

City of Pendleton, Oregon

Summary of Public Meetings Law

Oregon and Pendleton have long and rich traditions of citizen participation in government. Many of these citizens participate as members of committees, boards, and commissions. Citizens make valuable contributions by providing special expertise and perspective for governmental decisions.

Members of committees, boards, and commissions are **expected** to attend and participate in all scheduled meetings. They are selected to decide. To not attend meetings or to abstain is to fail to do a most important function given to a board member. Absent compelling circumstances, for example, pecuniary conflict of interest problems, board members should **not** abstain from voting.

The Oregon legislature has established Oregon's policy for the state and all local government:

The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and information upon which such decisions were made. It is the intent of [The Oregon Public Meetings Law] that decisions of governing bodies are arrived at openly. ORS 192.620.

The law applies to any governing body of the state or local government, such as the city council, and to any other board, commission, council, committee, or subcommittee that consists of two or more members.

The law applies whenever a quorum (normally, at least half the group) is present to decide or deliberate on a public matter or to gather information upon which to deliberate. These rules apply to any group that has "the authority to make decisions for or recommendations to" a public body on a public matter.

To assure that the public may be aware of the deliberations and decisions of a public body, the law requires that the public body take steps to assist in notification. Unless required by other law, such as localized planning decisions, the body does not have to take any extraordinary effort to notify the public or particular individuals of the act of the body. The law expects that the news media will provide much of the information the public needs to be aware of the deliberations and decisions of government.

Notice must be given to interested persons including news media which have requested notice. The notice must include a list of the principal subjects anticipated to be considered at the meeting. This notice should be specific enough to permit the public to recognize the matters in which it is interested. The law does not require that every proposed item of business be described in the notice.

Meetings must be held within the geographic boundaries of the area over which the body has jurisdiction. Meetings must be held in places open to and accessible to any member of the public who wants to attend. Smoking is prohibited at all public meetings.

With exceptions to allow the public body to discuss specific types of matters in private, all meetings of a quorum of a public body that deliberates on a public matter or to gather information on which it deliberates must be open to the public.

Besides giving notice before meetings are held, all public bodies must keep minutes of all meetings. These minutes must be available to the public within a reasonable time after meeting. The minutes must include at least:

1. Members present;
2. The substance of any discussion on any matter;
3. Motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
4. Results of all votes and the vote of each person by name;
5. A reference to any document discussed at the meeting.

The public meetings law does not require that the public body allow the public to participate in discussion, although the public body may do so as a matter of policy.

Any time a quorum of the body gathers information about a public matter within its jurisdiction or deliberates on a public matter that is a public meeting and must comply with the public meetings law.

A public body may conduct an executive (private) session to discuss, but not make a final decision, the following subjects:

1. To employ a public officer or employee;
2. Discipline a public officer or employee, unless the person requests the meeting be public;
3. Evaluate the performance of a public officer or employment, unless the person being evaluated requests a public meeting;
4. To deliberate with persons designated with the governing body to conduct labor negotiations;
5. To conduct labor negotiations, unless either labor or management requests the sessions be public;
6. To consider records that are exempt from public inspection under the public records law;
7. To consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed;
8. To deliberate with persons designated by the public body to negotiate real property transactions.

The press has the right to be present to observe the executive session. If the body wants information not reported the presiding officer should instruct the media not to report particulars of the executive session. Without this instruction media members are free to report content of the meeting.

The public body may invite staff and selected members of the public to be present to assist in its deliberations. The governing body must take minutes of or record the meeting. The minutes or tapes do not have to be disclosed to the public. No one present may disclose the content of the discussion. The public body may discuss the matter, but may not make a decision. Frequently a public body will discuss a matter in executive session and then reconvene in public session to make a decision.

This is a general summary of the requirements of Oregon's Public Meetings Law. For more information contact the City Attorney, the Umatilla County Counsel Doug Olsen, or the law at ORS 192.610 to 192.690.

See, also, www.open-oregon.com

City of Pendleton, Oregon
Summary of Oregon Government Ethics Law

In general, Oregon's ethics laws apply to yourself, others living in your household, and those related to you by blood or marriage. Different portions of the law relate differently to different groups of those with whom you are affiliated.

As a general rule, no public officer or employee can receive a private gain or benefit from holding a public position. For instance, discounts for city council members or city employees are prohibited. Public officials, their families, and others living in their households are prohibited from accepting gifts from persons with legislative or administrative interests in the work of the public official, except as provided for by the law.

Officials, their families, and others living in their households **may accept** the following:

- Campaign contributions,
- Gifts from relatives and members of the official's household. ORS 244.020(5)(b)(B)¹,
- Gifts of total value of less than \$50 in a calendar year from people or organizations with administrative or legislative interest in the public body.²

Food, lodging and travel are part of the \$50 per calendar year limit, except that:

- Public officials, and their spouses and children accompanying them **may accept** food, beverage, and admission:
 - To events where the public official appears to speak or answer questions as part of a scheduled program. ORS 244.020(5)(b)(E)³.
 - To events where the public official is reviewing financial documents, including any business agreement between the public body and a private or public utility. ORS 244.020(5)(b)(I)⁴
 - To events where the food or beverage is incidental to the main purpose of a reception and no cost is placed on the food or beverage. This does not include sit-down meals. ORS 244.020(5)(b)(L)⁵
 - While on a trade-promotion trip, fact-finding mission, economic development activity or negotiation and where the public official represents the public body. This exception also applies when accompanying the public official, to relatives of the public official, members of the public official's household, and staff of the public official. The official must receive written approval from the governing body or supervisor. ORS 244.020(5)(b)(H)⁶.

¹ (B) Gifts from relatives or members of the household of the public official.

² Gifts to relatives or members of the household are not aggregated with the gifts to the public official for purposes of the \$50 per calendar year limit. Phone advice to Pete Wells from Don at Oregon Government Ethics Commission. February 7, 2008.

³ (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 before whom the public official appears to speak or to answer questions as part of a scheduled program

⁴ (I) Food or beverage consumed by a public official acting in an official capacity 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

⁵ (L) Food or beverage consumed by a public official 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.

⁶ (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

- Public officials **may accept** travel, lodging, food, and reasonable expenses:
 - Where the travel is a trade-promotion trip, fact-finding mission, economic development activity or negotiation and where the public official represents the public body. This exception applies, also, to staff of the public official accompanying the public official. The official must receive written approval from the governing body or supervisor. ORS 244.020(5)(b)(H)⁷.
 - Where the expenses are paid by a federal, state, or local government or an organization to which the public body pays dues or by some publically funded IRS 501(c)(3) organizations⁸
 - Where the public official will deliver a speech, make a presentation, or participate in a panel. ORS 244.020(5)(b)(F)⁹, or
 - Where the public official represents the public body. The official must receive written authorization from the official's council or supervisor. ORS 244.020(5)(b)(F)¹⁰
 - Where the expenses are paid by one public official to another for travel within Oregon to or from an event that bears a relationship to the traveling public official's office and the traveling public official participates in an official capacity. ORS 244.020(5)(b)(K)¹¹.

Public officials **may not accept any entertainment**, regardless of value, as a spectator or participant **unless**:

- The entertainment is incidental (secondary or minor) to the main purpose of another event. ORS 244.020(5)(b)(M)¹²
- Where the public official is viewing or participating in the entertainment for a ceremonial purpose with an official role in the entertainment event. The official must receive written authorization from the official's council or supervisor. ORS 244.020(5)(b)(N)¹³

Public officials **may accept** a plaque, trophy, wall memento, or similar item where the resale value is reasonably expected to be less than \$25. ORS 244.020(5)(b)(C)¹⁴.

⁷ (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

⁸ (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 and that receives less than five percent of its funding from for-profit organizations or entities

⁹ (F), For attendance at a convention, fact-finding mission or trip, or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel

¹⁰ Represent state government as defined in ors 174.111, a local government as defined in ORS 174.116 or a special government body a defined in ORS 174.117

¹¹ (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.

¹² (M) Entertainment provided to a public official or a relative or member of the household of the public official that is incidental to the main purpose of another event.

¹³ (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.

¹⁴ (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.

Certain public officers must make statements of economic interest. These are similar to the campaign finance statements, where neither the state nor the city limit what you can do, but rely on public information to let public know of any conflicts of interest. The statements are due each year on April 15 and with updates at the end of each calendar quarter.

Because members of city committees, commissions and boards serve the City of Pendleton, they are "public officials" for purposes of the laws and rules governing government standards and practices, and, therefore, are responsible for complying with those laws and rules, including ORS Chapter 244, which contains a code of ethics for public officials at ORS 244.040.

As a part of this compliance, each member of the committee is required to announce a **potential** conflict of interest before discussion starts, but may take action on the issue. The official must explain the nature of the conflict. The nature of the potential conflict of interest must appear in the minutes of the meeting.

If a conflict of interest is **actual**, rather than potential, the member must publicly announce the nature of the conflict and refrain from participating as a committee member in any discussion or debate on the issue out of which the conflict arises or from voting on the issue. If the affected committee member's vote is needed to achieve the minimum number of votes to take official committee action, the member may vote but may not participate as a committee member in any discussion or debate on the issue. See ORS 244.120(2).

A "**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 one of several circumstances cited in ORS 244.020(7). For instance, a planning commissioner in the construction trades would have a potential conflict of interest in the approval of a subdivision because construction activity in the subdivision could provide income to the commissioner. The commissioner must announce the existence and nature of the potential conflict of interest and may proceed to consider the issue. The existence and nature of the potential conflict of interest must appear in the minutes of the meeting.

An "**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 cited in ORS 244.020(7).

If discussion continues over more than one meeting, the official should announce the nature of the conflict of interest at each meeting at which discussion on that issue occurs. The official should make sure that the minutes of the meeting reflect the announcement of the nature of the actual or potential conflict of interest.

The committee member's announcement of the actual or potential conflict of interest must appear in the minutes of the meeting at which the announcement was made.

Possible sanctions

- Civil penalties by Government Standards and Practices Commission

- Criminal penalties

- If government funds are involved, ORS 294.100 permits taxpayers to sue to have those who authorized repay any government expenditure not authorized by law.