

Committee for Community Involvement

Washington County Home
Rule Charter, Oregon Public
Meetings Law, Oregon
Ethics Law and Public
Records Law

| November 21, 2023



County Counsel

washingtoncountyor.gov

→ Today's Discussion

1. Washington County Home Rule Charter/Form of Government
2. Oregon Public Meetings Law
3. Oregon Ethics Law
4. Oregon Public Records



Home Rule Under the Oregon Constitution

- A 1958 amendment to the Oregon Constitution reserved for the voters of Oregon counties the right to adopt charters prescribing how their county governments should be organized, what powers they should have, and what procedure(s) they should follow in administering county affairs. Since 1958, nine of Oregon's 36 counties have adopted charters.
- In November 1962, the Voters of Washington County adopted a Home Rule Charter, effective January 7, 1963.
- Washington County is one of nine Home Rule counties in Oregon.
- Home Rule authority has been limited by court decisions.



Washington County Charter

- Section 20 – Exercises all authority granted or allowed by the Oregon Constitution.
- Section 22 – All legislative and administrative powers are vested in the Board.
- Section 23 – No ordinance applies within incorporated cities (except when acting as the Local Health Authority).
- Section 31 – The Board is the Policy making body for the County.
- Section 40 – The Board may delegate authority.
- Section 42 – The Board may establish Boards and Commissions.



Washington County Form of Government

- Washington County operates under Council/Manager form of government
- Developed in the early 20th Century to follow the model used in business
- County Commission sits as a Board of Directors appointing a professional manager to exercise administrative authority
- WCC § 2.04.100 – delegates administrative authority to the County Administrator

→ Public Meetings Law

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

ORS 192.620



Who is required to hold public meetings?

Governing Body of any:

- State agency
- Regional government
- County
- City
- Special District
- Municipal corporation

Any agency of these entities including:

- Boards
- Commissions
- Subcommittees
- Advisory Groups

AND...

→ HB 2805 – Serial Meetings

Added the following to ORS 192.610:

- (1) “Convening” means:
 - (a) Gathering in a physical location;
 - (b) Using electronic, video or telephonic technology to be able to communicate contemporaneously among participants;
 - (c) Using *serial* electronic written communication among participants; or
 - (d) Using an intermediary to communicate among participants.



→ Notice – What is required?

“...[R]easonably calculated to give actual notice to interested persons...”

Contents of Notice

- Date and Time
- Place
- Contact for help
- Agenda (subjects may be added)

Method of Notice

- Not prescribed by Public Meetings Law – Must meet the “reasonably calculated to inform” standard.

At least 24 hours unless there is an emergency.



Conduct of Meetings

- The Public is entitled to attend public meetings.
- The Public Meetings Law does not require the public be allowed to participate.
- The presiding officer has inherent authority to keep order and impose any reasonable restrictions necessary for the efficient, orderly conduct of a meeting.
- Rules may include: Length of testimony, order of testimony, limitation of topics discussed (usually limited to the noticed agenda).
- Cannot prevent an attendee from recording (audio or visual) a meeting.
- A disrupter may be asked to leave and if they do not leave, may be treated as a trespasser – but only if actually disruptive.
- Dissent, rudeness and offensive speech are all protected by the First Amendment.

→ Recordkeeping

- MINUTES/RECORDKEEPING – A body must keep written minutes of its meetings AND executive sessions. Written Minutes must include:
 - Members present
 - Motions, proposal, resolutions, ordinances and measures and their disposition
 - Results of all votes and who voted which way – except if the board has over 25 members
 - Substance of any discussion on any matter – DO NOT KEEP VERBATIM NOTES – just a true reflection of the matters discussed and view of board members
 - Reference to all documents received or discussed unless exempt under the Public records Law

→ Recordkeeping

- An audio or video recording can substitute for written minutes.
- SB 11
- Minutes or recording must be available to the public.



Is this a public meeting?

- Telephone discussion between two members of the board?
- Email conversation in which all five members of a board are copied?
- Discussion between four members of the board at a holiday party?
- Training sessions?

→ Oregon Ethics Law

- Congratulations! You are a public official (and so am I)!
 - A public official is “an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.”
ORS 244.020(15).
- Subject to the Oregon Ethics Law
- Great Resource: [Oregon Government Ethics Law: A Guide for Public Officials.](#)





Relatives of Public Officials

General Rule:

A public official cannot use the official's position to benefit the official, a relative, household member or business with which the official is associated.

Who are Relatives?

- Spouse
- Children
- Children of the Spouse
- Siblings
- Siblings of Spouse
- Spouse of siblings
- Spouse of siblings of the Spouse
- Parents
- Parents of Spouse
- Person for whom the public official has a legal support obligation
- Person who receives from or provides benefits to the Public Official

→ Business

- A “business” is a self-employed individual and any legal entity that has been formed for the purpose of producing economic gain.
- A “business” is not a non-profit formed under 501(c) if the official is only a member, a member of the Board of Directors or in another unpaid position.

→ Associated with a Business

A person is “associated” with a business if:

- The person is a director, officer, owner, employee or agent of a **private business** or a **closely held** corporation.
- The person currently holds, or held during the preceding calendar year, stock, stock options, an equity interest or debt instrument worth \$1,000 or more in a **private business** or **closely held corporation**.
- The person currently owns, or has owned during the preceding calendar year, stock, stock options, an equity interest, or debt instruments of \$100,000 or more in a **publicly held corporation**.
- The person is an officer or director of a **publicly held corporation**.

→ Conflicts of Interest

A public official has a conflict of interest when participating in official action which would or could 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.

- Would = actual conflict of interest (must not participate)
- Could = potential conflict of interest (may participate after disclosure)
 - The official must announce the nature of the conflict at a public meeting

→ Not prohibited

- Official Compensation
- Reimbursement of Expenses
- Honoraria
 - Less than \$50
 - Performed in relation to the official's private profession, avocation or expertise.
- Awards for Professional Achievement (e.g. Oregon Teacher of the Year)



Outside employment is allowed, but:

- Officials must not use their public position to create the opportunity for additional personal income.
- Officials may not use a government agency's supplies, facilities, equipment, employees, records or any other public resources to engage in their private employment or business interests.
- Officials are not to engage in private business interests or other employment activities on their government agency's time.
- Confidential information gained as an official is not to be used to obtain a financial benefit for the public official, a relative or member of the official's household or a business with which any are associated.



Subsequent Employment

- An official cannot use the official's position to create a new employment opportunity.
- An official cannot use confidential information for personal gain.
- After an official ceases serving a public body, the official may not have a direct beneficial financial interest in a public contract for two years after the date the contract was ***authorized*** by the person acting in their capacity as a public official.

→ Gifts

If the source of a gift to a public official has a **legislative or administrative interest** in the decisions or votes of the official, the 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.

- A gift is something of economic value
 - without valuable consideration of equivalent value
 - or with valuable consideration but less than that required of the public
- Legislative or economic interest is an economic interest distinct from that of the general public

These same prohibitions apply to staff

→ Public Records Law

A public record is:

“any writing that contains information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics”

A writing includes:

- Emails
- Text messages
- Chat messages
- Voicemails
- Handwritten notes
- Calendar entries
- To-do and/or task lists
- Audio or video recordings

→ Public Records Law

Anything in the possession of the County is a public record.

Anything produced or used by a County employee or official in the course of their duties is a public record.



County Counsel
www.co.washington.or.us