

Deputy Attorney General
Assistant Attorney General

1. Restricted for two years from lobbying or appearing before an agency that they represented while with the Department of Justice.

[ORS 244.045\(3\)](#)²⁷

Office of the Treasurer:

State Treasurer
Chief Deputy State Treasurer

1. Restricted for one year from accepting financial benefit from a private entity with which there was negotiation or contract awarding \$25,000 in one year by the State Treasurer or Oregon Investment Council.
2. Restricted for one year from accepting financial benefit from a private entity with which there was investment of \$50,000 in one year by the State Treasurer or Oregon Investment Council.
3. Restricted for one year from being a lobbyist for an investment institution,

manager or consultant or from appearing as a representative of an investment institution, manager or consultant before the office of State Treasurer or Oregon Investment Council.

[ORS 244.045\(4\)](#)²⁸

Public Officials who invested public funds:

1. Restricted for two years from being a lobbyist or appearing before the agency, board or commission for which public funds were invested.
2. Restricted for two years from influencing or trying to influence the agency, board or commission.
3. Restricted for two years from disclosing confidential information gained through employment.

[ORS 244.047](#)²⁹

Public Officials who authorized a public contract:

1. A public official who authorized or had a significant role in a contract while acting in an official capacity may not have a direct, beneficial, financial interest in the public contract for two years after leaving the official position.
2. A member of a board, commission, council, bureau, committee or other governing body who has participated in the authorization of a public contract may not have a direct, beneficial, financial interest in the public contract for two years after leaving the official position.

OAR 199-005-0035(6) indicates that “authorized by” means that public official performed a significant role in the selection of a contractor or the execution of the contract. A significant role can include recommending approval of a contract, serving on a selection committee or team, having the final authorizing authority or signing a contract.

[ORS 244.045\(5\)\(a\)](#)³⁰

Department of State Police

Supervising programs related to Native American tribal gaming

Supervising programs related to Oregon State Lottery

1. Restricted for one year from accepting employment from or gaining financial benefit related to gaming from the Lottery or a Native American Tribe.
2. Restricted for one year from gaining financial benefit from a private employer who sells gaming equipment or services.
3. Restricted for one year from trying to influence the Department of State Police or from disclosing confidential information.

Exceptions include subsequent employment with the state police, appointment as an Oregon State Lottery Commissioner, Tribal Gaming Commissioner or lottery game retailer, or personal gaming activities.

[ORS 244.045\(6\)](#)³¹

Legislative Assembly

Representative

Senator

After a legislator's membership in the Legislative Assembly ends, a legislator may not become a compensated lobbyist until adjournment of the next regularly scheduled session of the Legislative Assembly following the end of membership in the Legislative Assembly. *[Note: In 2008 and 2010, the first special sessions are considered to be regular sessions.]*

CONFLICTS OF INTEREST

How does a public official know when they are met with a conflict of interest and, if met with one, what must they do?

Oregon Government Ethics law identifies and defines two types of conflicts of interest. An **actual conflict of interest** is defined in [ORS 244.020\(1\)](#)³² and a **potential conflict of interest** is defined in [ORS 244.020\(12\)](#)³³. In brief, a public official is met with a conflict of interest when participating in official action which could or would result in a financial benefit or detriment to the public official, a relative of the public official or a business with which either is associated.

The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “would” and “could.” A public official is met with an **actual** conflict of interest when the public official participates in action that **would** affect the financial interest of the official, the official’s relative or a business with which the official or a relative of the official is associated. A public official is met with a **potential** conflict of interest when the public official participates in action that **could** affect the financial interest of the official, a relative of that official or a business with which the official or the relative of that official is associated. The following hypothetical circumstances are offered to illustrate the difference between actual and potential conflicts of interest:

A city councilor is employed by a building supply business from which the city public works director purchases building materials. City payments on invoices must be submitted to the city council and approved by a vote. The city councilor, who is employed by the building supply business, while participating in a meeting, would be met with an **actual conflict of interest** when the request to pay the invoice from the business that employs the councilor is presented to the city council for official action.

A member of a fire district board of directors owns a sheetrock contracting business. The fire district is planning to remodel a fire station in the district. To reduce cost, the district will manage the project and solicit bids from contractors for specified work, such as the sheetrock that needs to be installed. The member on the board of directors, who is the contractor, while participating in a meeting of the board of directors, would be met with a **potential conflict of interest** when the members discuss or act on the invitation for bids on the sheetrock installation.

What if I am met with a conflict of interest?

A public official must announce or disclose the nature of a conflict of interest. The way the disclosure is made depends on the position held. The following public officials must use the methods described below:

Legislative Assembly:

Members must announce the nature of the conflict of interest in a manner pursuant to the rules of the house in which they serve. The Oregon Attorney General has determined that only the Legislative Assembly may investigate and sanction its members for violations of conflict of interest disclosure rules in [ORS 244.120\(1\)\(a\)](#)³⁴. [49 Op. Atty. Gen. 167 (1999) issued on February 24, 1999]

Judges:

Judges must remove themselves from cases giving rise to the conflict of interest or advise the parties of the nature of the conflict of interest. [\[ORS 244.120\(1\)\(b\)\]](#)³⁵

Public Employees:

Public officials in public bodies who are appointed, employed or volunteer must provide a written notice to the person who appointed or employed them. The notice must describe the nature of the conflict of interest with which they are met. [\[ORS 244.120\(1\)\(c\)\]](#)³⁶

Elected Officials or Appointed Members of Boards and Commissions:

Except for members of the Legislative Assembly, these public officials must publicly announce the nature of the conflict of interest before participating in any official action on the issue giving rise to the conflict of interest. [\[ORS 244.120\(2\)\(a\) and ORS 244.120\(2\)\(b\)\]](#)³⁷

- **Potential Conflict of Interest:** Following the public announcement, the public official may participate in official action on the issue that gave rise to the conflict of interest.
- **Actual Conflict of Interest:** Following the public announcement, the public official must refrain from further participation in official action on the issue that gave rise to the conflict of interest. [\[ORS 244.120\(2\)\(b\)\(A\)\]](#)³⁸

If a public official is met with an actual conflict of interest and the public official's vote is necessary to meet the minimum number of votes required for official action, the public official may vote. The public official must make the required announcement and refrain from any discussion, but may participate in the vote required for official action by the governing body. [\[ORS 244.120\(2\)\(b\)\(B\)\]](#)³⁹ These circumstances do not often occur. This provision does not apply in situations where there are insufficient votes because of a member's absence when the governing body is convened. Rather, it applies in circumstances when all members of the governing body are present and the number of members who must refrain due to actual conflicts of interest make it impossible for the governing body to take official action.

The following circumstances may exempt a public official from the requirement to make a public announcement or give a written notice describing the nature of a conflict of interest:

- If the conflict of interest arises from a membership or interest held in a particular business, industry, occupation or other class and that membership is a prerequisite for holding the public official position. [\[ORS 244.020\(12\)\(a\)\]](#)⁴⁰ For example, if a member of a state board is required by law to be employed in a specific occupation, such as an accountant or a doctor, then the official actions taken by the board member that affect all accountants or doctors to the same degree would be exempt from the conflict of interest disclosure requirements and participation restrictions.
- If the financial impact of the official action would impact the public official, relative or business of the public official to the same degree as other members of an identifiable group or “class”. The Commission has the authority to identify a group or class and determine the minimum size of that “class.” [\[ORS 244.020\(12\)\(b\)\]](#)⁴¹ and [\[ORS 244.290\(3\)\(a\)\]](#)⁴² For example, if a county commissioner votes to approve a contract to improve or maintain a county road that leads to the property the commissioner owns, but the improvements would also benefit many other property owners to the same degree, the commissioner would be exempt from the conflict of interest disclosure requirements and participation restrictions. The number of persons affected to the same degree as the public official will help to determine whether this exception applies.
- If the conflict of interest arises from an unpaid position as officer or membership in a nonprofit corporation that is tax-exempt under 501(c) of the Internal Revenue Code. [\[ORS 244.020\(12\)\(c\)\]](#)⁴³ For example, a city councilor is also an unpaid board member or member at the local YMCA. The decision, as a city councilor, to award a grant to that YMCA would be exempt from the conflict of interest disclosure requirements and participation restrictions.

How is the public announcement of the nature of a conflict of interest recorded?

- The public body that is served by the public official will record the disclosure of the nature of the conflict of interest in the official records (minutes, audio/video recording) of the public body. [\[ORS 244.130\(1\)\]](#)⁴⁴

Is a public official required to make an announcement of the nature of a conflict of interest each time the issue giving rise to the conflict of interest is discussed or acted upon?

- The announcement needs to be made on each occasion when the public official is met with the conflict of interest. Each time a public official is met with a conflict of interest the nature must be disclosed. For example, an elected member of the city council would have to make the public announcement one time when met with the conflict of interest, but only one time in each meeting of the city council. If the matter giving rise to the conflict of interest is raised at another meeting, the disclosure must be made again at that meeting. Another example would involve an

employee in a city planning department who would have to give a separate written notice before each occasion they encounter a matter that gives rise to a conflict of interest. [\[ORS 244.120\(3\)\]](#)⁴⁵

If a public official failed to announce the nature of a conflict of interest and participated in official action, is the official action voided?

- No. Any official action that is taken may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest [\[ORS 244.130\(2\)\]](#)⁴⁶. However, the public official faces the potential of personal liability for the violation.

LEGAL EXPENSE TRUST FUND

If a public official is the respondent to a complaint, can the public official solicit funds in order to pay for the cost of a legal defense?

The Oregon Government Ethics Commission can authorize a public official to establish a trust fund to be used to defray expenses incurred for a legal defense in any civil, criminal or other legal proceeding that relates to or arises from the course and scope of duties of the person as a public official. [\[ORS 244.205\]](#)⁴⁷

The provisions regarding the establishment of this fund are detailed in [\[ORS 244.205 through ORS 244.221\]](#)⁴⁸. If a public official is considering the need to establish a legal expense trust fund, these provisions should be reviewed. The Commission staff is available to provide guidance on the procedures. The following are some of the significant elements of a legal expense trust fund:

- A public official may only have one trust fund at any one time [\[ORS 244.205\(4\)\]](#)⁴⁹.
- The application to establish the fund must be submitted to the Commission for review and authorization. [\[ORS 244.209\]](#)⁵⁰ details what information and documents must accompany the application.
- The public official may act as the public official's fund trustee [\[ORS 244.211\(2\)\]](#)⁵¹.
- Once authorized and established, any person may contribute to the fund [\[ORS 244.213\]](#)⁵².
- Contributions from a principal campaign committee are not allowed [\[ORS 244.213\(3\)\]](#)⁵³.
- Funds must be maintained in a single exclusive account [\[ORS 244.215\]](#)⁵⁴.
- Quarterly reports of contributions and expenditures from the fund are required [\[ORS 244.217\]](#)⁵⁵.
- The fund must be terminated within six months after the legal proceeding for which the fund was established has been concluded [\[ORS 244.219\]](#)⁵⁶.
- When terminated, funds must be used to pay legal expenses, returned to contributors or donated to an organization exempt from taxation under section 501(c)(3) of the internal Revenue Code [\[ORS 244.221\]](#)⁵⁷.

GIFTS

When Oregon Government Ethics law uses the word “gift” it has the meaning in ORS 244.020(6)(a):

“Gift’ means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to “others” who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions;

or

(B) For valuable consideration less than that required from “others” who are not public officials or candidates.”

The Commission interprets “others” to indicate a significant portion of the general public in Oregon who are not public officials or candidates.

In other words, a “gift” is something of economic value that is offered to,

- A public official or candidate or to relatives or members of the household of a public official or candidate,
- Without cost or at a discount or as forgiven debt and,
- The same offer is not made or available to the general public who are not public officials or candidates.

[NOTE: In the following discussion, references to candidates are omitted to simplify the discussion. In most of the discussion, if you are a candidate, read the references to public official to mean “public official or candidate, if elected.”]

Oregon Government Ethics law establishes a framework of conditions for public officials to apply when they, their relatives or members of their households are offered gifts. If offered a gift, the public official must analyze the offer and decide if “something of value” can be accepted with or without restrictions.

There are restrictions on the value of gifts accepted by a public official, if the source of the gift has a legislative or administrative interest in decisions or votes the public official makes when acting in the capacity of a public official.

Legislative or administrative interest is defined in [ORS 244.020\(9\)](#)⁵⁸ and is used, primarily, when applying the law to gifts accepted by public officials. Whether there is a legislative or administrative interest is pivotal to any decision a public official makes on accepting gifts. It will mean the difference between being allowed to accept gifts without limits, accepting gifts with a limit of \$50 on the aggregate value, or accepting gifts under specific conditions and

within specific parameters. As will be apparent in the following discussion, the burden of any decision on accepting a gift rests solely with the individual public official.

What does a public official need to know about a “Legislative or Administrative Interest”?

Beginning in 2010, the change to the definition of what a legislative or administrative interest is represents one of the most significant changes made in Oregon Government Ethics law during the 2009 session of the Oregon Legislative Assembly.

The change is significant because knowing if the source of a gift has a legislative or administrative interest will help determine whether the gift offered can be accepted without limits or with restrictions. Before this change, a public official only had to know if a gift was offered from a source with a legislative or administrative interest in official actions of the public official’s governmental agency. Now the focus is on the votes or decisions of each individual public official. The change places greater responsibility on the individual public official to decide if a gift can be accepted without limits or with restrictions imposed by ORS Chapter 244. Not every public official makes decisions or casts votes, as those actions are used in defining a legislative or administrative interest. This means that when gifts are offered to two or more public officials, in the same setting, one public official may be allowed to accept the offer without limits and another public official may be able to accept the offer, but it would be limited as to value or restricted by conditions that must be met when accepting.

The definition of a legislative or administrative interest as set forth in ORS 244.020(9) as follows:

“‘Legislative or administrative interest’ means an economic interest, distinct from that of the general public, in:

(a) Any matter subject to the decision or vote of the public official acting in the public official’s capacity as a public official; or

(b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.”

In the context of gifts accepted by a public official, the public official must determine if the source of the offered gift has a legislative or administrative interest in the decisions or votes of the public official. When analyzing a set of circumstances and applying “legislative or administrative interest”, there are several factors to consider:

Source: The Commission adopted a rule that identifies the source of a gift as the person or entity that makes the ultimate and final payment of the gift’s expense. OAR 199-005-0030 places two burdens on a public official who accepts gifts. The

public official must know the identity of the source and, if applicable, avoid exceeding the limit on the aggregate value of gifts accepted from that source. [OAR 199-005-0030(2)]

Distinct from that of the general public: With regard to gifts, this phrase refers to a distinct economic interest held by the source of a gift. That economic interest is in the financial gain or loss that could result from any votes cast or decisions made by a public official. If the source of a gift would realize a financial gain or detriment from a vote or decision of a public official, that source has an economic interest in that public official. That economic interest is “distinct from that of the general public”, if the potential financial gain or detriment is distinct from the financial impact that would be realized by members of the general public from the votes or decisions of that same public official.

There are decisions or votes that have an economic impact on single individuals or individuals from specific businesses or groups that are distinct from the economic impact on members of the general public. On the other hand, there are many votes or decisions made by public officials that have the same general economic impact on individuals, businesses, organizations and members of the general public. Some examples of decisions or votes that would have an economic impact on the general public would be those that change water usage rates, fees for licenses or permits or fines for parking violations.

To illustrate, private contractors have an economic interest in any public official who has the authority to decide or vote to award them contracts. The economic interest of these contractors is distinct from the economic interest held by members of the general public in those decisions or votes.

To further illustrate, real estate developers have an economic interest in any public official who has the authority to decide or vote to approve their land use applications or building permits. The economic interest of these developers is distinct from the economic interest held by members of the general public in those decisions or votes.

Vote: This has the common meaning of to vote as an elected member of a governing body of a public body or as an appointed member of a committee, commission or board appointed by a governing body, Oregon Legislative Assembly or the Office of the Governor.

Decision: The Commission adopted OAR 199-005-0003 and defines “decision” in OAR 199-005-0003(2). A public official makes a decision when the public official exercises the authority given to the public official to commit the public body to a particular course of action. Making a recommendation or giving advice in an advisory capacity does not constitute a decision.

The change to the definition of a legislative or administrative interest places the focus on

the decision or vote of each individual public official. That means that any decision to accept or reject the offer of a gift must be made individually by each public official. It also means that there will be some public officials who may accept unlimited gifts from a source and other public officials within the same public body that would have restrictions on gifts from that same source. This is because not all public officials in the same public body have the same authority, responsibilities or duties. Some may vote and make decisions, others may do one but not the other and many will not vote or make decisions, as “decision” is used in legislative or administrative interest.

There are public officials who, because they hold positions specified in ORS 244.050, must file the Annual Verified Statement of Economic Interest (SEI) form with the Commission on April 15 of each year. Some information listed in that form is required when certain financial interests, assets or liabilities, are related to a source with a legislative or administrative interest in the votes or decisions of the public official submitting the form. Refer to the table of contents to find the discussion of the SEI form in this guide.

Any discussion of gifts must begin with the reminder that if the source of the offer of a gift to a public official does not have a legislative or administrative interest in the decisions or votes of the public official, the public official can accept unlimited gifts from that source. [\[ORS 244.040\(2\)\(f\)\]](#)⁵⁹

If the source of the offer of a gift to a public official has a legislative or administrative interest in the decisions or votes of the public official, the public official can only accept gifts from that source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year. [\[ORS 244.025\]](#)⁶⁰

While gifts from a source with a legislative or administrative interest in the decisions or votes of a public official have a \$50 limit, there are some gifts that are excluded from the definition of a “gift.” If the offer of a gift is excluded from the definition of a “gift,” the offer may be accepted by a public official. The value of gifts that are allowed as exclusions does not have to be included when calculating the aggregate value of gifts received from that source in one calendar year. [\[ORS 244.020\(6\)\(b\)\]](#)⁶¹

Sources who offer gifts or other financial benefits to public officials must also be aware of the provisions in ORS Chapter 244. While the specific gift of paid expenses may be allowed by [ORS 244.020\(6\)\(b\)\(F\)](#)⁶², [ORS 244.100\(1\)](#)⁶³ requires the source of this gift, if over \$50, to notify the public official in writing of the aggregate value of the paid expenses. There is also a notice requirement in [ORS 244.100\(2\)](#)⁶⁴ for the source of an honorarium when the value exceeds \$15. Lobbyists, clients or employers of lobbyist and others who provide gifts or financial benefits to public officials should also familiarize themselves with the provisions in ORS 171.725 through ORS 171.992 and Divisions 5 and 10 of Chapter 199 in the Oregon Administrative Rules. The Commission has published a “Guide to Lobbying in Oregon” that provides a summary of these regulations and rules.

As previously mentioned, there are gifts that are allowed because they are excluded from the definition of a “gift” when offered under specific conditions or when prerequisites are

met. Although some gifts are allowed, it should be remembered that a source may have a notice requirement or there may be reporting requirements for the public official or the source. If you are a public official accepting gifts or a source offering gifts, it is important you become familiar with the requirements that may apply to you.

ORS 244.020(6)(b) provides a description of the **GIFTS THAT ARE ALLOWED** as exclusions to the definition of a “gift”:

[NOTE: Not all of these exclusions apply to gifts offered to candidates.]

- Campaign contributions as defined in ORS 260.005. [ORS 244.020(6)(b)(A)]
- Contributions to a legal expense trust fund established under [ORS 244.209](#)⁶⁵. [ORS 244.020(6)(b)(G)]
- Gifts from relatives or members of the household of public officials or candidates. [ORS 244.020(6)(b)(B)]
- Anything of economic value received by a public official or candidate, their relatives or members of their household when; [\[ORS 244.020\(6\)\(b\)\(O\)\]](#)⁶⁶

The receiving is part of the usual and customary practice of the person’s business, employment, or volunteer position with any legal non-profit or for-profit entity. [\[ORS 244.020\(6\)\(b\)\(O\)\(i\)\]](#)⁶⁷

The receiving bears no relationship to the person’s holding the official position or public office. [\[ORS 244.020\(6\)\(b\)\(O\)\(ii\)\]](#)⁶⁸

- Unsolicited gifts with a resale value of less than \$25 and in the form of items similar to a token, plaque, trophy and desk or wall mementos. [\[ORS 244.020\(6\)\(b\)\(C\)\]](#)⁶⁹ and see resale value discussed in OAR199-005-0010]
- Publications, subscriptions or other informational material related to the public official’s duties. [\[ORS 244.020\(6\)\(b\)\(D\)\]](#)⁷⁰
- Waivers or discounts for registration fees or materials related to continuing education or to satisfy a professional licensing requirement for a public official or candidate. [\[ORS 244.020\(6\)\(b\)\(J\)\]](#)⁷¹
- Entertainment for a public official or candidate and their relatives or members of their households when the entertainment is incidental to the main purpose of the event. [\[ORS 244.020\(6\)\(b\)\(M\)\]](#)⁷² and see OAR 199-005-0001(3) and OAR 199-005-0025(1) for meaning of “incidental”]

- Entertainment for a public official, a relative of the public official or a member of the public official's household when the public official is acting in an official capacity and representing a governing agency for a ceremonial purpose. [\[ORS 244.020\(6\)\(b\)\(N\)\]⁷³](#) and see "ceremonial" defined in OAR 199-005-0025(2)]
- Cost of admission or food and beverage consumed by the public official, a member of the public official's household or staff when they are accompanying the public official, who is representing government, state, local or special district, at a reception, meal or meeting held by an organization. [\[ORS 244.020\(6\)\(b\)\(E\)\]⁷⁴](#) and see this exception discussed in OAR 199-005-0015]
- Food or beverage consumed by a public official or candidate at a reception where the food and beverage is an incidental part of the reception and there was no admission charged. [\[ORS 244.020\(6\)\(b\)\(L\)\]⁷⁵](#) and OAR 199-005-0025(1) also see OAR 199-005-0001(3) and (8)]
- When public officials travel together inside the state to an event bearing a relationship to the office held and the public official appears in an official capacity, a public official may accept the travel related expenses paid by the accompanying public official. [\[ORS 244.020\(6\)\(b\)\(K\)\]⁷⁶](#)
- Payment of reasonable expenses if a public official is scheduled to speak, make a presentation, participate on a panel or represent a government agency at a convention, conference, fact-finding trip or other meeting. The paid expenses for this exception can only be accepted from another government agency, Native American Tribe, an organization to which a public body pays membership dues or not-for-profit organizations that are tax exempt under 501(c)(3). [\[ORS 244.020\(6\)\(b\)\(F\)\]⁷⁷](#) and see definition of terms for this exception in OAR 199-005-0020]
- Payment of reasonable food, lodging or travel expenses for a public official, a relative of the public official or a member of the public official's household or staff may be accepted when the public official is representing the government agency or special district at one of the following: [\[ORS 244.020\(6\)\(b\)\(H\)\]⁷⁸](#) and see definition of terms for this exception in OAR 199-005-0020]
 - Officially sanctioned trade promotion or fact-finding mission; [\[ORS 244.020\(6\)\(b\)\(H\)\(i\)\]⁷⁹](#)
 - Officially designated negotiation or economic development activity when receipt has been approved in advance. [\[ORS 244.020\(6\)\(b\)\(H\)\(ii\)\]⁸⁰](#)

[NOTE: How and who may officially sanction and officially designate these events is addressed in OAR 199-005-0020(2)(b).]

- Payment of reasonable expenses paid to a public school employee for accompanying students on an educational trip. [\[ORS 244.020\(6\)\(b\)\(P\)\]](#)⁸¹
- Food and beverage when acting in an official capacity in the following circumstances: [\[ORS 244.020\(6\)\(b\)\(I\)\]](#)⁸²
 - In association with a financial transaction or business agreement between a government agency and another public body or a private entity, including such actions as a review, approval or execution of documents or closing a borrowing or investment transaction; [\[ORS 244.020\(6\)\(b\)\(I\)\(i\)\]](#)⁸³
 - When the office of the Treasurer is engaged in business related to proposed investment or borrowing; [\[ORS 244.020\(6\)\(b\)\(I\)\(ii\)\]](#)⁸⁴
 - When the office of the Treasurer is meeting with a governance, advisory or policy making body of an entity in which the Treasurer's office has invested money. [\[ORS 244.020\(6\)\(b\)\(I\)\(iii\)\]](#)⁸⁵

GIFTS AS AN EXCEPTION TO THE USE OF OFFICE PROHIBITION IN ORS 244.040

Since ORS 244.040 was amended in 2007, the acceptance of gifts that comply with [ORS 244.020\(6\)](#)⁸⁶ and [ORS 244.025](#)⁸⁷ is excluded from the prohibition on public officials' use or attempted use of an official position to gain financial benefits. If a public official or relative accepts a lawful gift, or a lawful financial benefit that qualifies as an exception to the definition of a gift, [ORS 244.040\(1\)](#)⁸⁸ does **not** prohibit the acceptance.

The discussion below is intended to assist public officials in understanding this distinction. There are more focused discussions of gifts starting on page 26 and the use of position or office starting on page 9. It should be understood this section may paraphrase information discussed more comprehensively in those areas of this guide. Also, the application of the gift provisions to candidates is not part of this discussion because, unless the candidate also qualifies as a public official on another basis, candidates are not public officials; therefore, the use of an official position prohibited by ORS 244.040(1) would not apply to a candidate who is not also a public official.

Oregon Government Ethics law does not prohibit public officials from accepting gifts [[ORS 244.040\(2\)\(e\), \(f\) and \(g\)](#)]⁸⁹ but it does place on each individual public official the direct and personal responsibility to understand there are circumstances when the aggregate value of gifts may be restricted. Public officials are also prohibited from using or attempting to use a position held by the public official to obtain a prohibited financial benefit. These provisions of Oregon Government Ethics law often converge and require public officials to analyze and determine whether the opportunity to obtain financial benefits represents the use of an official position prohibited by ORS 244.040(1) or a gift addressed with other provisions in ORS Chapter 244 [[ORS 244.020\(6\)](#), [ORS 244.025](#) or [ORS 244.040\(2\)\(e\), \(f\) and \(g\)](#)].

Is it a gift?

Public officials must understand the operative definition of a "gift" when deciding whether a gift may be accepted by a public official or candidate. The following is a paraphrase of the definition taken from [ORS 244.020\(6\)\(a\)](#):⁹⁰

Gift: "Something of economic value" given to a public official, a relative of the public official or a member of the public official's household for which the recipient either makes no payment or makes payment at a discounted price. The opportunity for the gift is one that is **not available to members of the general public**, who are not public officials, **under the same terms and conditions as** those that apply to the gift offered to **the public official**, the relative or a member of the household.

If something of economic value is received by a public official from the government agency employer or the public body represented by the public official, that financial benefit is not considered a gift, it is a financial benefit addressed by [ORS 244.040](#)⁹¹ and it is either allowed or prohibited.

Sources of gifts are private individuals, businesses, organizations or government agencies, but **not the agency represented by or employing the public official**. Sources may also be co-workers or representatives of the same public body who have purchased a gift with their **personal** resources.

Gifts may be accepted by a public official, if the source does not have a legislative or administrative interest in the votes or decisions of the public official. Specific gifts may be accepted, if the conditions of the offer exclude the gift from being defined as a gift [\[ORS 244.020\(6\)\(b\)\(A\) through \(P\)\]](#)⁹² Gifts that are not excluded from the definition may be accepted from a source as long as the aggregate value of gifts from that source does not exceed \$50 in a calendar year. For additional assistance, see the discussion beginning on page 37 titled, “What if I am offered a gift?”

Is it a prohibited use of position?

Unlike gifts, which come from outside sources, [ORS 244.040\(1\)](#)⁹³ focuses on the public official’s own actions. ORS 244.040(1) prohibits the **use or attempted use of the position** held by the public official to obtain benefits which are only available because of that position.

The prohibited financial benefits might take several forms. A public employee might have access to job related resources, business opportunities, or information, and might want to take financial advantage of this access. The financial benefit might be the avoidance of a personal expense, acquiring something of economic value, gaining extra income from private employment, or creating a new employment opportunity.

Although this “use of position” applies to situations where something of value is obtained, or there is an attempt to obtain something of value, **the Commission applies Oregon Government Ethics law to “something of economic value” offered to a public official that meets the definition of “gift,” it will be addressed as a gift in the analysis and application of the law.** The following are some examples to illustrate the Commission’s approach:

NOTE THAT IN THE FOLLOWING EXAMPLES, THE SOURCES OF THE FINANCIAL BENEFITS HAVE A LEGISLATIVE OR ADMINISTRATIVE INTEREST IN THE DECISIONS OR VOTES OF THE PUBLIC OFFICIALS.

That is important to remember because if there were no legislative or administrative interest the public officials may be allowed to accept the offers without restrictions. [\[ORS 244.040\(2\)\(f\)\]](#)⁹⁴

- A salesperson from a software company offers to take the county’s information technology manager out to lunch. Because the manager has purchasing authority, the salesperson has an administrative interest in the manager. The meal would be a gift and, if accepted, the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. [\[ORS 244.025\(1\)\]](#)⁹⁵ If the meal cost less than \$50, the manager may accept it, but should

keep a record of the gift and should be careful in future situations not to accept additional gifts from this source if the value would exceed \$50 total for the year. Of course, if the lunch costs more than \$50, the manager may not accept it in any case.

- A city manager attends a work-related conference paid for by the city. When the city manager checks out of the hotel, she is offered a coupon for two nights of free lodging at any hotel in the nationwide chain. Because the city manager is in charge of her own travel arrangements, the hotel has an administrative interest in her future hotel-booking decisions. If accepted and used for personal lodging, it would be a gift and the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. *[ORS 244.025(1)]* Note that if the city had adopted an official compensation package (as defined in OAR 199-005-0035) that included a provision allowing the city manager to use “loyalty program” benefits for personal use, the coupon could have been accepted.
- A county finance officer attends a work-related conference paid for by the county. When arriving at the conference the finance officer, as with others in attendance, is offered a gift basket containing assorted goods from the organization hosting the conference. Because the organization sells goods or services the finance officer has the authority to purchase, the source of the gift has an administrative interest in the finance officer. Typically, such a gift basket would be a “gift” and, if accepted, the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. *[ORS 244.025(1)]* However, the law does not prohibit accepting things that are made available to a significant portion of the general public under the same terms and conditions. If the conference was open to members of the general public, and the attendees included a wide range of public and private participants, the baskets would not be considered gifts.
- A state employee is sent by his agency to attend a two-day training conference. A salesperson is near the conference registration table and offers a collection of gifts valued at over \$100 to all registrants. As in the last example, because the employee has the authority to purchase goods or services sold by the salesperson, the source of the gifts has an administrative interest in the state employee. Let’s also assume that the conference is only open to government employees. Under these circumstances the offered items would be gifts and any accepted could not exceed the \$50 limit on aggregate value from a single source in one calendar year. *[ORS 244.025(1)]*
- During the same conference, the state employee is going out to dinner after the conference adjourns for the day. While passing through the hotel lobby, he stops to speak with the salesperson who offered the gifts during the conference registration. The salesperson asks to join the state employee for dinner and offers to pay for the meal. The value of the meal would be included with the value of any gifts accepted earlier in the aggregate value of gifts, which cannot exceed \$50 in one calendar year. *[ORS 244.025(1)]*

- A city mayor goes out to lunch in a local city restaurant. During lunch a well known developer approaches the mayor and offers to pay for the mayor's meal. The developer has a legislative or administrative interest in decisions the mayor could make on his construction projects. The value of the meal, if accepted, would be included in the aggregate value of gifts from a source, which cannot exceed \$50 from a single source in one calendar year. [ORS 244.025(1)]
- A chief deputy who manages procurement for a county sheriff's office attends a conference on newly developed equipment for law enforcement agencies. Upon arrival, the deputy purchases with personal funds several "raffle tickets" each representing a chance to win a shotgun from the manufacturer valued at \$500. The opportunity to buy the tickets is only available to those attending the conference. During the final session of the conference the "raffle" ticket drawing is held and the chief deputy wins the shotgun. As explained above, if the conference was only open to public officials, or if few non-public employees were in attendance, the shotgun would be a gift and, if accepted, the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. [ORS 244.025(1)]

When the Commission applies Oregon Government Ethics law to a financial benefit obtained by a public official by using or attempting to use an opportunity that would not otherwise be available but for the position or office held, [ORS 244.040\(1\)](#)⁹⁶ will be used in the analysis and application of the law. The following are some examples to illustrate the Commission's approach:

- A city recorder has overseen the installation and implementation of a new software program to manage the city's financial records. The distributor of this software has a training event scheduled for employees who work for other cities' governments. The city recorder has been asked to participate as a trainer at the events and the distributor has offered to provide compensation and pay any expenses for food, lodging and travel. If the city recorder accepted this offer, it could constitute the use of the official position to gain a financial benefit because the opportunity for the compensation and paid expenses would not be available but for holding the position and performing the duties as the city recorder. [ORS 244.040(1)]
- A deputy fire chief, who is in charge of procuring equipment for fire stations in the district, locates a vendor that offers the make and model of an extension ladder to replace obsolete ladders in the district's stations. To increase the fire district's discount on each ladder, the deputy fire chief adds several extra ladders to the order. The deputy fire chief and two relatives take personal possession of the extra ladders and pay the fire district the amount the district paid for the ladders. The deputy fire chief would violate ORS 244.040(1) because the discounted price to the deputy fire chief and the relatives represents the use of position to avoid a financial detriment (discount) that is prohibited.

- A city council has scheduled a public council meeting in a room at a local restaurant. Before the scheduled meeting the councilors plan to use city funds to purchase dinner for councilors, the councilor's spouses and members of the city's staff attending the scheduled meeting. The councilors, who are accompanied by a spouse, would violate ORS 244.040(1) because the cost of the meal for the spouse would represent the use of position to avoid a financial detriment that is prohibited.

The responsibility for judgments and decisions made in order to comply with the various provisions in Oregon Government Ethics law rests with the individual public official who faces the circumstances that require a judgment or decision. That is true of questions regarding gifts, use of an official position, announcing the nature of conflicts of interest and the many situations addressed in ORS Chapter 244.

What if I am offered a gift?

First, insure you know the identity of the source of the gift. Remember, the source of a gift is the person or entity that made the ultimate payment for the gift's expense [[See page 27](#)].

Second, determine if the source of the gift has an economic interest in decisions or votes you make in your official capacity as a public official. If that economic interest is distinct from the interest held by members of the general public it is a legislative or administrative interest [[See page 27](#)].

- If the source does not have a legislative or administrative interest, gifts from that source are not prohibited or limited as to value or quantity.
- If the source has a legislative or administrative interest, you must answer the following questions:
 1. Is the gift offered under the conditions that would allow you to accept the gift because it is excluded from what is defined as a "gift"? These exclusions are found in [ORS 244.020\(6\)\(b\)](#)⁹⁷ and described on pages 30 - 32 of this guide.
 2. What is the value of the gift? Remember, you can accept gifts [not excluded from the definition of "gift".] from a single source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year. [[ORS 244.025](#)]⁹⁸

ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST

There are approximately 5,500 Oregon public officials who must file an **Annual Verified Statement of Economic Interest (SEI)** form with the Oregon Government Ethics Commission by **April 15 of each calendar year**.

The **public officials who are required to file reports are specified in ORS [244.050](#)**.⁹⁹ Please refer to that section of the law to see if your specific position requires you to file these forms. In general, public officials who hold the following positions are required to file:

- State public officials who hold elected or appointed executive, legislative or judicial positions. This includes those who have been appointed to positions on certain boards or commissions.
- In counties, elected officials, such as commissioners, assessors, surveyors, treasurers and sheriffs must file, as do planning commission members and the county's principal administrator.
- In cities, all elected officials, the city manager or principal administrator, municipal judges and planning commission members must file.
- Administrative and financial officers in school districts, education service districts and community college districts must file.
- Some members of the board of directors for certain special districts must file.
- Candidates for some elected public offices are also required to file.

The Commission staff has identified the positions held by public officials who must file the SEI form and has them listed by jurisdiction. Each jurisdiction [city, county, executive department, board or commission, etc.] has a person who acts as the Commission's point of contact for that jurisdiction [OAR 199-020-0005(1)].

The **contact person** for each jurisdiction has an important role in the annual filing of the SEI forms. It is through the contact person that the Commission obtains the current name and address of each public official who is required to file. When there is a change, through resignation, appointment or election, in who holds a position, the contact person notifies the Commission. If there is a change in the filer's mailing address, it is the contact person who notifies the Commission.

As with other provisions in Oregon Government Ethics law, it is each public official's personal responsibility to ensure they comply with the requirement to complete and submit the SEI form by April 15. Those public officials who must file a SEI form are well served if the contact person ensures that the Commission has the correct name and address of the public official.

Beginning in January of each year the Commission prepares a list by jurisdiction of each public official required to file the SEI form. A list for each jurisdiction is sent to the contact person. The contact person is required to review the list for accuracy. After entering the necessary changes, the contact person must return the list that has been reviewed and corrected to the Commission by February 15. [OAR 199-020-0005(2)]

The contact person from each jurisdiction should ensure that each filer has been advised of the reporting requirements. Each filer should also receive information as to the procedures the jurisdiction follows to assist the filer in meeting the SEI filing requirement.

Based on the information provided by each of the jurisdictions' contacts, the Commission sends an annual SEI form directly to each individual public official required to file the form.

Again, the requirement to file the SEI is the personal responsibility of each public official. Each public official should comply and file timely, as the civil penalties for late filing are \$10 for each of the first 14 days after the filing deadline and \$50 for each day thereafter until the aggregate penalty reaches the maximum of \$5,000. [[ORS 244.350\(4\)\(c\)](#)]¹⁰⁰

SEI Form

When the forms are distributed in March of each year, the instructions and definitions are also included to assist the filer in completing the forms. The information needed to complete the form pertains to the previous calendar year.

NOTE: Only public officials who hold a position that is required to file, and who holds the position on April 15 of the year the SEI is due, must complete the form.

The following is a brief description of the information requested in the SEI form:

- Name and address of each business in which a position as officer or director was held by the filer or member of the household. [[ORS 244.060\(1\)](#)]¹⁰¹
- Name and address of each business through which the filer or member of the household did business. [[ORS 244.060\(2\)](#)]¹⁰²
- Name and address and brief description of the sources of income for the filer and members of the household that represent 10 percent or more of the annual household income. [[ORS 244.060\(3\)](#)]¹⁰³
- Ownership interests held by the filer or members of the household in real property, except for the principal residence, located within the geographic boundaries of the governmental agency in which the filer holds the position or seeks to hold. [[ORS 244.060\(4\)\(a\) and \(b\)](#)]¹⁰⁴
- Honoraria or other items allowed by [ORS 244.042](#)¹⁰⁵ that exceed \$15 in value given to the filer or members of the filer's household. Include a description of the honoraria or item and the date and time of the event when the item was received [[ORS 244.060\(7\)](#)]¹⁰⁶. Remember that honorarium cannot exceed \$50. [[ORS](#)

[244.042\(3\)\(a\)](#)¹⁰⁷

- Name of each lobbyist associated with any business the filer or a member of the household is associated, unless the association is through stock held in publicly traded corporations. [[ORS 244.090](#)]¹⁰⁸
- If the public official received over \$50 from an entity to participate in a convention, fact-finding mission, trip, or other meeting as allowed by [ORS 244.020\(6\)\(b\)\(F\)](#)¹⁰⁹, list the name and address of the entity that paid the expenses. Include the event date, aggregate expenses paid, purpose for participation a copy of the notice of aggregate value paid. [[ORS 244.060\(5\)](#)]¹¹⁰ and [[ORS 244.100\(1\)](#)]¹¹¹ [Not required for candidates]
- If the public official received over \$50 from an entity to participate in a trade promotion, fact-finding mission, negotiations or economic development activities as allowed by [ORS 244.020\(6\)\(b\)\(H\)](#)¹¹², list the name and address of the person that paid the expenses. Include the event date, aggregate expenses paid and nature of the event. [[ORS 244.060\(6\)](#)]¹¹³ [Not required for candidates]

The following is required if the information requested relates to an individual or business that has been or could reasonably be expected to do business with the filer's governmental agency or has a legislative or administrative interest in the filer's governmental agency:

- Name, address and description of each source of income (taxable or not) that exceeds \$1,000 for the filer or a member of the filer's household. [[ORS 244.060\(8\)](#)]¹¹⁴
- Name of each person the filer or member of the filer's household has owed \$1,000 or more. Include the date of the loan and the interest rate. Debts on retail contracts or with regulated financial institutions are excluded. [[ORS 244.070\(1\)](#)]¹¹⁵
- Business name, address and nature of beneficial interest over \$1,000, or investment held by the filer or a member of the household in stocks or securities over \$1,000. Exemptions include mutual funds, blind trusts, deposits in financial institutions, credit union shares and the cash value of life insurance policies. [[ORS 244.070\(2\)](#)]¹¹⁶
- Name of each person from whom the filer received a fee of over \$1,000 for services, unless disclosure is prohibited by a professional code of ethics. [[ORS 244.070\(3\)](#)]¹¹⁷

OREGON GOVERNMENT ETHICS COMMISSION

The Governor appoints all seven members of the Commission and each appointee is confirmed by the Senate. The commissioners are recommended as follows [[ORS 244.250](#)¹¹⁸]:

- 1 Recommended by the Senate Democratic leadership
- 1 Recommended by the Senate Republican leadership
- 1 Recommended by the House Democratic leadership
- 1 Recommended by the House Republican leadership
- 3 Recommended by the Governor

No more than four commissioners with the same political party affiliation may be appointed to the Commission to serve at the same time. The commissioners are limited to one four year term, but if an appointee fills an unfinished term they can be reappointed to a subsequent four year term.

The Commission members select a chairperson and vice chairperson annually. The Commission is administered by an executive director, who is selected by the Commission. Legal counsel is provided by the Oregon Department of Justice.

The Commission staff provides administration, training, guidance, issues written opinions, and conducts investigations when complaints are filed with the Commission.

Training:

The Commission has designated training as one of its highest priorities. It has two staff positions to provide training to public officials and lobbyists on the laws and regulations under its jurisdiction. Training is provided through presentations at training events, iLearnOregon, informational links on the website, topical handouts and guidance offered when inquiries are received.

Advice:

All members of the Commission staff are cross-trained in the laws and regulations under the Commission's jurisdictions. Questions regarding the Commission's laws, regulations and procedures are a welcome daily occurrence. Timely and accurate answers are a primary objective of the staff. Guidance and information is provided either informally or in written formal opinions. The following are available:

- Telephone inquiries are answered during the call or as soon as possible.
- E-mail inquiries are answered with return e-mail or telephone call as soon as possible.
- Letter inquiries are answered by letter as soon as possible.

- Written opinions on specific circumstances can also be requested.

Requests for written opinions must describe the specific facts and circumstances that provide the basis for questions about how the Oregon Government Ethics law may apply. The facts and circumstances may define a proposed transaction and may be hypothetical or actual. If the circumstances indicate that a violation may have occurred, the staff cannot provide an opinion because to do so could compromise the Commission's objectivity if a complaint were to be filed. The written opinions will be in one of the following formats, as requested:

Staff Advice

[ORS 244.284](#)¹¹⁹ provides for informal staff advice, which may be offered in several forms, such as in person, by telephone, e-mail or letter. In a letter of advice, the proposed, hypothetical or actual facts are restated as presented in the request and the relevant laws or regulations are applied. The answer will conclude whether a particular action by a public official comports with the law.

If the Commission determines that a respondent violated provisions of law within its jurisdictions and the respondent received staff advice offered under the authority of ORS 244.284, in sanctioning the violation, the Commission may consider whether the public official committed the violation when relying on the staff advice [[ORS 244.284\(2\)](#)].¹²⁰

For staff advice to be a factor in the sanction phase, it is important to understand that the circumstances the respondent described in the request must have been an accurate description of what occurred when the respondent committed the violation. The actions of the respondent must have been those recommended or described in the staff advice. The Commission is not prevented from finding a violation in these circumstances, but the sanction imposed could be affected.

Staff Advisory Opinion

ORS 244.282 authorizes the executive director to issue a staff advisory opinion upon receipt of a written request. The opinion is issued in a letter that restates the proposed, hypothetical or actual facts presented in the written request and identifies the relevant statutes. The letter will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request. The Commission must respond to any request for a staff advisory opinion within 30 days, unless the executive director extends the deadline by an additional 30 days.

If the Commission determines that a respondent violated provisions of law within its jurisdictions and the respondent received a staff advisory opinion under the authority of ORS 244.282, in sanctioning the violation, the Commission may consider whether the public official committed the violation when relying on the staff advisory opinion [[ORS 244.282\(3\)](#)].¹²¹

For the staff advisory opinion to be a factor in the sanction phase, it is important to understand that the circumstances the respondent described in the request must have been an accurate description of what occurred when the respondent committed the violation. The actions of the respondent must have been those recommended or described in the staff advisory opinion. The Commission is not prevented from finding a violation in these circumstances, but whether the sanction is imposed or its severity could be affected.

Commission Advisory Opinion

[ORS 244.280](#)¹²² authorizes the Commission to prepare and adopt by vote a Commission Advisory Opinion. This formal written opinion also restates the proposed, hypothetical or actual facts presented in a written request for a formal opinion by the Commission. The opinion will identify the relevant statutes and discuss how the law applies to the questions asked or raised by the fact circumstances provided in the request. These formal advisory opinions are reviewed by legal counsel before the Commission adopts them. The Commission must respond to any request for a Commission Advisory Opinion within 60 days, unless the Commission extends the deadline by an additional 60 days [[ORS 244.280\(1\) and \(2\)](#)].¹²³

The Commission may not impose a penalty on a person for any good faith action taken by the person while relying on a Commission Advisory Opinion, unless it is determined that the person who requested the opinion omitted or misstated material facts in the opinion request [[ORS 244.280\(3\)](#)].¹²⁴

For the Commission Advisory Opinion to be a factor in preventing the imposition of a penalty, it is important to understand that the circumstances described in the request must have been an accurate description of what occurred when the respondent committed the violation. The actions of the respondent must have been those recommended or described in the Commission Advisory Opinion. The Commission is not prevented from finding a violation in these circumstances, but could be prevented from imposing a sanction.

If a person requests, receives or relies on any of the advice or opinions authorized by [ORS 244.280 through ORS 244.284](#)¹²⁵, does that person have what is referred to as “safe harbor” protection from becoming a respondent to a complaint filed with or initiated by the Commission?

There is no “safe harbor,” if the term is understood to mean that any person who relies on any advice or opinions offered by the Commission or the staff is protected from being a respondent to a complaint, from being found in violation of laws within the jurisdiction of the Commission, or from receiving a penalty for a violation.

There is, however, specific and conditional protection for any person who has requested and relied upon advice or an opinion from the Commission or its staff. The conditions and protection is as follows:

- The fact circumstances described in the request must not misrepresent, misstate or omit material facts.
- Reliance on the advice or opinion means that the action or transactions of the person were those described or suggested in the advice or opinion.
- The protection applies only during the penalty phase, after the Commission has determined that a violation has occurred. If there was reliance on staff advice or a Staff Advisory Opinion, the Commission may consider the reliance during the penalty phase. If reliance was on a Commission Advisory Opinion, the Commission may not impose a penalty.

Any person who has not requested advice or an opinion must be cautious when trying to apply advice or opinions offered to others. The advice and opinions given are based on and tailored to the specific fact circumstances presented in a request. Fact circumstances vary from one situation to another and they vary from one public official to another. If a person reviews an opinion or advice issued to another for circumstances the person believes similar to those now met and relies on that advice, the person must ensure the similarity is sufficient for the application of law to be the same.

It is important to remember that the provisions of law apply to the individual actions of the person or public official. There are events or occasions when more than one public official may be present and participating in their official capacities. Depending on the circumstances and conditions for an event or transaction, the law may have a different application for one public official than for other public officials.

Compliance:

The Commission has a program manager who oversees the management and administration of the various reports that are filed with the Commission. There are approximately 2,000 lobbyists and employers of lobbyists who file quarterly lobbying activity expense reports. Each of the nearly 1,000 lobbyists must file or renew their lobbying registrations every two years. There are approximately 5,500 public officials who must file the Annual Verified Statement of Economic Interest form each April 15.

Complaint Review Procedures:

Investigations are initiated through a complaint procedure [[ORS 244.260](#)]¹²⁶ Any person may file a signed, written complaint alleging that there may have been a violation of Oregon Government Ethics law, Lobbying Regulation or the executive session provisions of Oregon Public Meetings law. The complaint must state the person's reason for believing that a violation may have occurred and must include any evidence that supports that belief. The executive director reviews the complaint and if additional information is needed, the complainant is asked to provide that information.

If there is reason to believe that there has been a violation of laws within the jurisdiction of

the Commission, an investigation will be initiated. The Commission may also initiate an investigation on its own complaint by motion and vote. Before approving such a motion, the public official against whom the action may be taken is notified and given an opportunity to appear before the Commission at the meeting when the matter is discussed or acted upon.

When a complaint is accepted, the public official against whom the allegations are made is referred to as the respondent. The respondent is notified of the complaint and provided with the information received in the complaint and the identity of the complainant. Whether based on a complaint or a motion by the Commission, the initial stage of the Commission procedure is called the Preliminary Review Phase. The time allowed for this phase is limited to 135 days and the Commission must act on the complaint within that period.

If there is a pending criminal matter related to the same circumstances or actions to be addressed in the Preliminary Review, the time period is suspended until the criminal matter is concluded.

There may be a variety of reasons for a respondent to ask for additional time before the Commission determines whether there is cause to investigate the issues raised in the complaint. With the consent of the Commission, a respondent may request a waiver of the 135 day time limit. If a complaint is made against a candidate within 61 days of an election, the candidate may request a delay.

During the Preliminary Review Phase, the Commissioners and staff can make no public comment on the matter other than acknowledge receipt of the complaint. It is maintained as a confidential matter until the Commission ends the Preliminary Review Phase. Under most circumstances, the Commission will end the Preliminary Review Phase by either dismissing the complaint or finding cause to conduct an investigation. The Commission meets in executive session to conduct deliberations and vote on the finding of cause or to dismiss. After the close of the Preliminary Review Phase, the case file is open to public inspection.

If the complaint is dismissed, the matter is concluded and both the respondent and complainant are notified. If cause is found to investigate, then an Investigatory Phase begins. The investigatory phase is limited to 180 days.

During each phase, information and documents are solicited from the complainant, respondent, and other witnesses and sources that are identified. Before the end of the 180 day investigatory period, the Commission will consider the results of the investigation. Normally, the Commission will either dismiss the complaint or make a preliminary finding that a violation of Oregon Government Ethics law was committed by the respondent. The preliminary finding of a violation is based on what the Commission considers to be a preponderance or sufficient evidence to support such a finding.

If a preliminary finding of violation is made, the respondent will be offered the opportunity to request a contested case hearing. At any time, the respondent is also encouraged to

negotiate a settlement with the executive director, who represents the Commission in such negotiations. Most cases before the Commission are resolved through a negotiated settlement, with the terms of the agreement described in a Stipulated Final Order.

The Commission has a variety of sanctions available after making a finding that a violation occurred. Sanctions range from letters of reprimand to civil penalties and forfeitures. The maximum civil penalty that can be imposed for each violation is \$5,000, except for violations of the executive session provisions in ORS 192.660 where the maximum is \$1,000. Any financial gain that a respondent realized from a violation is subject to a forfeiture of twice the gain. Any monetary sanctions imposed and paid are deposited into the State of Oregon General Fund.

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¹ ORS 244.020(14) “Public official” means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

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² ORS 244.020(15) “Relative” means:

- (a) The spouse of the public official or candidate;
- (b) Any children of the public official or of the public official’s spouse;
- (c) Any children of the candidate or of the candidate’s spouse;
- (d) Siblings, spouses of siblings or parents of the public official or of the public official’s spouse;
- (e) Siblings, spouses of siblings or parents of the candidate or of the candidate’s spouse;
- (f) Any individual for whom the public official or candidate has a legal support obligation;
- (g) Any individual for whom the public official provides benefits arising from the public official’s public employment or from whom the public official receives benefits arising from that individual’s employment; or
- (h) Any individual from whom the candidate receives benefits arising from that individual’s employment.

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³ ORS 244.020(2) “Business” means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a non-remunerative capacity.

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⁴ ORS 244.020(3) “Business with which the person is associated” means:

- (a) Any private business or closely held corporation of which the person or the person’s relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person’s relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;
- (b) Any publicly held corporation in which the person or the person’s relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;
- (c) Any publicly held corporation of which the person or the person’s relative is a director or officer; or
- (d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

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⁵ ORS 244.050 Persons required to file statement of economic interest; filing deadline. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

- (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and members of the Legislative Assembly.
- (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.
- (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.
- (d) The Deputy Attorney General.
- (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.
- (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice

presidents, or their administrative equivalents, in each institution under the jurisdiction of the State Board of Higher Education.

- (g) The following state officers:
 - (A) Adjutant General.
 - (B) Director of Agriculture.
 - (C) Manager of State Accident Insurance Fund Corporation.
 - (D) Water Resources Director.
 - (E) Director of Department of Environmental Quality.
 - (F) Director of Oregon Department of Administrative Services.
 - (G) State Fish and Wildlife Director.
 - (H) State Forester.
 - (I) State Geologist.
 - (J) Director of Human Services.
 - (K) Director of the Department of Consumer and Business Services.
 - (L) Director of the Department of State Lands.
 - (M) State Librarian.
 - (N) Administrator of Oregon Liquor Control Commission.
 - (O) Superintendent of State Police.
 - (P) Director of the Public Employees Retirement System.
 - (Q) Director of Department of Revenue.
 - (R) Director of Transportation.
 - (S) Public Utility Commissioner.
 - (T) Director of Veterans' Affairs.
 - (U) Executive director of Oregon Government Ethics Commission.
 - (V) Director of the State Department of Energy.
 - (W) Director and each assistant director of the Oregon State Lottery.
 - (X) Director of the Department of Corrections.
 - (Y) Director of the Oregon Department of Aviation.
 - (Z) Executive director of the Oregon Criminal Justice Commission.
 - (AA) Director of the Oregon Business Development Department.
 - (BB) Director of the Office of Emergency Management.
 - (CC) Director of the Employment Department.
 - (DD) Chief of staff for the Governor.
 - (EE) Administrator of the Office for Oregon Health Policy and Research.
 - (FF) Director of the Housing and Community Services Department.
 - (GG) State Court Administrator.
 - (HH) Director of the Department of Land Conservation and Development.
 - (II) Board chairperson of the Land Use Board of Appeals.
 - (JJ) State Marine Director.
 - (KK) Executive director of the Oregon Racing Commission.
 - (LL) State Parks and Recreation Director.
 - (MM) Public defense services executive director.
 - (NN) Chairperson of the Public Employees' Benefit Board.
 - (OO) Director of the Department of Public Safety Standards and Training.
 - (PP) Chairperson of the Oregon Student Assistance Commission.
 - (QQ) Executive director of the Oregon Watershed Enhancement Board.
 - (RR) Director of the Oregon Youth Authority.
 - (SS) Director of the Oregon Health Authority.
- (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- (i) Every elected city or county official.
- (j) Every member of a city or county planning, zoning or development commission.
- (k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.
- (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- (m) Every member of a governing body of a metropolitan service district and the executive officer thereof.
- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school

district, education service district and community college district.

(p) Every member of the following state boards and commissions:

- (A) Board of Geologic and Mineral Industries.
- (B) Oregon Business Development Commission.
- (C) State Board of Education.
- (D) Environmental Quality Commission.
- (E) Fish and Wildlife Commission of the State of Oregon.
- (F) State Board of Forestry.
- (G) Oregon Government Ethics Commission.
- (H) Oregon Health Policy Board.
- (I) State Board of Higher Education.
- (J) Oregon Investment Council.
- (K) Land Conservation and Development Commission.
- (L) Oregon Liquor Control Commission.
- (M) Oregon Short Term Fund Board.
- (N) State Marine Board.
- (O) Mass transit district boards.
- (P) Energy Facility Siting Council.
- (Q) Board of Commissioners of the Port of Portland.
- (R) Employment Relations Board.
- (S) Public Employees Retirement Board.
- (T) Oregon Racing Commission.
- (U) Oregon Transportation Commission.
- (V) Wage and Hour Commission.
- (W) Water Resources Commission.
- (X) Workers' Compensation Board.
- (Y) Oregon Facilities Authority.
- (Z) Oregon State Lottery Commission.
- (AA) Pacific Northwest Electric Power and Conservation Planning Council.
- (BB) Columbia River Gorge Commission.
- (CC) Oregon Health and Science University Board of Directors.
- (DD) Capitol Planning Commission.

(q) The following officers of the State Treasurer:

- (A) Chief Deputy State Treasurer.
- (B) Chief of staff for the office of the State Treasurer.
- (C) Director of the Investment Division.

(r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.

(s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Within 30 days after the filing deadline for the general election, each candidate described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for public office described in subsection (1) of this section at the preceding primary election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the

commission may impose a civil penalty as provided in ORS 244.350. [1974 c.72 §§4,4a; 1975 c.543 §3; 1977 c.588 §3; 1977 c.751 §16; 1979 c.374 §5; 1979 c.666 §6; 1979 c.697 §1; 1979 c.736 §1; 1979 c.829 §9b; 1987 c.373 §26; 1987 c.414 §148; 1987 c.566 §10; 1991 c.73 §2; 1991 c.160 §1; 1991 c.163 §1; 1991 c.470 §13; 1991 c.614 §2; 1993 c.500 §10; 1993 c.743 §11; 1995 c.79 §87; 1995 c.712 §94; 1997 c.652 §16; 1997 c.833 §22; 1999 c.59 §62; 1999 c.291 §28; 2001 c.104 §77; 2003 c.214 §1; 2003 c.784 §13; 2005 c.157 §6; 2005 c.217 §23; 2005 c.777 §14; 2007 c.813 §2; 2007 c.865 §17; 2007 c.877 §13; 2009 c.68 §5; 2009 c.595 §192; 2009 c.896 §10]

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⁶ ORS 244.040(1) Prohibited use of official position or office; exceptions; other prohibited actions. (1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

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⁷ ORS 244.040(4) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

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⁸ ORS 244.040(5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

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⁹ ORS 244.040(6) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

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¹⁰ ORS 244.020(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.

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¹¹ ORS 244.020 (12) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

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¹² ORS 244.040(2) Subsection (1) of this section does not apply to:

(a) Any part of an official compensation package as determined by the public body that the public official serves.

(b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.

(c) Reimbursement of expenses.

(d) An unsolicited award for professional achievement.

(e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

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¹³ ORS 244.020(7) "Honorarium" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event.

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¹⁴ ORS 244.042(3) This section does not prohibit:

(a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

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¹⁵ ORS 244.020(6)(b)(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25

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¹⁶ ORS 244.209 Application to establish fund; commission review and authorization. (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

(a) A copy of an executed trust agreement described in subsection (2) of this section;

(b) A sworn affidavit described in subsection (3) of this section signed by the public official; and

(c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

(a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and

(b) A designation of a trustee under ORS 244.211.

(3) The affidavit of the public official must state:

(a) The nature of the legal proceeding that requires establishment of the trust fund;

(b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and

(c) That the public official is responsible for the proper administration of the trust fund.

(4) The affidavit of the trustee must state that the trustee:

(a) Has read and understands ORS 244.205 to 244.221; and

(b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application

meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221. [2007 c.877 §31; 2009 c.505 §3]

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¹⁷ ORS 244.175 Definitions for ORS 244.177 and 244.179. As used in ORS 244.177 and 244.179:

(1) "Governing body" has the meaning given that term in ORS 192.610.

(2) "Member of the household" means any person who resides with the public official.

(3) "Public body" has the meaning given that term in ORS 174.109.

(4) "Relative" means the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters, half brothers, half sisters, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, mothers-in-law, fathers-in-law, aunts, uncles, nieces, nephews, stepparents, stepchildren or parents of the public official or of the public official's spouse. [2007 c.865 §26b; 2009 c.689 §3]

244.177 Employment of relative or member of household; exceptions. (1) Except as provided in subsections (2) to (4) of this section:

(a) A public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

(b) A public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the discharge, firing or demotion of a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control. As used in this paragraph, "participate" does not include serving as a reference, providing a recommendation or performing other ministerial acts that are part of the normal job functions of the public official.

(2) A member of the Legislative Assembly may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position as an unpaid volunteer with the public body that the public official serves or over which the public official exercises jurisdiction or control.

(b) Paragraph (a) of this subsection does not apply to the appointment, employment, promotion, discharge, firing or demotion of a relative or member of the household to a position as an unpaid member of a governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) This section does not prohibit a public body from appointing, employing, promoting, discharging, firing or demoting a person who is a relative or member of the household of a public official serving the public body. [2007 c.865 §26c]

244.179 Supervision of relative or member of household; exceptions. (1) Notwithstanding ORS 659A.309 and except as provided in subsections (2) to (4) of this section, a public official acting in an

official capacity may not directly supervise a person who is a relative or member of the household.

(2) A member of the Legislative Assembly may directly supervise a person who:

(a) Is a relative or member of the household; and

(b) Serves as a public official in a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official acting in an official capacity may directly supervise a person who is a relative or member of the household if the person serves as an unpaid volunteer.

(b) Paragraph (a) of this subsection does not apply to service by a person in a position as an unpaid member of a governing body that a public official of whom the person is a relative or member of the household serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household serving as an unpaid volunteer described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) A public body may adopt policies specifying when a public official acting in an official capacity may directly supervise a person who is a relative or member of the household. [2007 c.865 §26d]

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¹⁸ ORS 244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards. (1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so. [1974 c.72 §10; 1975 c.543 §7; 1987 c.566 §15; 1993 c.743 §15]

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¹⁹ ORS 244.177(1)Employment of relative or member of household; exceptions. (1) Except as provided in subsections (2) to (4) of this section:

(a) A public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

(b) A public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the

discharge, firing or demotion of a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control. As used in this paragraph, “participate” does not include serving as a reference, providing a recommendation or performing other ministerial acts that are part of the normal job functions of the public official.

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²⁰ ORS 244.177(2) A member of the Legislative Assembly may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position on the personal legislative staff of the member of the Legislative Assembly.

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²¹ ORS 244.177(3)(a) A public official may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position as an unpaid volunteer with the public body that the public official serves or over which the public official exercises jurisdiction or control.

(b) Paragraph (a) of this subsection does not apply to the appointment, employment, promotion, discharge, firing or demotion of a relative or member of the household to a position as an unpaid member of a governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control.

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²² ORS 244.179 Supervision of relative or member of household; exceptions. (1) Notwithstanding ORS 659A.309 and except as provided in subsections (2) to (4) of this section, a public official acting in an official capacity may not directly supervise a person who is a relative or member of the household.

(2) A member of the Legislative Assembly may directly supervise a person who:

(a) Is a relative or member of the household; and

(b) Serves as a public official in a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official acting in an official capacity may directly supervise a person who is a relative or member of the household if the person serves as an unpaid volunteer.

(b) Paragraph (a) of this subsection does not apply to service by a person in a position as an unpaid member of a governing body that a public official of whom the person is a relative or member of the household serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household serving as an unpaid volunteer described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) A public body may adopt policies specifying when a public official acting in an official capacity may directly supervise a person who is a relative or member of the household. [2007 c.865 §26d]

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²³ ORS 244.040(3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

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²⁴ ORS 244.047(2) Except as provided in subsection (4) of this section, a person who ceases to hold a position as a public official may not have a direct beneficial financial interest in a public contract described in subsection (3) of this section for two years after the date the contract was authorized.

(3) Subsection (2) of this section applies to a public contract that was authorized by:

(a) The person acting in the capacity of a public official; or

(b) A board, commission, council, bureau, committee or other governing body of a public body of

which the person was a member when the contract was authorized.

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²⁵ ORS 244.045 Regulation of subsequent employment of public officials; lobbying by former members of Legislative Assembly. (1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

(a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b) Within two years after the public official ceases to hold the position:

(A) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(B) Influence or try to influence the actions of the agency; or

(C) Disclose any confidential information gained as a public official.

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²⁶ ORS 244.045(2) A person who has been a Deputy Attorney General or an assistant attorney general shall not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

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²⁷ ORS 244.045(3) A person who has been the State Treasurer or the Chief Deputy State Treasurer shall not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least \$25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

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²⁸ 244.045(4) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

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²⁹ ORS 244.047 Financial interest in public contract. (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 174.109.

(b) "Public contract" has the meaning given that term in ORS 279A.010.

(2) Except as provided in subsection (4) of this section, a person who ceases to hold a position as a public official may not have a direct beneficial financial interest in a public contract described in subsection (3) of this section for two years after the date the contract was authorized.

(3) Subsection (2) of this section applies to a public contract that was authorized by:

(a) The person acting in the capacity of a public official; or

(b) A board, commission, council, bureau, committee or other governing body of a public body of which the person was a member when the contract was authorized.

(4) Subsection (2) of this section does not apply to a person who was a member of a board, commission, council, bureau, committee or other governing body of a public body when the contract was authorized, but who did not participate in the authorization of the contract. [2007 c.877 §23a; 2009 c.689 §4a]

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³⁰ ORS 244.045(5)(a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule shall not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land.

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³¹ ORS 244.045(6) A person who has been a member of the Legislative Assembly may not receive money or any other consideration for lobbying as defined in ORS 171.725 performed during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly that begins after the date the person ceases to be a member of the Legislative Assembly. [1987 c.360 §1; 1993 c.743 §10; 1995 c.79 §86; 1997 c.750 §1; 2007 c.877 §15]

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³² ORS 244.020(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.

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³³ ORS 244.020(12) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the

person or the person's relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

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³⁴ ORS 244.120(1)(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

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³⁵ ORS 244.120(1)(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

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³⁶ ORS 244.120(1)(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

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³⁷ ORS 244.120(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

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³⁸ ORS 244.120(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

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³⁹ ORS 244.120(2)(b)(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

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⁴⁰ ORS 244.020(12)(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

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⁴¹ ORS 244.020(12)(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

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⁴² ORS 244.290(3)(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of "potential conflict of interest" under ORS 244.020;

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⁴³ ORS 244.020(12)(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

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⁴⁴ ORS 244.130(1) When a public official gives notice of an actual or potential conflict of interest, the public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of time.

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⁴⁵ ORS 244.120(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

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⁴⁶ ORS 244.130(2) A decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest. [1974 c.72 §11; 1975 c.543 §8; 1993 c.743 §16; 2007 c.865 §9]

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⁴⁷ ORS 244.205 Legal expense trust fund; establishment; eligible legal expenses. (1) Subject to the authorization of the Oregon Government Ethics Commission as described in ORS 244.209, a public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

(2) Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. The legal expenses must be incurred in connection with:

(a) The issuance of a court's stalking protective order under ORS 30.866 or 163.738;

(b) The issuance of a citation under ORS 163.735;

(c) A criminal prosecution under ORS 163.732;

(d) A civil action under ORS 30.866; or

(e) Defending the public official in a proceeding or investigation brought or maintained by a public body as defined in ORS 174.109.

(3) Except as provided in subsection (2) of this section, a public official may not use proceeds from the trust fund for any personal use.

(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

(5) The provisions of ORS chapter 130 do not apply to a trust fund established under ORS 244.205 to

244.221. [2007 c.877 §29; 2009 c.505 §1]

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⁴⁸ ORS 244.205 Legal expense trust fund; establishment; eligible legal expenses. (1) Subject to the authorization of the Oregon Government Ethics Commission as described in ORS 244.209, a public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

(2) Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. The legal expenses must be incurred in connection with:

- (a) The issuance of a court's stalking protective order under ORS 30.866 or 163.738;
- (b) The issuance of a citation under ORS 163.735;
- (c) A criminal prosecution under ORS 163.732;
- (d) A civil action under ORS 30.866; or
- (e) Defending the public official in a proceeding or investigation brought or maintained by a public body as defined in ORS 174.109.

(3) Except as provided in subsection (2) of this section, a public official may not use proceeds from the trust fund for any personal use.

(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

(5) The provisions of ORS chapter 130 do not apply to a trust fund established under ORS 244.205 to 244.221. [2007 c.877 §29; 2009 c.505 §1]

244.207 Use of fund proceeds. (1) The proceeds of a legal expense trust fund may be used to:

- (a) Defray legal expenses described in ORS 244.205;
- (b) Defray costs reasonably incurred in administering the trust fund, including but not limited to costs incident to the solicitation of funds; and
- (c) Discharge any tax liabilities incurred as a result of the creation, operation or administration of the trust fund.

(2) The proceeds of a trust fund may also be used to defray or discharge expenses, costs or liabilities incurred before the fund was established if the expenses, costs or liabilities are related to the legal proceeding for which the fund was established. [2007 c.877 §30]

244.209 Application to establish fund; commission review and authorization. (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

- (a) A copy of an executed trust agreement described in subsection (2) of this section;
- (b) A sworn affidavit described in subsection (3) of this section signed by the public official; and
- (c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

- (a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and
- (b) A designation of a trustee under ORS 244.211.

(3) The affidavit of the public official must state:

- (a) The nature of the legal proceeding that requires establishment of the trust fund;
- (b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and
- (c) That the public official is responsible for the proper administration of the trust fund.

(4) The affidavit of the trustee must state that the trustee:

- (a) Has read and understands ORS 244.205 to 244.221; and
- (b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221. [2007 c.877 §31; 2009 c.505 §3]

244.210 [1975 c.216 §4; repealed by 1983 c.350 §62 (244.201 enacted in lieu of 244.200 and 244.210)]

244.211 Duties of trustee. (1) The trustee of a legal expense trust fund is responsible for:

- (a) The receipt and deposit of contributions to the trust fund;
- (b) The authorization of expenditures and disbursements from the trust fund;
- (c) The filing of quarterly statements required under ORS 244.217; and
- (d) The performance of other tasks incident to the administration of the trust fund.

(2) The public official who establishes the trust fund may either serve as the public official's own trustee or may appoint and certify to the Oregon Government Ethics Commission the name and address of a trustee. Any default or violation by the trustee shall be conclusively considered a default or violation by the public official. [2007 c.877 §32; 2009 c.505 §2]

244.213 Contributions to fund. (1) Except as provided in subsection (3) of this section, any person may contribute to a legal expense trust fund established under ORS 244.205 to 244.221.

(2) A person may make contributions of moneys to a legal expense trust fund in unlimited amounts. Pro bono legal assistance and other in-kind assistance may also be provided without limit and is considered a contribution subject to the reporting requirements of ORS 244.217.

(3) A political committee as defined in ORS 260.005 that is a principal campaign committee may not contribute to a legal expense trust fund. [2007 c.877 §33]

244.215 Fund account. (1) A trustee of a legal expense trust fund shall establish a single exclusive account in a financial institution, as defined in ORS 706.008. The financial institution must be located in this state and must ordinarily conduct business with the general public in this state.

(2) The trustee shall maintain the account in the name of the trust fund.

(3) All expenditures made by the trustee shall be drawn from the account and:

- (a) Issued on a check signed by the trustee; or
- (b) Paid using a debit card or other form of electronic transaction.

(4) A contribution received by a trustee shall be deposited into the account not later than seven calendar days after the date the contribution is received. This subsection does not apply to in-kind contributions received.

(5) This section does not prohibit the transfer of any amount deposited in the account into a certificate of deposit, stock fund or other investment instrument.

(6) The account may not include any public or private moneys or any moneys of any other person, other than contributions received by the trustee.

(7) A trustee shall retain a copy of each financial institution account statement from the account described in this section for not less than two years after the date the statement is issued by the financial institution. [2007 c.877 §34]

244.217 Statement of contributions received and expenditures made. (1) The trustee of a legal expense trust fund shall, according to the schedule described in subsection (3) of this section, file with the Oregon Government Ethics Commission a statement for the applicable reporting period showing contributions received by the trustee and expenditures made from the trust fund account established under ORS 244.215.

(2) Each statement shall list:

(a) The name and address of each person who contributed an aggregate amount of more than \$75, and the total amount contributed by that person;

(b) The total amount of contributions not listed under paragraph (a) of this subsection as a single item, but shall specify how those contributions were obtained;

(c) The amount and purpose of each expenditure and the name and address of each payee; and
(d) The name and address of any person contributing pro bono legal assistance and the fair market value of the assistance provided by the person.

(3) Statements required to be filed with the commission under this section shall be filed according to the schedule described in ORS 244.218.

(4) If no contributions are received and no expenditures made during the reporting period, the trustee shall file a statement indicating that no contributions were deposited and no expenditures were made.

(5) The trustee may amend a statement filed under this section without penalty if the amendment is filed with the commission not later than 30 days after the deadline for filing the statement. [2007 c.877 §35]

244.218 Quarterly filing of statements. Statements required to be filed with the Oregon Government Ethics Commission under ORS 244.217 shall be filed in each calendar year:

(1) Not later than April 15, for the accounting period beginning January 1 and ending March 31;

(2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

(3) Not later than October 15, for the accounting period beginning July 1 and ending September 30;
and

(4) Not later than January 15 of the following calendar year, for the accounting period beginning October 1 and ending December 31. [Formerly 244.105]

Note: 244.218 was added to and made a part of ORS chapter 244 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

244.219 Termination of fund. (1) A legal expense trust fund established under ORS 244.205 to 244.221 may be terminated by:

(a) The public official who established the trust fund;

(b) Subject to subsection (2) of this section, the terms of the trust agreement; or

(c) The Oregon Government Ethics Commission following a determination by the commission that a violation of any provision of this chapter has occurred in connection with the trust fund.

(2) A trust agreement may provide that a legal expense trust fund is terminated not later than six months following the completion of the legal proceeding for which the fund was established. Upon application of the public official who established the trust fund, the commission may extend the existence of the trust fund to a specified date if the commission determines that the public official has incurred legal expenses that exceed the balance remaining in the fund. If the commission extends the existence of the trust fund, the trust fund terminates on the date the extension expires.

(3) Following termination of a legal expense trust fund, the trustee may not accept contributions to or make expenditures from the fund.

(4) Not later than 30 days after a trust fund is terminated, the trustee of the fund shall file with the commission a final report listing the totals of all contributions made to the fund and all expenditures made from the fund. [2007 c.877 §36]

244.221 Disposition of moneys in terminated fund; distribution of award of attorney fees, costs or money judgment. (1) Not later than 30 days after a legal expense trust fund is terminated, the trustee of the fund shall return any moneys remaining in the fund to contributors to the fund on a pro rata basis.

(2) If the legal proceeding for which the trust fund was established results in an award of attorney fees, costs or any other money judgment award to or in favor of the public official, amounts awarded shall be distributed in the following order:

(a) To pay outstanding legal expenses;

(b) To contributors to the trust fund on a pro rata basis; and

(c) To the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. [2007 c.877 §37]

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⁴⁹ ORS 244.205(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

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⁵⁰ ORS 244.209 Application to establish fund; commission review and authorization. (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

- (a) A copy of an executed trust agreement described in subsection (2) of this section;
- (b) A sworn affidavit described in subsection (3) of this section signed by the public official; and
- (c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

- (a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and
- (b) A designation of a trustee under ORS 244.211.

(3) The affidavit of the public official must state:

- (a) The nature of the legal proceeding that requires establishment of the trust fund;
- (b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and
- (c) That the public official is responsible for the proper administration of the trust fund.

(4) The affidavit of the trustee must state that the trustee:

- (a) Has read and understands ORS 244.205 to 244.221; and
- (b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221. [2007 c.877 §31; 2009 c.505 §3]

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⁵¹ ORS 244.211(2) The public official who establishes the trust fund may either serve as the public official's own trustee or may appoint and certify to the Oregon Government Ethics Commission the name and address of a trustee. Any default or violation by the trustee shall be conclusively considered a default or violation by the public official. [2007 c.877 §32; 2009 c.505 §2]

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⁵² ORS 244.213 Contributions to fund. (1) Except as provided in subsection (3) of this section, any person may contribute to a legal expense trust fund established under ORS 244.205 to 244.221.

(2) A person may make contributions of moneys to a legal expense trust fund in unlimited amounts. Pro bono legal assistance and other in-kind assistance may also be provided without limit and is considered a contribution subject to the reporting requirements of ORS 244.217.

(3) A political committee as defined in ORS 260.005 that is a principal campaign committee may not contribute to a legal expense trust fund. [2007 c.877 §33]

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⁵³ ORS 244.213(3) A political committee as defined in ORS 260.005 that is a principal campaign committee may not contribute to a legal expense trust fund. [2007 c.877 §33]

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⁵⁴ ORS 244.215 Fund account. (1) A trustee of a legal expense trust fund shall establish a single exclusive

account in a financial institution, as defined in ORS 706.008. The financial institution must be located in this state and must ordinarily conduct business with the general public in this state.

(2) The trustee shall maintain the account in the name of the trust fund.

(3) All expenditures made by the trustee shall be drawn from the account and:

(a) Issued on a check signed by the trustee; or

(b) Paid using a debit card or other form of electronic transaction.

(4) A contribution received by a trustee shall be deposited into the account not later than seven calendar days after the date the contribution is received. This subsection does not apply to in-kind contributions received.

(5) This section does not prohibit the transfer of any amount deposited in the account into a certificate of deposit, stock fund or other investment instrument.

(6) The account may not include any public or private moneys or any moneys of any other person, other than contributions received by the trustee.

(7) A trustee shall retain a copy of each financial institution account statement from the account described in this section for not less than two years after the date the statement is issued by the financial institution. [2007 c.877 §34]

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⁵⁵ ORS 244.217 Statement of contributions received and expenditures made. (1) The trustee of a legal expense trust fund shall, according to the schedule described in subsection (3) of this section, file with the Oregon Government Ethics Commission a statement for the applicable reporting period showing contributions received by the trustee and expenditures made from the trust fund account established under ORS 244.215.

(2) Each statement shall list:

(a) The name and address of each person who contributed an aggregate amount of more than \$75, and the total amount contributed by that person;

(b) The total amount of contributions not listed under paragraph (a) of this subsection as a single item, but shall specify how those contributions were obtained;

(c) The amount and purpose of each expenditure and the name and address of each payee; and

(d) The name and address of any person contributing pro bono legal assistance and the fair market value of the assistance provided by the person.

(3) Statements required to be filed with the commission under this section shall be filed according to the schedule described in ORS 244.218.

(4) If no contributions are received and no expenditures made during the reporting period, the trustee shall file a statement indicating that no contributions were deposited and no expenditures were made.

(5) The trustee may amend a statement filed under this section without penalty if the amendment is filed with the commission not later than 30 days after the deadline for filing the statement. [2007 c.877 §35]

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⁵⁶ ORS 244.219 Termination of fund. (1) A legal expense trust fund established under ORS 244.205 to 244.221 may be terminated by:

(a) The public official who established the trust fund;

(b) Subject to subsection (2) of this section, the terms of the trust agreement; or

(c) The Oregon Government Ethics Commission following a determination by the commission that a violation of any provision of this chapter has occurred in connection with the trust fund.

(2) A trust agreement may provide that a legal expense trust fund is terminated not later than six months following the completion of the legal proceeding for which the fund was established. Upon application of the public official who established the trust fund, the commission may extend the existence of the trust fund to a specified date if the commission determines that the public official has incurred legal expenses that exceed the balance remaining in the fund. If the commission extends the existence of the trust fund, the trust fund terminates on the date the extension expires.

(3) Following termination of a legal expense trust fund, the trustee may not accept contributions to or make expenditures from the fund.

(4) Not later than 30 days after a trust fund is terminated, the trustee of the fund shall file with the commission a final report listing the totals of all contributions made to the fund and all expenditures made

from the fund. [2007 c.877 §36]

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⁵⁷ ORS 244.221 Disposition of moneys in terminated fund; distribution of award of attorney fees, costs or money judgment. (1) Not later than 30 days after a legal expense trust fund is terminated, the trustee of the fund shall return any moneys remaining in the fund to contributors to the fund on a pro rata basis.

(2) If the legal proceeding for which the trust fund was established results in an award of attorney fees, costs or any other money judgment award to or in favor of the public official, amounts awarded shall be distributed in the following order:

(a) To pay outstanding legal expenses;

(b) To contributors to the trust fund on a pro rata basis; and

(c) To the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. [2007 c.877 §37]

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⁵⁸ ORS 244.020(9) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in:

(a) Any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official; or

(b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.

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⁵⁹ ORS 244.040(2)(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

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⁶⁰ ORS 244.025 Gift limit. (1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

(2) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

(4) This section does not apply to public officials subject to the Oregon Code of Judicial Conduct. [2007 c.877 §18; 2009 c.68 §3]

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⁶¹ ORS 244.020(6)(b) "Gift" does not mean:

(A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official or candidate.

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⁶² ORS 244.020 (6)(b)(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public

official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

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⁶³ ORS 244.100(1) Statements of expenses or honoraria provided to public official. (1) Any organization, unit of government, tribe or corporation that provides a public official with expenses with an aggregate value exceeding \$50 for an event described in ORS 244.020 (6)(b)(F) shall notify the public official in writing of the amount of the expense. The organization, unit, tribe or corporation shall provide the notice to the public official within 10 days after the date the expenses are incurred.

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⁶⁴ ORS 244.100(2) Any person that provides a public official or candidate, or a member of the household of the public official or candidate, with an honorarium or other item allowed under ORS 244.042 with a value exceeding \$15 shall notify the public official or candidate in writing of the value of the honorarium or other item. The person shall provide the notice to the public official or candidate within 10 days after the date of the event for which the honorarium or other item was received. [1975 c.543 §11; 1991 c.677 §1; 2007 c.865 §6; 2007 c.877 §21a; 2009 c.68 §8]

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⁶⁵ ORS 244.209 Application to establish fund; commission review and authorization. (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

- (a) A copy of an executed trust agreement described in subsection (2) of this section;
- (b) A sworn affidavit described in subsection (3) of this section signed by the public official; and
- (c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

- (a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and
- (b) A designation of a trustee under ORS 244.211.

(3) The affidavit of the public official must state:

- (a) The nature of the legal proceeding that requires establishment of the trust fund;
- (b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and
- (c) That the public official is responsible for the proper administration of the trust fund.

(4) The affidavit of the trustee must state that the trustee:

- (a) Has read and understands ORS 244.205 to 244.221; and
- (b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221. [2007 c.877 §31; 2009 c.505 §3]

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⁶⁶ ORS 244.020(6)(b)(O) Anything of economic value offered to or solicited or received by a public official

or candidate, or a relative or member of the household of the public official or candidate:

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⁶⁷ ORS 244.020(6)(b)(O)(i) As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value; and

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⁶⁸ ORS 244.020(6)(b)(O)(ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.

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⁶⁹ ORS 244.020(6)(b)(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

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⁷⁰ ORS 244.020(6)(b)(D) Informational or program material, publications or subscriptions related to the recipient's performance of official duties.

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⁷¹ ORS 244.020(6)(b)(J) Waiver or discount of registration expenses or materials provided to a public official or candidate at a continuing education event that the public official or candidate may attend to satisfy a professional licensing requirement.

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⁷² *ORS 244.020(6)(b)(M) Entertainment provided to a public official or candidate or a relative or member of the household of the public official or candidate that is incidental to the main purpose of another event.*

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⁷³ *ORS 244.020(6)(b)(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.*

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⁷⁴ *ORS 244.020(6)(b)(E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.*

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⁷⁵ *ORS 244.020(6)(b)(L) Food or beverage consumed by a public official or candidate at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.*

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⁷⁶ ORS 244.020(6)(b)(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

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⁷⁷ ORS 244.020(6)(b)(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

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⁷⁸ ORS 244.020(6)(b)(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

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⁷⁹ ORS 244.020(6)(b)(H)(i) On an officially sanctioned trade-promotion or fact-finding mission; or

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⁸⁰ ORS 244.020(6)(b)(H)(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

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⁸¹ ORS 244.020(6)(b)(P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.

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⁸² ORS 244.020(6)(b)(I) Food or beverage consumed by a public official acting in an official capacity:

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⁸³ ORS 244.020(6)(b)(I)(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

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⁸⁴ ORS 244.020(6)(b)(I)(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

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⁸⁵ ORS 244.020(6)(b)(I)(iii) *While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.*

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⁸⁶ ORS 244.020(6)(a) “Gift” means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

(b) “Gift” does not mean:

(A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official or candidate.

(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

(D) Informational or program material, publications or subscriptions related to the recipient’s performance of official duties.

(E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(G) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

(i) On an officially sanctioned trade-promotion or fact-finding mission; or

(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

(I) Food or beverage consumed by a public official acting in an official capacity:

(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official or candidate at a continuing education event that the public official or candidate may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official’s office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official or candidate at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or candidate or a relative or member of the household of the public official or candidate that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

(O) Anything of economic value offered to or solicited or received by a public official or candidate, or a relative or member of the household of the public official or candidate:

(i) As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value; and

(ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.

(P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.

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⁸⁷ ORS 244.025 **Gift limit.** (1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

(2) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

(4) This section does not apply to public officials subject to the Oregon Code of Judicial Conduct. [2007 c.877 §18; 2009 c.68 §3]

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⁸⁸ ORS 244.040(1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

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⁸⁹ ORS 244.040(2)(e), (f) and (g)] Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

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⁹⁰ ORS 244.020(6)(a): "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

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⁹¹ ORS 244.040 **Prohibited use of official position or office; exceptions; other prohibited actions.**

(1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

(2) Subsection (1) of this section does not apply to:

(a) Any part of an official compensation package as determined by the public body that the public official serves.

(b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.

(c) Reimbursement of expenses.

(d) An unsolicited award for professional achievement.

(e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

(4) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

(5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

(6) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

(7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120. [1974 c.72 §3; 1975 c.543 §2; 1987 c.566 §9; 1989 c.340 §3; 1991 c.146 §1; 1991 c.770 §6; 1991 c.911 §4; 1993 c.743 §9; 2007 c.877 §17; 2009 c.68 §4]

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⁹² ORS 244.020(6)(b)(A) through (P) (A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official or candidate.

(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

(D) Informational or program material, publications or subscriptions related to the recipient's performance of official duties.

(E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a

not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(G) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

(i) On an officially sanctioned trade-promotion or fact-finding mission; or

(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

(I) Food or beverage consumed by a public official acting in an official capacity:

(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official or candidate at a continuing education event that the public official or candidate may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official or candidate at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or candidate or a relative or member of the household of the public official or candidate that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

(O) Anything of economic value offered to or solicited or received by a public official or candidate, or a relative or member of the household of the public official or candidate:

(i) As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value; and

(ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.

(P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.

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⁹³ ORS 244.040(1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

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⁹⁴ ORS 244.040(2)(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

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⁹⁵ ORS 244.025(1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

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⁹⁶ ORS 244.040(1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

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⁹⁷ ORS 244.020(6)(b) "Gift" does not mean:

- (A) Contributions as defined in ORS 260.005.
- (B) Gifts from relatives or members of the household of the public official or candidate.
- (C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.
- (D) Informational or program material, publications or subscriptions related to the recipient's performance of official duties.
- (E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.
- (F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.
- (G) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.
- (H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:
 - (i) On an officially sanctioned trade-promotion or fact-finding mission; or
 - (ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.
- (I) Food or beverage consumed by a public official acting in an official capacity:
 - (i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as

defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official or candidate at a continuing education event that the public official or candidate may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official or candidate at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or candidate or a relative or member of the household of the public official or candidate that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

(O) Anything of economic value offered to or solicited or received by a public official or candidate, or a relative or member of the household of the public official or candidate:

(i) As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value; and

(ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.

(P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.

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⁹⁸ ORS 244.025 **Gift limit.** (1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

(2) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

(4) This section does not apply to public officials subject to the Oregon Code of Judicial Conduct. [2007 c.877 §18; 2009 c.68 §3]

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⁹⁹ ORS 244.050 **Persons required to file statement of economic interest; filing deadline.** (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the State Board of Higher Education.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

(K) Director of the Department of Consumer and Business Services.

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

(U) Executive director of Oregon Government Ethics Commission.

(V) Director of the State Department of Energy.

(W) Director and each assistant director of the Oregon State Lottery.

(X) Director of the Department of Corrections.

(Y) Director of the Oregon Department of Aviation.

(Z) Executive director of the Oregon Criminal Justice Commission.

(AA) Director of the Oregon Business Development Department.

(BB) Director of the Office of Emergency Management.

(CC) Director of the Employment Department.

(DD) Chief of staff for the Governor.

(EE) Administrator of the Office for Oregon Health Policy and Research.

(FF) Director of the Housing and Community Services Department.

(GG) State Court Administrator.

(HH) Director of the Department of Land Conservation and Development.

(II) Board chairperson of the Land Use Board of Appeals.

(JJ) State Marine Director.

(KK) Executive director of the Oregon Racing Commission.

(LL) State Parks and Recreation Director.

(MM) Public defense services executive director.

(NN) Chairperson of the Public Employees' Benefit Board.

(OO) Director of the Department of Public Safety Standards and Training.

(PP) Chairperson of the Oregon Student Assistance Commission.

(QQ) Executive director of the Oregon Watershed Enhancement Board.

(RR) Director of the Oregon Youth Authority.

(SS) Director of the Oregon Health Authority.

(h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.

(i) Every elected city or county official.

(j) Every member of a city or county planning, zoning or development commission.

(k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.

(L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.

(m) Every member of a governing body of a metropolitan service district and the executive officer

thereof.

(n) Each member of the board of directors of the State Accident Insurance Fund Corporation.

(o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.

(p) Every member of the following state boards and commissions:

(A) Board of Geologic and Mineral Industries.

(B) Oregon Business Development Commission.

(C) State Board of Education.

(D) Environmental Quality Commission.

(E) Fish and Wildlife Commission of the State of Oregon.

(F) State Board of Forestry.

(G) Oregon Government Ethics Commission.

(H) Oregon Health Policy Board.

(I) State Board of Higher Education.

(J) Oregon Investment Council.

(K) Land Conservation and Development Commission.

(L) Oregon Liquor Control Commission.

(M) Oregon Short Term Fund Board.

(N) State Marine Board.

(O) Mass transit district boards.

(P) Energy Facility Siting Council.

(Q) Board of Commissioners of the Port of Portland.

(R) Employment Relations Board.

(S) Public Employees Retirement Board.

(T) Oregon Racing Commission.

(U) Oregon Transportation Commission.

(V) Wage and Hour Commission.

(W) Water Resources Commission.

(X) Workers' Compensation Board.

(Y) Oregon Facilities Authority.

(Z) Oregon State Lottery Commission.

(AA) Pacific Northwest Electric Power and Conservation Planning Council.

(BB) Columbia River Gorge Commission.

(CC) Oregon Health and Science University Board of Directors.

(DD) Capitol Planning Commission.

(q) The following officers of the State Treasurer:

(A) Chief Deputy State Treasurer.

(B) Chief of staff for the office of the State Treasurer.

(C) Director of the Investment Division.

(r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.

(s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Within 30 days after the filing deadline for the general election, each candidate described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for public office described in subsection (1) of this section at the preceding primary election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission

within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350. [1974 c.72 §§4,4a; 1975 c.543 §3; 1977 c.588 §3; 1977 c.751 §16; 1979 c.374 §5; 1979 c.666 §6; 1979 c.697 §1; 1979 c.736 §1; 1979 c.829 §9b; 1987 c.373 §26; 1987 c.414 §148; 1987 c.566 §10; 1991 c.73 §2; 1991 c.160 §1; 1991 c.163 §1; 1991 c.470 §13; 1991 c.614 §2; 1993 c.500 §10; 1993 c.743 §11; 1995 c.79 §87; 1995 c.712 §94; 1997 c.652 §16; 1997 c.833 §22; 1999 c.59 §62; 1999 c.291 §28; 2001 c.104 §77; 2003 c.214 §1; 2003 c.784 §13; 2005 c.157 §6; 2005 c.217 §23; 2005 c.777 §14; 2007 c.813 §2; 2007 c.865 §17; 2007 c.877 §13; 2009 c.68 §5; 2009 c.595 §192; 2009 c.896 §10]

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¹⁰⁰ ORS 244.350(4)(c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

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¹⁰¹ ORS 244.060(1) The names of all positions as officer of a business and business directorships held by the public official or candidate or a member of the household of the public official or candidate during the preceding calendar year, and the principal address and a brief description of each business.

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¹⁰² ORS 244.060(2) All names under which the public official or candidate and members of the household of the public official or candidate do business and the principal address and a brief description of each business.

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¹⁰³ ORS 244.060(3) The names, principal addresses and brief descriptions of the sources of income received during the preceding calendar year by the public official or candidate or a member of the household of the public official or candidate that produce 10 percent or more of the total annual household income.

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¹⁰⁴ ORS 244.060(4)(a) and (b) (a) A list of all real property in which the public official or candidate or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell real property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(b) This subsection does not require the listing of the principal residence of the public official or candidate.

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¹⁰⁵ ORS 244.042 (1) Except as provided in subsection (3) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.

(2) Except as provided in subsection (3) of this section, a candidate may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.

(3) This section does not prohibit:

(a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

(b) The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official or candidate. [2007 c.877 §24; 2009 c.68 §21]

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¹⁰⁶ ORS 244.060(7) All honoraria and other items allowed under ORS 244.042 with a value exceeding \$15 that are received by the public official, candidate or member of the household of the public official or candidate during the preceding calendar year, the provider of each honorarium or item and the date and time of the event for which the honorarium or item was received.

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¹⁰⁷ ORS 244.042(3)(a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

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¹⁰⁸ ORS 244.090 **Report on association with compensated lobbyist.** (1) Each public official or candidate required to file a statement of economic interest under this chapter shall include on the statement the name of any compensated lobbyist who, during the preceding calendar year, was associated with a business with which the public official or candidate or a member of the household of the public official or candidate was also associated.

(2) Subsection (1) of this section does not apply if the only relationship between the public official or candidate and the lobbyist is that the public official or candidate and lobbyist hold stock in the same publicly traded corporation.

(3) As used in this section, "lobbyist" has the meaning given that term in ORS 171.725. [1974 c.72 §7; 1975 c.543 §6; 1987 c.566 §14; 2007 c.865 §32]

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¹⁰⁹ ORS 244.020(6)(b)(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117

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¹¹⁰ ORS 244.060(5) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a convention, mission, trip or other meeting described in ORS 244.020 (6)(b)(F), including the name and address of the organization, unit of government, tribe or corporation paying the expenses, the nature of the event and the date and amount of the expense.

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¹¹¹ ORS 244.100(1) Each statement of economic interest required to be filed under ORS 244.050, 244.060, 244.070 or 244.090, or by rule under ORS 244.290, and each trading statement required to be filed under ORS 244.055 shall be signed and certified as true by the person required to file it and shall contain a written declaration that the statement is made under the penalties of false swearing.

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¹¹² ORS 244.020(6)(b)(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

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¹¹³ ORS 244.060(6) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a mission, negotiations or economic development activities described in ORS 244.020 (6)(b)(H), including the name and address of the person paying the expenses, the nature of the event and the date and amount of the expenditure.

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¹¹⁴ ORS 244.060(8) The name, principal address and brief description of each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate, or a member of the household of the public official or candidate, during the preceding calendar year, if the source of that income is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority. [1974 c.72 §5; 1975 c.543 §4; 1987 c.566 §11; 1991 c.770 §7; 1993 c.743 §12; 2003 c.14 §116; 2007 c.877 §19; 2009 c.68 §6]

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¹¹⁵ ORS 244.070(1) Each person to whom the public official or candidate or a member of the household of the public official or candidate owes or has owed money in excess of \$1,000, the interest rate on money owed and the date of the loan, except for debts owed to any federal or state regulated financial institution or retail contracts.

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¹¹⁶ ORS 244.070(2) The name, principal address and brief description of the nature of each business in which the public official or candidate or a member of the household of the public official or candidate has or has had a personal, beneficial interest or investment, including stocks or other securities, in excess of \$1,000, except for individual items involved in a mutual fund or a blind trust, or a time or demand deposit in a financial institution, shares in a credit union, or the cash surrender value of life insurance.

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¹¹⁷ ORS 244.070(3) Each person for whom the public official or candidate has performed services for a fee in excess of \$1,000, except for any disclosure otherwise prohibited by law or by a professional code of ethics. [1974 c.72 §6; 1975 c.543 §5; 1987 c.566 §12; 2007 c.877 §20; 2009 c.68 §7]

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¹¹⁸ ORS 244.250 **Oregon Government Ethics Commission; appointment; term; quorum; compensation; legal counsel.** (1) The Oregon Government Ethics Commission is established, consisting of seven members. The appointment of a member of the commission is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Members shall be appointed in the following manner:

(a) The Governor shall appoint four members from among persons recommended, one each by the leadership of the Democratic and Republican parties in each house of the Legislative Assembly. If a person recommended by the leadership of the Democratic or Republican party is not approved by the

Governor, the leadership shall recommend another person.

(b) The Governor shall appoint three members without leadership recommendation. No more than two members appointed under this paragraph may be members of the same major political party.

(2) A person who holds any public office listed in ORS 244.050 (1) except as a member of the commission may not be appointed to the commission. No more than four members may be members of the same political party.

(3) The term of office of a member is four years. A member is not eligible to be appointed to more than one full term but may serve out an unexpired term. Vacancies shall be filled by the appointing authority for the unexpired term.

(4) The commission shall elect a chairperson and vice chairperson for such terms and duties as the commission may require.

(5) A quorum consists of four members but a final decision may not be made without an affirmative vote of a majority of the members appointed to the commission.

(6) Members shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) The commission may retain or appoint qualified legal counsel who must be a member of the Oregon State Bar and who is responsible to the commission. The appointment of legal counsel under this subsection may be made only when the commission finds it is inappropriate and contrary to the public interest for the office of the Attorney General to represent concurrently more than one public official or agency in any matter before the commission because the representation:

(a) Would create or tend to create a conflict of interest; and

(b) Is not subject to ORS 180.230 or 180.235.

(8) The Attorney General may not represent before the commission any state public official who is the subject of any complaint or action of the commission at the commission's own instigation. [1974 c.72 §12; 1977 c.588 §6; 1987 c.566 §18; 1991 c.770 §3; 1993 c.743 §17; 2007 c.865 §1]

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¹¹⁹ ORS 244.284 **Staff advice; effect of reliance on advice.** (1) Upon the written or oral request of any person, the executive director or other staff of the Oregon Government Ethics Commission may issue written or oral staff advice on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. Any written advice not designated as a staff advisory opinion under ORS 244.282 is considered staff advice issued under this section.

(2) Before imposing any penalty under ORS 244.350 or 244.360, the commission may consider whether the action that may be subject to penalty was taken in reliance on staff advice issued under this section. [2007 c.865 §15; 2007 c.877 §39d]

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¹²⁰ ORS 244.284(2) Before imposing any penalty under ORS 244.350 or 244.360, the commission may consider whether the action that may be subject to penalty was taken in reliance on staff advice issued under this section. [2007 c.865 §15; 2007 c.877 §39d]

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¹²¹ ORS 244.282(3)(a) Except as provided in paragraph (b) of this subsection, unless the staff advisory opinion is revised or revoked, the commission may only issue a written letter of reprimand, explanation or education for any good faith action a person takes in reliance on a staff advisory opinion issued under this section.

(b) The commission may impose, for an action that is subject to a penalty and that is taken in reliance on a staff advisory opinion issued under this section, a penalty under ORS 244.350 or 244.360 on the person who requested the opinion if the commission determines that the person omitted or misstated material facts in making the request.

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¹²² ORS 244.280 **Commission advisory opinions; effect of reliance on opinion.** (1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the

application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

(2) Not later than 60 days after the date the commission receives the written request for a commission advisory opinion, the commission shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The commission may ask the person requesting the advisory opinion to supply additional information the commission considers necessary to render the opinion. The commission, by vote of a majority of the members of the commission, may extend the 60-day deadline by one period not to exceed 60 days.

(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission may not impose a penalty under ORS 244.350 or 244.360 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission may impose a penalty under ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission determines that the person omitted or misstated material facts in making the request. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

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¹²³ ORS 244.280(1) and (2) - (1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

(2) Not later than 60 days after the date the commission receives the written request for a commission advisory opinion, the commission shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The commission may ask the person requesting the advisory opinion to supply additional information the commission considers necessary to render the opinion. The commission, by vote of a majority of the members of the commission, may extend the 60-day deadline by one period not to exceed 60 days.

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¹²⁴ ORS 244.280(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission may not impose a penalty under ORS 244.350 or 244.360 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission may impose a penalty under ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission determines that the person omitted or misstated material facts in making the request. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

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¹²⁵ ORS 244.280 through ORS 244.284 - **244.280 Commission advisory opinions; effect of reliance on opinion.** (1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

(2) Not later than 60 days after the date the commission receives the written request for a commission advisory opinion, the commission shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The commission may ask the person requesting the

advisory opinion to supply additional information the commission considers necessary to render the opinion. The commission, by vote of a majority of the members of the commission, may extend the 60-day deadline by one period not to exceed 60 days.

(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission may not impose a penalty under ORS 244.350 or 244.360 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission may impose a penalty under ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission determines that the person omitted or misstated material facts in making the request. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

244.282 Executive director and staff advisory opinions; effect of reliance on opinion. (1) Upon the written request of any person, the executive director of the Oregon Government Ethics Commission may issue and publish written staff advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance.

(2) Not later than 30 days after the date the executive director receives the written request for a staff advisory opinion, the executive director shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The executive director may ask the person requesting the advisory opinion to supply additional information the executive director considers necessary to render the opinion. The executive director may extend the 30-day deadline by one period not to exceed 30 days. The executive director shall clearly designate an opinion issued under this section as a staff advisory opinion.

(3)(a) Except as provided in paragraph (b) of this subsection, unless the staff advisory opinion is revised or revoked, the commission may only issue a written letter of reprimand, explanation or education for any good faith action a person takes in reliance on a staff advisory opinion issued under this section.

(b) The commission may impose, for an action that is subject to a penalty and that is taken in reliance on a staff advisory opinion issued under this section, a penalty under ORS 244.350 or 244.360 on the person who requested the opinion if the commission determines that the person omitted or misstated material facts in making the request.

(4) At each regular meeting of the commission, the executive director shall report to the commission on all staff advisory opinions issued since the last regular meeting of the commission. The commission on its own motion may issue a commission advisory opinion under ORS 244.280 on the same facts or circumstances that form the basis for any staff advisory opinion. [2007 c.865 §14; 2007 c.877 §39c; 2009 c.68 §12]

244.284 Staff advice; effect of reliance on advice. (1) Upon the written or oral request of any person, the executive director or other staff of the Oregon Government Ethics Commission may issue written or oral staff advice on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. Any written advice not designated as a staff advisory opinion under ORS 244.282 is considered staff advice issued under this section.

(2) Before imposing any penalty under ORS 244.350 or 244.360, the commission may consider whether the action that may be subject to penalty was taken in reliance on staff advice issued under this section. [2007 c.865 §15; 2007 c.877 §39d]

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¹²⁶ ORS 244.260 **Complaint and adjudicatory process; confidentiality; Preliminary Review Phase; Investigatory Phase; possible actions by order; report of findings; contested case procedure; limitation on commission action.** (1)(a) Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of this chapter or of any rule adopted by the commission under this chapter. The complaint shall state the person's reason for believing that a violation occurred and include any evidence relating to the alleged violation.

(b) If at any time the commission has reason to believe that there has been a violation of a provision of this chapter or of a rule adopted by the commission under this chapter, the commission may proceed under this section on its own motion as if the commission had received a complaint.

(2)(a) Not later than two business days after receiving a complaint under this section, the commission shall notify the person who is the subject of the complaint.

(b) Before approving a motion to proceed under this section without a complaint, the commission shall provide notice to the person believed to have committed the violation of the time and place of the meeting at which the motion will be discussed. If the commission decides to proceed on its own motion, the commission shall give notice to the person not later than two business days after the motion is approved.

(c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of this subsection by mail and by telephone if the person can be reached by telephone. The notice must describe the nature of the alleged violation. The mailed notice must include copies of all materials submitted with a complaint. If the commission will consider a motion to proceed without a complaint, the notice must provide copies of all materials that the commission will consider at the hearing on the motion.

(d) Information that the commission considers before approving a motion to proceed on its own motion under this section and any correspondence regarding the motion or potential violation is confidential. Commission members and staff may not make any public comment or publicly disclose any materials relating to the motion pending the commission's approval to proceed. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(3) After receiving a complaint or deciding to proceed on its own motion, the commission shall undertake action in the Preliminary Review Phase to determine whether there is cause to undertake an investigation. If the person who is the subject of the action is a member of the Legislative Assembly, the commission shall determine whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(4)(a) The Preliminary Review Phase begins on the date the complaint is filed or the date the commission decides to proceed on its own motion and ends on the date the commission determines there is cause to undertake an investigation, dismisses the complaint or rescinds its own motion. The Preliminary Review Phase may not exceed 135 days unless:

(A) A delay is stipulated to by both the person who is the subject of action under this section and the commission with the commission reserving a portion of the delay period to complete its actions; or

(B) A complaint is filed under this section with respect to a person who is a candidate for elective public office, the complaint is filed within 61 days before the date of an election at which the person is a candidate for nomination or election and a delay is requested in writing by the candidate. If the candidate makes a request under this subparagraph, the Preliminary Review Phase must be completed not later than 135 days after the date of the first meeting of the commission that is held after the date of the election.

(b) During the Preliminary Review Phase, the commission may seek, solicit or otherwise obtain any books, papers, records, memoranda or other additional information, administer oaths and take depositions necessary to determine whether there is cause to undertake an investigation or whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(c) The Preliminary Review Phase is confidential. Commission members and staff may acknowledge receipt of a complaint but may not make any public comment or publicly disclose any materials relating to a case during the Preliminary Review Phase. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(d) At the conclusion of the Preliminary Review Phase, the commission shall conduct its deliberations in executive session. All case related materials and proceedings shall be open to the public after the commission makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion. Prior to the end of the Preliminary Review Phase, the executive director of the commission shall prepare a statement of the facts determined during the phase, including appropriate legal citations and relevant authorities. Before presentation to the commission, the executive director's statement shall be reviewed by legal counsel to the commission.

(e) The time limit imposed in this subsection and the commission's inquiry are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its inquiry.

(5)(a) If the commission determines that there is not cause to undertake an investigation or that the alleged violation of this chapter involves conduct protected by section 9, Article IV of the Oregon

Constitution, the commission shall dismiss the complaint or rescind its motion and formally enter the dismissal or rescission in its records. The commission shall notify the person who is the subject of action under this section of the dismissal or rescission. After dismissal or rescission, the commission may not take further action involving the person unless a new and different complaint is filed or action on the commission's own motion is undertaken based on different conduct.

(b) If the commission makes a finding of cause to undertake an investigation, the commission shall undertake action in the Investigatory Phase. The commission shall notify the person who is the subject of the investigation, identify the issues to be examined and confine the investigation to those issues. If the commission finds reason to expand the investigation, the commission shall move to do so, record in its minutes the issues to be examined before expanding the scope of its investigation and formally notify the complainant, if any, and the person who is the subject of the investigation of the expansion and the scope of the investigation.

(6)(a) The Investigatory Phase begins on the date the commission makes a finding of cause to undertake an investigation and ends on the date the commission dismisses the complaint, rescinds its own motion, issues a settlement order, moves to commence a contested case proceeding or takes other action justified by the findings. The Investigatory Phase may not exceed 180 days unless a delay is stipulated to by both the person who is the subject of action under this section and the commission with the commission reserving a portion of the delay period to complete its actions.

(b) During the Investigatory Phase, the commission may seek any additional information, administer oaths, take depositions and issue subpoenas to compel attendance of witnesses and the production of books, papers, records, memoranda or other information necessary to complete the investigation. If any person fails to comply with any subpoena issued under this paragraph or refuses to testify on any matters on which the person may be lawfully interrogated, the commission shall follow the procedure described in ORS 183.440 to compel compliance.

(c) The time limit imposed in this subsection and the commission's investigation are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its investigation.

(d) At the end of the Investigatory Phase, the commission shall take action by order. The action may include:

(A) Dismissal, with or without comment;

(B) Continuation of the investigation for a period not to exceed 30 days for the purpose of additional fact-finding;

(C) Moving to a contested case proceeding;

(D) Entering into a negotiated settlement; or

(E) Taking other appropriate action if justified by the findings.

(e) The commission may move to a contested case proceeding if the commission determines that the information presented to the commission is sufficient to make a preliminary finding of a violation of any provision of this chapter or of any rule adopted by the commission under this chapter.

(7) A person conducting any inquiry or investigation under this section shall:

(a) Conduct the inquiry or investigation in an impartial and objective manner; and

(b) Provide to the commission all favorable and unfavorable information the person collects.

(8) The commission shall report the findings of any inquiry or investigation in an impartial manner. The commission shall report both favorable and unfavorable findings and shall make the findings available to:

(a) The person who is the subject of the inquiry or investigation;

(b) The appointing authority, if any;

(c) The Attorney General, if the findings relate to a state public official;

(d) The appropriate district attorney, if the findings relate to a local public official; and

(e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge.

(9) Hearings conducted under this chapter must be held before an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. The procedure shall be that for a contested case under ORS chapter 183.

(10) The Oregon Government Ethics Commission may not inquire into or investigate any conduct that occurred more than four years before a complaint is filed or a motion is approved under subsection (1) of this section.

(11) This section does not prevent the commission and the person alleged to have violated any provision of this chapter or any rule adopted by the commission under this chapter from stipulating to a finding of fact concerning the violation and consenting to an appropriate penalty. The commission shall

enter an order based on the stipulation and consent.

(12) At any time during proceedings conducted under this section, the commission may enter into a negotiated settlement with the person who is the subject of action under this section.

(13) As used in this section:

(a) "Cause" means that there is a substantial, objective basis for believing that an offense or violation may have been committed and the person who is the subject of an inquiry may have committed the offense or violation.

(b) "Pending" means that a prosecuting attorney is either actively investigating the factual basis of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of negotiating a plea. [1974 c.72 §13; 1989 c.807 §1; 1991 c.272 §1; 1991 c.770 §1a; 1993 c.743 §18; 1999 c.849 §§51,52; 1999 c.850 §1; 2003 c.75 §30; 2007 c.865 §23; 2009 c.163 §2]

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2011 – 2015 LEGISLATIVE UPDATES

DISCLAIMER

This supplement is intended only for use as a tool in identifying recent legislative changes affecting text of the 2010 publication of the Oregon Government Ethics Commission's Guide for Public Officials. **This document is not intended to replace the 2010 Guide for Public Officials, and may not reflect all legislative changes to Oregon Government Ethics Law (ORS Chapter 244) to date.**

A PUBLIC OFFICIAL

Are you a public official?..... p. 5

- "First partner" added to definition of "public official" ("First partner" is also newly defined at ORS 244.020(6), resulting in extensive renumbering of the definitions that follow it at ORS 244.020, (7) – (17)). *[HB 2020 (2015)]*
- Definition of "public official" renumbered ORS 244.020(15). *[HB 2020 (2015)]*

Who is a relative?..... p. 7

- "Spouse of siblings of a public official or candidate" and " spouse of siblings of the spouse of a public official or candidate" removed from definition of "relative". *[HB 2079 (2013)]*
- Definition of "relative" renumbered ORS 244.020(16). *[HB 2020 (2015)]*

USE OF POSITION OR OFFICE

What are the provisions of law that prohibit a public official from using the position or office held for financial gain?..... p. 10

- "Conflict of interest" definition referenced at ORS 244.020(12) renumbered ORS 244.020(13). *[HB 2020 (2015)]*

Are there any circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official?..... p. 12 - 13

Honorarium

- Definition of “honorarium” renumbered ORS 244.020(8). *[HB 2020 (2015)]*
- Newly added ORS 244.042(4) prohibits the Governor, First Partner, Secretary of State, State Treasurer, Attorney General and Commissioner of the Bureau of Labor and Industries from soliciting or receiving an honorarium, money or any other consideration, as defined in ORS 171.725, for any speaking engagement or presentation. *[HB 2020 (2015)]*

Awards for Professional Achievement

- “Awards of appreciation” referenced at ORS 244.020(6)(b)(C) renumbered ORS 244.020(7)(b)(C). *[HB 2020 (2015)]*

NEPOTISM

Does Oregon Government Ethics law prevent two or more relatives from being employees of the same public body?..... p. 14

- “Relative” and “member of household” definitions at ORS 244.175 removed (apply “relative” and “member of household” definitions at ORS 244.020(16) & (11)). *[HB 2079 (2013)]*

EMPLOYMENT OF FORMER PUBLIC OFFICIALS

What are the restrictions on employment after I resign, retire or leave my public official position?..... p. 18

ORS 244.045(3)

- “Chief” removed from title of “Chief Deputy State Treasurer” (now “Deputy State Treasurer”). *[SB 11 (2011)]*

CONFLICTS OF INTEREST

..... p. 21 - 24

- “Conflict of interest” definition referenced at ORS 244.020(12) (“potential conflict of interest”) renumbered ORS 244.020(13). *[HB 2020 (2015)]*

GIFTS

..... p. 26 - 32

- “Gift” definition referenced at ORS 244.020(6) (including the exceptions discussed with reference to ORS 244.020(6)(b)(A)-(P)) renumbered ORS 244.020(7). *[HB 2020 (2015)]*
- “Legislative or administrative interest” definition referenced at ORS 244.020(9) renumbered ORS 244.020(10). *[HB 2020 (2015)]*

What does a public official need to know about a “Legislative or Administrative Interest”?..... p. 31

- “Relative” added to listed persons permitted to accompany a public official at a reception, meal or meeting excluded from the definition of “gift” under ORS 244.020(6)(b)(E) (renumbered ORS 244.020(7)(b)(E)). *[SB 293 (2015)]*

GIFTS AS AN EXCEPTION TO THE USE OF OFFICE PROHIBITION IN ORS 244.040

..... p. 33 - 37

- “Gift” definition referenced at ORS 244.020(6) (including the exceptions discussed with reference to ORS 244.020(6)(b)(A)-(P)) renumbered ORS 244.020(7). *[HB 2020 (2015)]*

ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST

..... p. 38 - 39

- NOTE: Annual Verified Statements of Economic Interest (SEI) will be filed online beginning April 2016. As a result of the Commission’s new electronic filing system, paper copies of the form will no longer be mailed directly to each public official required to file. Rather, notifications and instructions for e-filing will primarily be sent to SEI filers electronically via email. The Commission will now require the contact person for each jurisdiction to maintain and provide email addresses for each SEI filer in addition to the other relevant contact information.

SEI Form..... p. 40

- Reportable expenses paid for attending event specified in ORS 244.020(6)(b)(F) & (H) renumbered ORS 244.020(7)(b)(F) & (H). *[HB 2020 (2015)]*

OREGON GOVERNMENT ETHICS COMMISSION

..... p. 41

- Voting members of the Commission is increased to 9 (was 7). *[HB 2019 (2015)]*
- 2 recommended by Senate Democratic leadership (was 1). *[HB 2019 (2015)]*
- 2 recommended by Senate Republican leadership (was 1). *[HB 2019 (2015)]*
- 2 recommended by House Democratic leadership (was 1). *[HB 2019 (2015)]*
- 2 recommended by House Republican leadership (was 1). *[HB 2019 (2015)]*
- 1 recommended by the Governor (was 3). *[HB 2019 (2015)]*
- No more than 3 commissioners in the same political party may be appointed to the Commission to serve at the same time (was 4). *[HB 2019 (2015)]*

If a person requests, receives or relies on any of the advice or opinions authorized by ORS 244.280 through ORS 244.284, does that person have what is referred to as “safe harbor” protection from becoming a respondent to a complaint filed with or initiated by the Commission?..... p. 44 - 46

Complaint Review Procedures

- Preliminary Review Phase shortened from 135 days to 30. *[HB 2019 (2015)]*
- If a pending criminal matter is related to the same circumstances or actions to be addressed in Preliminary Review, suspension is no longer required unless a court has enjoined the Commission from continuing its inquiry. *[HB 2019 (2015)]*
- Commission may no longer consent to respondents’ requests for waiver of the Preliminary Review Phase time limit (except for complaints against candidates within 61 days of an election). *[HB 2019 (2015)]*
- Preliminary Review now technically ends when Executive Director completes the statement of facts determined; the Commission meets in executive session to conduct deliberations and vote on complaints following the close of Preliminary Review. *[HB 2019 (2015)]*
- The Investigatory Phase “may” be suspended during pending criminal investigation if the Commission determines that its own investigation cannot be adequately completed until criminal investigation is complete, or if a court enjoins the Commission from investigation. *[HB 2019 (2015)]*
- The maximum civil penalty that can be imposed for any Government Ethics violation is \$5,000, except for “willful” violation of ORS 244.040 (the “prohibited use of position or office” provision) where the maximum is increased to \$10,000 (does not affect \$1,000 maximum on civil penalties for executive session violations). *[HB 2020 (2015)]*