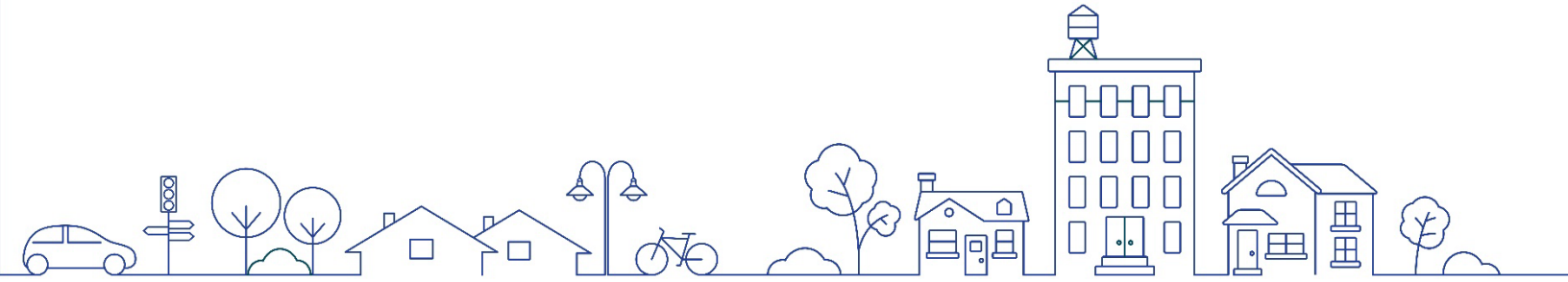
# Oregon Municipal Handbook

# CHAPTER 8:
# ETHICS



League of Oregon Cities

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# Chapter 8: Ethics

This chapter of the handbook will provide an overview of Oregon government ethics law. This chapter is not intended to be a substitute for legal advice. LOC members with additional questions about ethics are encouraged to contact their city attorney or the Oregon Government Ethics Commission (OGEC).

Further, the OGEC was granted additional jurisdictional authority in the 2024 Legislative Session in House Bill 4117[1] which expanded the scope of authority of the OGEC to give advice on public meetings laws, issue advisory opinions on the application of the public meetings law to actual or hypothetical circumstances, authorized the executive director of the commission to issue staff advisory opinions or written or oral staff advice on the application of the public meetings law to actual or hypothetical circumstances, and permits other commission staff to issue written or oral staff advice on the public meetings law. The OGEC now hears complaints and renders decisions about allegations of impermissible ethics, executive sessions, and all provisions of the public meeting laws, effective March 20, 2024. Due to this expansion, executive sessions will be addressed in Chapter 8 – Public Meetings, instead of this Ethics Chapter.

## Introduction

"Ethics refers to standards of behavior that tells us how human beings ought to act in the many situations in which they find themselves as friends, parents, children, citizens, businesspeople, teachers, professionals, and so on."[2]

In the public context, sometimes it is easy to discern when an action is unethical:

- A city employee accepts a bribe;
- A city councilor votes to award a contract to a company in which she has a large financial investment; or
- An elected official accepts an all-expenses paid golfing trip to Hawaii from a city contractor.

Other times, whether an action is ethical is more difficult to determine:

- A city councilor votes to appoint a campaign supporter to a city commission over another candidate when both individuals are equally qualified; or
- A city recorder solicits charitable contributions from city contractors for a city-run summer camp for underprivileged youth.

[1] *See* https://olis.oregonlegislature.gov/liz/2024R1/Measures/Overview/HB4117 (last accessed February 18, 2025).
[2] Markkula Center for Applied Ethics: *A Framework for Ethical Decision Making*.

Public officials are subject to ethical standards set by law. A public official is defined under Oregon law to include, "any person … serving the State of Oregon or any of its political subdivisions or any other public body, as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the service."[3] The law regarding public officials' ethics and conflicts of interest is provided by various federal and state constitutional and common law provisions, state statutes and, occasionally, local charters or ordinances.

**The Oregon Government Ethics Commission**

The Oregon Government Ethics Commission (OGEC) is a nine-member citizen commission charged with the jurisdiction over Oregon government ethics laws,[4] lobby regulation laws,[5] and the provisions of the Oregon Public Meetings Law.[6]

*Review and Investigations*

The Commission may investigate complaints of unethical behavior under its jurisdiction from any person or initiate an investigation on its own. The public official against whom the action may be taken is notified of the complaint, the identity of the complainant, and information received by the Commission. The Commission has 30 days to review the complaint, deliberate and vote on a finding of cause or to dismiss. If the Commission votes to dismiss the complaint, the matter is concluded.

If a finding of cause is made, the commission has 180 days to investigate the complaint. At the end of the investigation, the Commission will either dismiss the complaint or make a preliminary finding that an ethical violation had occurred. Upon a preliminary finding that an ethical violation had occurred, the public official may request a contested case hearing.

*Resolution*

Preliminary findings are either resolved by a settlement, in which a Stipulated Final Order is issued, or by the contested case process under the Oregon Administrative Procedures Act. The Commission may issue sanctions ranging from a letter of reprimand to civil penalties and forfeitures. Any monetary sanctions paid are deposited into the state's general fund.

*Advice*

In addition to enforcement of ethics laws, the Commission provides training in the form of presentations, handouts and online resources, and advice in the form of informal and formal opinions. The Commission staff are available to answer inquiries via telephone, email, or letter. Formal advice may be issued as a Staff Advisory Opinion or a Commission Advisory Opinion. A public official's reliance upon a Staff Advisory Opinion may be considered by the

[3] ORS 244.020(15).
[4] ORS Chapter 244.
[5] ORS 171.725 - 171.785.
[6] ORS 192.660, ORS 192.685.

Commission when determining whether the public official committed an ethical violation.[7] A public official's good faith reliance upon a Commission Advisory Opinion prohibits the Commission from imposing a penalty on that official unless it is determined that the person who requested the advice omitted or misstated material facts in the opinion request.[8] However, reliance upon a Commission Advisory Opinion does not prohibit the Commission from finding a violation. Copies of recent advisory opinions are available at: https://apps.oregon.gov/ogec/cms/advice.

**Oregon Government Ethics Law: A Guide for Public Officials**
Available at https://www.oregon.gov/ogec/Pages/Guide-for-Public-Officials.aspx

By law, the Commission is required to prepare and publish a manual on government ethics that explains the provisions of the Oregon government ethics laws. The Commission is prohibited from imposing a penalty for any good faith action a public official or candidate takes in reliance on the manual, or any update of the manual that is approved by the Commission.

**Oregon Government Ethics Law - ORS Chapter 244**

ORS Chapter 244 applies only to public officials, their relatives or members of their households. The rules contained in ORS Chapter 244 are focused on preventing an Oregon public official from receiving a financial benefit based on their public position. A public official is any person who serves the state of Oregon or any of its political subdivisions, including cities, or any other public body as defined in ORS 174.109, as an elected official, appointed official, employee, or agent.

A volunteer may also be considered a "public official" if the any of the following apply:

- The person is elected or appointed to a governing body of a public body;
- The person is 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; or
- The volunteer position includes all of the following:
    - Responsibility for specific duties;
    - The duties are performed at a scheduled time and designated place;
    - The volunteer is provided with the use of the public agency's resources and equipment; and
    - The duties performed would have a pecuniary impact on any person, business or organization served by the public body.

[7] ORS 244.282.
[8] ORS 244.280.

*Use of Office Prohibition – ORS 244.040*

Financial Gain or Avoidance: Public officials are prohibited from using or attempting to use their "official position or office to obtain financial gain or avoidance of financial detriment for [themselves] or a relative or member of [their] household…if 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."[9] This means that a public official may not use their official position to reap a financial benefit for themselves, their family, or household members.

Examples of prohibited use include:

- 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 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 department's power washer to prepare the exterior of the volunteer's personal residence for painting.
- Receiving an item for personal use at a discount not otherwise available when adding on to a bulk purchase made through the public official's public office.[10]

## Who is a Relative?

ORS 244.020(16) defines a "relative" as:

- A public official's:
  - Spouse
  - Child, son or daughter-in-law
  - Parent, including stepparent
  - Sibling, including stepsibling
- Same members of the public official's spouse's family
- Anyone for whom the public official has a legal support obligation
- Anyone receiving benefits of the public official's public employment

Anyone from whom the public official receives a benefit of employment

There are exceptions to the prohibition of using one's official position or office for financial gain. Exceptions include:

- Any part of a public official's official compensation package;
- Honoraria when related to the public official's office or position with a maximum value of $50;[11,12]
- Reimbursement of approved expenses;[13]
- Unsolicited awards for professional achievement;

[9] ORS 244.040(1).
[10] *Davidson v. Oregon Government Ethics Com'n,* 300 Or 415 (1985) (holding that the State Accident Insurance Fund vice president and actuary improperly used his public office when he purchased a car for his personal use as an "add-on" to SAIF's purchase of fleet cars, saving himself almost $1,300).
[11] ORS 244.042.
[12] ORS 244.020(8) – "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.
[13] OAR 199-005-0035(4).

- Gifts with an aggregate value of less than $50 in a calendar year from a source with a legislative or administrative interest;
- Gifts from a source that could not reasonably be known to have a legislative or administrative interest;
- Any item excluded from the definition of gift under ORS 244.020; or
- Contributions to a legal expense trust fund.[14]

Promise of Future Employment: 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 judgement of the public official would be influenced by the pledge or promise.[15]

Use of Confidential Information Gained Through Public Office: A public official may not attempt to further their personal gain using confidential information gained through the course of, or by reason of holding, their public position.[16] This remains in effect even after the person ceases to be a public official.[17]

Representation Before a Governing Body for Fee: A person may not attempt to represent or represent a client for a fee before the governing body of the public body of which the person is a member.[18]

A prohibited use of office violation may also be a conflict of interest violation and vice versa.

*Conflicts of Interest – ORS 244.120*

A public official is met with a conflict of interest when participating in official actions—such as a discussion, deliberation or decision—which would or could result in a financial benefit or avoidance of a financial detriment—such as receiving a "break" on the cost of an item—to the public official, a relative of the public official or a business with which either are associated. There are two types of conflicts of interest: actual and potential.

An actual conflict of interest exists when the action taken by a public official *would* affect the financial interest of the official, the official's relative or a business with which the official or a relative is associated.[19, 20] A potential conflict exists when the action taken by the public official *could* have a financial impact on that official, a relative of that official or a business with which the official or the relative is associated.[21]

[14] ORS 244.040(2).
[15] ORS 244.040(3).
[16] ORS 244.040(4).
[17] ORS 244.040(5).
[18] ORS 244.040(6).
[19] ORS 244.020(1).
[20] ORS 244.020 (2)(3).
[21] ORS 244.020(13).

If a conflict of interest exists, a public official must announce or disclose the nature of the conflict. A public official does not need to announce the exact amount of the financial benefit they stand to gain. Instead, the public official must explain the specific nature of the conflict.

The way disclosure is made depends upon the position held by the public official:

- Public Employees: Public officials 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 and request that the appointing authority or employer dispose of the matter.[22] The supervisor or appointing authority must respond by either (1) Assigning someone else to the task, or (2) Instruct the employee on how to proceed with the matter.[23]

- Elected Officials or Appointed Members of Boards and Commissions: An elected public official, other than a member of the Oregon Legislative Assembly, or an appointed public official serving on a board or commission 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.[24] The notice must be recorded in the official records of the public body.[25]

An announcement regarding a conflict of interest must be made at each meeting or on each occasion the issue causing the conflict of interest is discussed or debated. For example, an elected member of the city council would have to publicly announce a conflict one time during a 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.

An employee must provide separate written notices on each occasion they participate in an official action on a matter that gives rise to a conflict of interest. For example, a city planner would have to provide separate written notice on each occasion they receive an application or otherwise participates in official action on a matter that gives rise to a conflict of interest.

A public official may be exempt from making a public announcement or giving a written notice describing the nature of a conflict of interest if any of the following circumstances apply:

- If the conflict of interest arises from a membership or interest held in a particular business, industry, occupation, or other class that was a prerequisite for holding the public position.[26]
- If the official action would financially impact the public official, relative, or business of the public official to the same degree as other members of an identifiable group or

[22] ORS 244.120(1)(c).
[23] *Id.*
[24] ORS 244.120(2)(a); ORS 244.120(2)(b).
[25] ORS 244.130.
[26] ORS 244.020(13)(a).

"class."[27] Only the Commission may designate a class. A public official should discuss a class exemption with legal counsel prior to acting upon it. A public official may subject themselves to personal financial liability if they are incorrect about a class designation.

- If the conflict of interest arises from a position or membership in a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.[28]

Following the announcement of a potential conflict of interest, the public official may participate in official action on the issue that gave rise to the conflict of interest.

If an actual conflict of interest exists, the public official must announce or disclose the conflict in the same manner discussed above. In addition to announcement, the public official must refrain from any further participation in, discussion, or voting on the issue that gave right to the conflict of interest.[29] The LOC also recommends that the public official step down or away from their seat during the discussion to avoid any appearance of impropriety.

Though rare, 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. This is known as the "Rule of Necessity." The public official must still announce the conflict and refrain from any discussion, but may participate in the vote required for official action by the governing body.[30] This provision does not apply in situations where there are insufficient votes because of a member's absence. Rather, it applies where a quorum is lacking solely because members must refrain from voting due to actual conflicts of interest. Members with actual conflicts may vote only when it is impossible for the governing body to take official action, even if all members are present. Public officials who wish to vote under the Rule of Necessity should discuss this issue with their legal counsel prior to taking any action.

*Gifts – ORS 244.025*

A gift is something of economic value given to a public official, a relative, or member of the public official's household for which the recipient either makes no payment or makes payment at a discounted price. Unlike the prohibited use of office provisions, the gift provisions focus on benefits derived from outside sources. The opportunity for the gift is one that is not available to members of the general public under the same terms and conditions as those offered to the public official.[31] Gifts include discounts, no matter how nominal. If the public official receives an item and pays for it at a discounted price, the item may qualify as a gift.

Generally, a public official, relative or household member of the public official may not solicit or receive any gift with a value exceeding $50 from any *single source* reasonably known to have a

[27] ORS 244.020(13)(b).
[28] ORS 244.020(13)(c).
[29] ORS 244.120(2)(b)(A).
[30] ORS 244.120(2)(b)(B).
[31] ORS 244.020(7)(a).

*legislative or administrative interest.*[32] The "source" of the gift is the person or entity making ultimate payment of the expense.[33] The recipient public official has the burden of knowing the source's identity. A "legislative or administrative interest" is an economic interest, distinct from that of the general public, in any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official.[34] The rationale for this limitation is that the giver may be giving the item to the public official to curry favor.

The law provides several exemptions from the definition of gift and from the $50 gift limitation. These exemptions operate to allow public officials to accept these types of gifts, even if they exceed the $50 gift limit:

- Gifts from relatives or household members;[35]
- Reasonable expenses paid by certain entities if:
    - The entity is a government entity, a Native American tribe, a membership organization to which the governing body pays dues, or a 501(c)(3) non-profit organization; and
- The public official is participating in a convention, fact-finding mission/trip, or meeting where he or she is scheduled to speak, participate in a panel discussion or represent his or her governmental unit;[36]
- Reasonable food, travel or lodging expenses for the public official, a relative, household member or staff while the public official is representing his or her governmental unit on:
    - An officially sanctioned fact-finding mission or trade-promotion; or
    - In officially designated negotiations, or economic development activities, approved in advanced;[37]
- Admission, food and beverages for the public official, a relative, household member, or staff while accompanying the public official at a reception, meal or meeting held by an organization where the public official represents his or her governmental body;[38]

**When is something considered officially sanctioned or designated?**

When there is written approval by a local public body or by a person authorized by the public body to provide that approval. As related to cities, written notice from a supervisor or the city council is sufficient to constitute an officially sanctioned or designated activity. The chief administrator of a city may officially sanction or designate events for themselves.

OAR 199-005-0020(3)(b).

[32] ORS 244.025 (emphasis added).
[33] OAR 199-005-0030(2).
[34] ORS 244.020(10).
[35] ORS 244.020(7)(b)(B).
[36] ORS 244.020(7)(b)(F).
[37] ORS 244.020(7)(B)(H).
[38] ORS 244.020(7)(b)(E).

- Food, beverage and entertainment that is incidental to the main purpose of the event;[39]
- Food or beverage consumed by a public official acting in an official capacity in association with a financial transaction or business agreement with another government agency, another public body or a private entity, including review, approval or execution of documents or closing a borrowing or investment transaction;[40]
- An unsolicited token or award of appreciation in the form of a plaque, trophy, desk or wall item or similar with a resale value of under $25;[41]
- Anything of economic value offered, solicited or received as part of the usual and customary practice of the recipient's private business or the recipient's employment or position as a volunteer with a private business, corporation, or other legal entity operated for economic value. The item must bear no relation to official business and must be historical or established long-standing traditions or practices resulting in economic benefits for those that are not in public office;[42]
- Informational material related to the performance of official duties;[43]
- Waiver or discount of registration expenses or materials provided at a continuing education event that a public official or candidate may attend to satisfy a professional licensing requirement;[44]
- Legal defense trust fund contributions;[45] and
- Campaign contributions.[46]

**When a public official is offered a gift, they should ask themselves the following questions when deciding whether to accept or decline:**

- Is it a "gift" within the definition under ORS 244.020(7)?
- Do any exceptions apply?
- Is it subject to the gift limitation (i.e. is the giver reasonably known to have a distinct economic interest in my decision-making)?
- Is it within the $50 limit?

*Nepotism – ORS 244.177 and 244.179*

Nepotism is the term used to describe the practice of favoring relatives without regard to merit. A public official may not appoint, employ or promote a relative or household member to, or discharge, fire or demote a household member from a position with the public body that the

[39] ORS 244.020(7)(b)(L) & (M); OAR 199-005-0001(3).
[40] ORS 244.020(7)(b)(I)(i).
[41] ORS 244.020(7)(b)(C).
[42] ORS 244.020(7)(b)(O); OAR 199-005-0027.
[43] ORS 244.020(7)(b)(D).
[44] ORS 244.020(7)(b)(J).
[45] ORS 244.020(7)(b)(G).
[46] ORS 244.020(7)(b)(A).

public official serves or over which the public official exercises control, unless the public official follows the rules regarding conflicts of interest.[47]

After the public official applies the rules regarding conflicts of interest disclosure, the public official remains prohibited from participating in any personnel action taken by their public agency that would impact the employment of a relative or member of the public official's household. The public official may not participate in any interview, discussion or debate regarding the employment of a relative or household member or directly supervise a relative of household member.

Public officials may, however, provide a reference, recommendation or conduct a ministerial act that is otherwise part of their regular job function. Additionally, public officials may participate in personnel actions involving a relative or household member who is an unpaid volunteer and may supervise a relative or household member if the public body adopts policies permitting a public official acting in an official capacity to directly supervise a person who is a relative or household member.

There may be local rules that prohibit nepotism as well—be sure to check your charter and local governing documents.

*Outside Employment - ORS 244.040*

The Oregon ethics laws do not prohibit a public official from holding private employment while also serving in his or her public capacity. Public officials are, however, prohibited from using their public position to create the opportunity for additional personal income. The public official must maintain clear boundaries between their public and private matters. Boundaries may be maintained by refraining from:

- Using governmental time or resources for private employment;
- Taking official action that could have a financial impact on the official's private enterprise;
- Using confidential information obtained through the official's public position for private use;
- Representing a client for a fee before the public official's public body; and
- Using the official position to create the opportunity for private income.

*Subsequent Employment – ORS 244.040 and 244.045*

The Oregon ethics law provides restrictions on the subsequent employment of certain public officials. The majority of these restrictions relate to former state officials. As related to local government positions, the following restrictions apply:

- Public Contracts: A public official who authorized or had a significant role in a contract or was a member of a governing body while acting in an official capacity may not have a

[47] ORS 244.177.

direct, beneficial financial interest in the public contract for two years after leaving the official position.[48] Authorization means that the public official performed a significant role in the selection of a contractor or the execution of the contract.[49] This can include recommending approval of a contract, serving on a selection committee, or having the final authorizing authority or signing a contract.

- Investments: For two years after serving in public capacity, a former public official is restricted from:
    - Being a lobbyist or appearing before the agency, board or commission for which public funds were invested;
    - Influencing or trying to influence the agency, board or commission for which public funds were invested; and
    - Disclosing confidential information gained through employment.

*Annual Verified Statement of Economic Interest - ORS 244.050*

In cities, all elected officials, the city manager or principal administrator, municipal judges and planning commission members must file a Statement of Economic Interest (SEI) with the Oregon Government Ethics Commission by April 15 of each year. Candidates for any of the above positions must also file an SEI form. For guidance on SEI filings see OGEC's website: https://www.oregon.gov/ogec/public-records/pages/seis.aspx.

In January of each year the commission prepares a list by jurisdiction of each public official required to file an SEI form. The list is sent to the contact person for each jurisdiction. The city recorder usually serves as the city's contact person, but every city is different. The contact person is required to review the list for accuracy and return the list with any corrections to the commission by February 15.[50] The commission notifies each public official required to file a SEI form directly by email. Public officials are required to complete the online SEI form by April 15 of every year. Late filing fees are $10 for each of the first 14 days after April 15 and $50 for each day after until the maximum penalty of $5,000 is reached.[51]

The SEI requires public officials and candidates to disclose information about:

- Businesses in which the public official or a member of the public official's household was an officer or director;
- Businesses in which the public official or member of the public official's household did business;
- Sources of income for the public official and members of the public official's household that represent 10% or more of the annual household income;

[48] ORS 244.047.
[49] OAR 199-005-0035(6).
[50] OAR 199-020-0005(2).
[51] ORS 244.350(4)(c).

- Ownership interests held by the public official or members of the public official's household in real property except for the principal residence, located within the boundaries of the governmental agency in which the filer holds the position;
- Honoraria that exceeded $15 in value given to the elected official or members of the public official's household;
- The name of each lobbyist associated with any businesses the public official or a member of the public official's household is associated;
- Names of any entities from which the public official received more than $50 to participate in a convention, fact-finding mission, trip, negotiations, economic development activities or other meeting; and
- The following information if the information requested related to an entity that had been or could reasonably be expected to do business with the public official's governmental agency or had a legislative or administrative interest in the public official's governmental agency:
    - Name, address and description of each source of income that exceeded $1,000 for the public official or a member of the public official's household;
    - Name of each person the public official or a member of the public official had owed $1,000 or more excluding debts on retail contracts or debts with regulated financial institutions;
    - Business name, address and nature of beneficial interest greater than $1,000, or investment held by the public official or a member of the public official's household in stocks or securities greater than $1,000. Mutual funds, blind trusts, deposits in financial institutions, credit union share and the cash value of life insurance policies are excluded; and

The name of each person from whom the elected official received a fee of more than $1,000 for services, unless disclosure is prohibited by a professional code of ethics.

**Other Sources of Government Ethics**

In addition to the laws under the jurisdiction of the OGEC, public officials are subject to additional constitutional, criminal and statutory provisions that prohibit or redress unethical behavior. Violation of these provisions may lead to financial and criminal penalties.

*Constitutional Provisions*

- United States Constitution – 14th Amendment Due Process Clause prohibits
    - The right to an unbiased and impartial decision maker; and
    - The right to a fair process.

- Oregon Constitution - Article II prohibits

- Holding concurrent incompatible offices;[52] and
- Accepting bribes while in office.[53]

*Criminal Provisions*

The criminal law prohibitions below provide criminal penalties for acts which may also constitute ethical violations under Oregon law. Public officials who engage in these activities may not only be subject to penalties for Oregon ethics law violations but may also be subject to criminal liability.

Bribe Receiving (Class B Felony) – ORS 162.025

A public servant[54] commits the crime of bribe receiving if the public servant:

- Solicits any pecuniary benefit with the intent that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced; or

- Accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced.

Tampering with Public Records (Class A Misdemeanor) – ORS 162.305

A person commits the crime of tampering with public records if, without lawful authority, the person knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record, including records relating to the Oregon State Lottery.[55]

Official Misconduct in the Second Degree (Class C Misdemeanor) – ORS 162.405

A public servant commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person.

Official Misconduct in the First Degree (Class A Misdemeanor) – ORS 162.415

A public servant commits the crime of official misconduct in the first degree if:

- With intent to obtain a benefit or to harm another:
    - The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or
    - The public servant knowingly performs an act constituting an unauthorized exercise in official duties; or
- The public servant, while acting as a supervisory employee, violates ORS 162.405 and is aware of and consciously disregards the fact that the violation creates a risk of:

[52] Or Const, Art II, § 10.
[53] Or Const, Art II, § 7.
[54] ORS 162.005(2).
[55] Tampering with records relating to the Oregon State Lottery is a Class C felony. ORS 162.305(1)(b).

- Physical injury to a vulnerable person;
- The commission of a sex crime as defined in ORS 163A.005 against a vulnerable person; or
- The withholding from a vulnerable person of necessary and adequate food, physical care or medical attention.

Misuse of Confidential Information (Class B Misdemeanor) – ORS 162.425

A public servant commits the crime of misuse of confidential information if in contemplation of official action by the public servant or by a governmental unit with which the public servant is associated, or in reliance on information to which the public servant has access in an official capacity and which has not been made public, the public servant acquires or aids another in acquiring a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action.

Unlawful Legislative Lobbying (Class B Misdemeanor) – ORS 162.465

A person commits the crime of unlawful legislative lobbying if, having an interest in the passage or defeat of a measure being considered by either house of the Legislature of this state, as either an agent or principal, the person knowingly attempts to influence a member of the assembly in relation to the measure without first disclosing completely to the member the true interest of the person therein, or that of the principal of the person and the person's own agency therein.

Coercion (Class C Felony) – ORS 163.275(h)

A person commits the crime of coercion when the person compels or induces another person to engage in conduct from which the other person has a legal right to abstain, or to abstain from engaging in conduct in which the other person has a legal right to engage, by means of instilling in the other person a fear that, if the other person refrains from the conduct compelled or induced or engages in conduct contrary to the compulsion or inducement, the actor or another will:

- Unlawfully use or abuse the person's position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

Theft by Extortion (Class B Felony) – ORS 164.075(h)

A person commits the crime of extortion when the person compels or induces another person to either deliver property or services to the person or to a third person, or refrain from reporting unlawful conduct to a law enforcement agency, by instilling in the other person a fear that, if the property or services are not so delivered or if the unlawful conduct is reported, the actor or a third person will in the future:

- Unlawfully use or abuse the position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

*Other Oregon Statutory Provisions*

While they do not specifically implicate criminal liability, other Oregon statutes provide for penalties for unethical acts. These non-criminal statutes may impose personal liability upon a public official meaning that they will be personally responsible for paying any civil penalties out of their own pocket.

Solicitation of Public Employees and Activities During Working Hours – ORS 260.432

While on the job during working hours, public employees are prohibited from soliciting any money, influence, service or other thing of value or otherwise promoting or opposing (1) any political committee; (2) the nomination or election of a candidate; (3) the gathering of signatures on an initiative, referendum or recall petition; (4) the adoption of a measure; or (5) the recall of a public office holder. For the purposes of this law, an elected official is not considered a "public employee;" however under no circumstances should a public employee or elected official use public funds or resources to promote or oppose any of the above activities.

The Secretary of State "Restrictions on Political Advocacy by Public Employees" Manual has more information: https://sos.oregon.gov/elections/documents/restrictions.pdf (last updated 2024).

Misuse of Public Funds – ORS 294.001

It is unlawful for "any public official" to spend public funds for any purpose not authorized by law. Public officials are personally liable for any money improperly spent, if the expenditure constitutes "malfeasance in office or willful or wanton neglect of duty" by the public official. This means that a public official can be personally responsible for the unauthorized expenditure of public funds if they knew or should have known that the expenditure was not within the approved budget, or otherwise illegal or unauthorized, but acted to expend the funds anyways.