

Springfield Planning Commission  
**Ethics Training “Cheat-Sheet”**  
**Last Updated February 2019**

## **1. The Oregon Government Ethics Law**

### **Scope of the Oregon Government Ethics Law**

- Applies to all elected and appointed officials, employees and volunteers at all levels of state and local government in all three branches.
- Prohibits use of public office for financial gain.
- Requires public disclosure of financial conflicts of interest.
- Requires designated elected and appointed officials to file an annual disclosure of sources of economic interest.
- Limits gifts that an official may receive per calendar year.
- Found in Oregon Revised Statutes, Chapter 244. See the attached Ethics and Standards of Conduct document for more complete information.

### **No Financial Gain from serving as a Public Official**

Oregon's ethics laws prohibit every public official from gaining a financial benefit or avoiding a financial cost due to his or her position, with very few exceptions. Planning Commissioners are public officials. Public employees and volunteers are also public officials.

Some financial benefits are legally exempt from the rule against financial gain. The attached Ethics and Standards of Conduct document provides more detailed information on the exceptions to the rule against financial gain. In brief, the exceptions include:

- A benefit in an official compensation package (planning commissioners are presently not compensated)
- An “honorarium” in connection with a public duty that is valued less than \$50 or is related to the official's private profession or expertise
- Reimbursement for expenses
- An unsolicited professional achievement award; and
- Gifts that meet certain limitations described in ORS 244.020. (See page 2 - of the Ethics Outline for more information regarding Gifts.)

### **Conflicts of Interest**

A conflict exists whenever a decision or recommendation by a public official *could* or *would* financially impact that public official or their relative. An official with an *actual* conflict of interest must publicly announce the nature of the conflict and may NOT vote or participate in the discussion or debate. An official with a *potential* conflict of interest must publicly announce the nature of the conflict, but may vote and participate in the discussion.

The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “would” and “could”: an actual conflict *would* affect a financial interest of the official or official's relative; a potential conflict *could* affect a financial interest of the official or official's relative.

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## **Annual Verified Statement of Economic Interest**

Planning commissioners must file an Annual Verified Statements of Economic Interest (SEI) online. Notifications and instructions for e-filing will primarily be sent to SEI filers electronically via email. OGEC requires the contact person for each jurisdiction to maintain and provide email addresses for each SEI filer in addition to the other relevant contact information.

## **2. Public Meetings & Public Records Law**

### **Public Meetings Must Be Public**

Oregon's public meetings law requires all meetings of the governing body of a public body (which includes the Planning Commission) to be open to the public, unless the meeting is held in executive session. [ORS 192.630]

A "meeting" is any convening of a governing body of a public body for which a quorum is required to make a decision or deliberate toward a decision on any matter. In other words, it is a "meeting" any time a majority of the Planning Commission are deliberating toward a decision on any matter, and must be open to the public under the public meeting law. For example, sending an email and CC-ing all the Planning commissioners to discuss an issue that will be on an upcoming Planning Commission meeting agenda is a violation of the public meeting law if the email conversation includes "deliberations" or a decision on the issue.

### **Public Records Overview**

Generally, every person in Oregon has a right to inspect any public record for any reason. A "public record" is any writing that contains information related to the conduct of the public's business, that is prepared, used, owned, or retained by a public body (which includes the Planning Commission), regardless of the physical form of the writing. For example, an email on a private email server (like Gmail) is a public record if it relates to the conduct of the public's business.

The public records law requires public bodies to retain a record or copy of the record and make it reasonably available for public inspection. OAR 166-020-0010. Most public records can only be destroyed or disposed of based on a schedule set by the State Archivist. ORS 192.170. A public body may charge a reasonable fee for public records requests to cover the actual cost of making the record available to the public.

### **Public Records Exempt from Disclosure**

There is a long list of specific public records that are exempt from disclosure. Most exempt public records may be disclosed if the public interest requires disclosure. The most common types of exempt public records include records related to employees, litigation, trade secrets, test questions and scoring keys, personnel discipline actions, operational plans to respond to public safety threats and records that would reveal weaknesses in security measures, social security numbers, and some records related to law enforcement. A full list of exemptions can be found in ORS 192.501 to 505.

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If only part of a public record is exempt from disclosure, that part must be redacted or separated, and the rest of the record made public.

### **3. Duty to Act as an Impartial Tribunal**

Parties that appear in front of the Planning Commission in quasi-judicial land use decisions have a right to an impartial tribunal. An impartial tribunal is one free of actual bias and actual conflicts of interest, and free of undisclosed ex parte conflicts.

#### **Bias/Conflict of Interest**

There are two types of bias: prejudgment and personal interest (also called a “conflict of interest”). Bias requires an actual, not just apparent, prejudgment or personal interest in the outcome. *1000 Friends of Oregon v. Wasco County Court*, 304 Or 76, 83, 742 P2d 39 (1987). Actual bias due to prejudgment is established by explicit statements, pledges, or commitments that the elected local official has prejudged the specific matter before the tribunal. *Columbia Riverkeeper v. Clatsop Cty.*, 267 Or. App. 578, 609–10 (2014). Actual bias due to personal interest occurs when the decision-maker would benefit financially from a particular outcome. See also “Conflicts of Interest” above.

#### **Ex Parte Communications**

An ex parte communication is any communication with a decision-maker outside a public hearing regarding a matter that is relevant to the decision. When there has been an ex parte contact, disclose the substance of the contact on the record and offer the parties the right for rebuttal. ORS 227.180(3).

#### **Questions?**

Contact legal counsel at any time if you have questions. It’s better to address issues proactively than retroactively.

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## **American Planning Association's Ethical Principles**

The following Ethical Principles in Planning are an ethics guide to planning provided by the American Planning Association – a nationwide professional organization of land use planners, educators, and public officials. These ethical principles provided as a resource for ethical behavior in the land use field. Note that these standards are developed nationally and are not legally binding – they do not replace or supersede your obligations under Oregon ethics law or requirements under Oregon land use law.

### **Ethical Principles in Planning**

**(As Adopted May 1992)**

This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

The planning process exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants.

Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.

The Code is formally subscribed to by each certified planner. It includes an enforcement procedure that is administered by AICP. The Code, however, provides for more than the minimum threshold of enforceable acceptability. It also sets aspirational standards that require conscious striving to attain.

The ethical principles derive both from the general values of society and from the planner's special responsibility to serve the public interest. As the basic values of society are often in competition with each other, so do these principles sometimes compete. For example, the need to provide full public information may compete with the need to respect confidences. Plans and programs often result from a balancing among divergent interests. An ethical judgment often also requires a conscientious balancing, based on the facts and context of a particular situation and on the entire set of ethical principles.

This statement also aims to inform the public generally. It is also the basis for continuing systematic discussion of the application of its principles that is itself essential behavior to give them daily meaning.

**The planning process must continuously pursue and faithfully serve the public interest.**

Planning Process Participants should:

1. Recognize the rights of citizens to participate in planning decisions;
2. Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
3. Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
4. Assist in the clarification of community goals, objectives and policies in plan-making;
5. Ensure that reports, records and any other non-confidential information which is, or will be, available to decision makers is made available to the public in a convenient format and sufficiently in advance of any decision;
6. Strive to protect the integrity of the natural environment and the heritage of the built environment;
7. Pay special attention to the interrelatedness of decisions and the long range consequences of present actions.

**Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.**

Planning Process Participants should:

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors;
2. Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker.
3. Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;

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5. Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process;
6. Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;
7. Serve as advocates only when the client's objectives are legal and consistent with the public interest.
8. Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling of an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should such participation commence earlier than one year following termination of the role as advisor or decision maker;
9. Not use confidential information acquired in the course of their duties to further a personal interest;
10. Not disclose confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; provided that disclosure in the latter two situations may not be made until after verification of the facts and issues involved and consultation with other planning process participants to obtain their separate opinions;
11. Not misrepresent facts or distort information for the purpose of achieving a desired outcome;
12. Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service;
13. Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

## **Resources**

### ***OGEC Guide for Public Officials***

The Oregon Government Ethics Commission (OGEC) publishes a comprehensive guide on government ethics for public officials. The guide is available free as a PDF at:

<http://www.oregon.gov/OGEC/pages/training.aspx>

### **iLearn Oregon**

OGEC offers free online training through iLearn Oregon. Training modules are short, focused, and convenient. There are no-cost trainings on several topics, including conflicts of interest, gifts, and executive sessions. OGEC iLearn trainings are available at: <http://ilearn.oregon.gov>.

### **OGEC Opinions**

OGEC issues formal and informal opinions in response to real-life ethics questions asked by public officials. The opinions are available to view and download online, and can be looked up by the topic that they address, such as "conflicts regarding a relative" and "gifts." OGEC Advisory Opinions are available at:

[http://www.oregon.gov/OGEC/Pages/advisory\\_opinions.aspx](http://www.oregon.gov/OGEC/Pages/advisory_opinions.aspx).

### **Ethics Statutes and Rules**

OGEC has compiled links to the relevant statutes and administrative rules regarding government ethics, which are available here:

[http://www.oregon.gov/OGEC/Pages/statutes\\_rules.aspx](http://www.oregon.gov/OGEC/Pages/statutes_rules.aspx).

### ***The Attorney General's Public Records and Meetings Manual***

The Oregon Attorney General publishes and updates this manual, which includes a sections on public meetings requirements and executive sessions. The manual is available for free online at the AG's website:

[http://www.doj.state.or.us/public\\_records/manual/pages/index.aspx](http://www.doj.state.or.us/public_records/manual/pages/index.aspx).

### ***The Citizen's Guide to Public Records and Meetings***

This guide is a pared-down Q&A version of the AG's longer *Public Records and Meetings Manual*. It is available at:

[http://www.doj.state.or.us/public\\_records/pages/citizens\\_guide.aspx](http://www.doj.state.or.us/public_records/pages/citizens_guide.aspx).

### **Annual Verified Statement of Economic Interest**

The Electronic Filing System website to register a new account or sign in to an existing account is available here: <https://apps.oregon.gov/OGEC/EFs>. OGEC has created a helpful instructional video that walks you through how to use the Electronic Filing System and the online SEI form. That video is available on the OGEC website here:

<http://www.oregon.gov/OGEC/Pages/efs.aspx>.

### **American Planning Association's Ethical Principles in Planning**

<https://www.planning.org/ethics/ethicalprinciples.htm>