



CITY OF BEND

M E M O R A N D U M

To: Members of Committees, Boards, Commissions

From: Mary Alice Winters, City Attorney

Re: Conflicts of Interest for Public Officials for City Committees, Boards and Commissions (Permanent, Temporary, Ad Hoc)

Date: 1/6/2022

Although you serve on this advisory committee, board or commission as a volunteer, you are a member of a governing body providing recommendation(s) to the City Council. You are therefore a public official, subject to the conflict of interest laws. The Bend Municipal Code states that board, commission and committee members appointed by the City are considered “public officials” subject to State Ethics Law. BMC Section 1.20.015(E). These rules are in place to protect you as an appointed member of a public body, participating in official action. The rules distinguish between **actual and potential conflicts of interest**. Because you are making recommendations only, any conflicts will be **potential** conflicts, and only need to be publicly announced prior to taking action and you can continue participating in discussions and decision-making.

Decisions of the committee cannot be invalidated for failing to disclose a conflict but if a complaint is made to the Ethics Commission and upheld, you could face sanctions, including a letter of reprimand or a personal civil fine of a maximum of \$5,000 for each violation. By disclosing the nature of the conflict and having it reflected in the public record (the minutes) of the public body, you are protected.

A potential conflict is one that could result in a financial benefit or detriment to you, a relative, or client, or a business with which you or the family member or client, are associated. Employment by a non-profit corporation is considered a business for the purpose of this section. Membership in, participation as a board member or other unpaid position with a non-profit is not considered an association with a business for purposes of this rule. Government agencies and special districts are not businesses for purposes of the rules about potential conflicts.

If you believe a decision that is before the committee could have a direct financial effect on you, your business, or that of a family member or client, you should announce that conflict before taking part in discussion or a vote on that issue.

In the rare instance that a committee makes a decision and not a recommendation, if the decision of the body **would** financially impact you or a business with which you or a family member or client are associated, as described above, you must declare an **actual conflict**, leave the meeting and not participate in the discussion or decision-making of the committee.

The rules are not concerned with financial benefit or detriment that is merely speculative, or very distant from the committee recommendation – it is more if the recommendation could directly impact you or the other parties mentioned.

As a general rule, if you have the same interest as all residents (for example, if you were making a recommendation on water or sewer rates, or class of individuals), you do not need to declare a conflict, because you have the same general financial interest in rates as all the other rate payers of the city. The same analysis applies to other classes of individuals or businesses.

For more information please see the Oregon Government Ethics Law Guide for Public Officials, especially pages 21-24, which can be found on the Oregon Government Ethics website: <http://www.oregon.gov/ogec/Pages/index.aspx> Ethics commission staff are available to provide informal telephone advice, or written opinions if needed, to help with compliance. The website also has the contact information for Ethics Commission staff.

The ethics rules apply to the person or official as an individual. However, the City Attorney's office is also here to help you, so if you have a question about a particular association of yours, or want to know if you should declare a conflict at any time throughout this process, feel free to contact any of the attorneys. We can discuss the concern with you, or call the ethics commission with or for you.

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