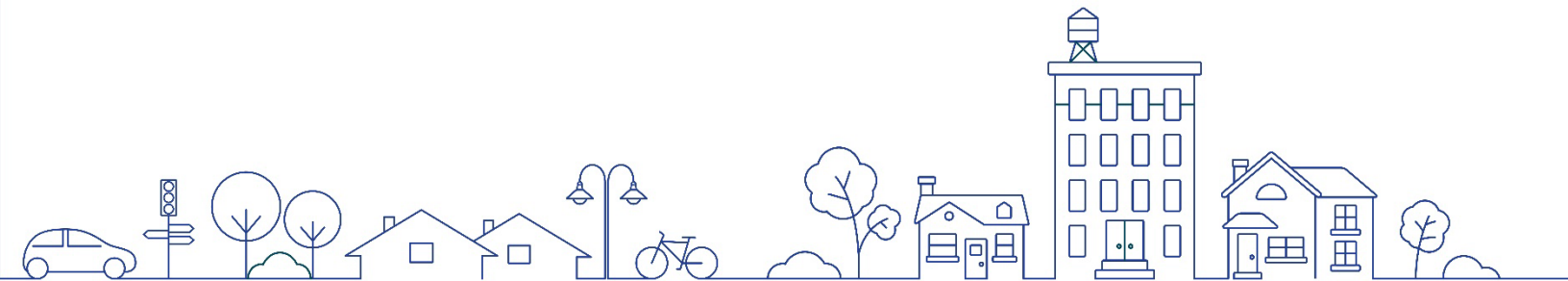


# — Oregon Municipal Handbook —

## **CHAPTER 7: MUNICIPAL BOARD COMMISSIONS AND COMMITTEES**



# Table of Contents

I.	Formation.....	3
A.	Authorized or Required by Law. ....	4
i.	Budget committees.....	4
ii.	Planning commissions.....	4
iii.	Other Examples.....	5
B.	Established by Governing Body. ....	5
II.	Elements of Board Commissions .....	6
A.	Defining Purpose. ....	6
B.	Membership. ....	6
C.	Procedures for Conducting Meetings.....	7
III.	Laws that Impact Board Commissions .....	8
A.	Public Meetings .....	8
B.	Public Records .....	9
C.	Government Ethics.....	9
IV.	Practice Tips.....	10
A.	Commission Charter .....	10
B.	Annual Workplan.....	11
C.	Commission Handbook.....	11
D.	Regular Trainings.....	12
E.	Public Recruitment.....	12
F.	Staff Liaison Handbook.....	12

# Chapter 7: Municipal Board Commissions and Committees

Municipal board commissions and committees (hereinafter referred to as “board commissions”) play an important role in city governance by assisting the governing bodies in addressing specific issues in detail, lending professional expertise, facilitating community decision-making and serving as a conduit between citizens, city staff and the governing body. Effective use of board commissions will result in a highly engaged community and facilitate the governing board’s decision making.

Certain board commissions, such as a planning commission and a budget committee, are authorized or required by law.<sup>1</sup> However, most operating governing board commissions form and operate at the discretion of the governing board. This chapter will discuss the basic considerations of formation and the essential elements of board commissions.<sup>2</sup> This chapter will also give practice tips for the effective use of board commissions.<sup>3</sup>

Although the focus of this chapter will be on board commissions, much of the same guidance can be applied to internal committees formed to advise city staff.<sup>4</sup> Internal committees are established by city staff for implementation of governing body policy, and the formation of such committees do not require the approval of the governing body. Some common examples of internal committees include an Americans with Disabilities Act committee, a code enforcement task force, and a policy review committees.

Please note that this chapter is meant to provide LOC members with an overview of effective formation and use of board commissions. Specific city charters and ordinances may provide additional restrictions or procedures not discussed below. LOC members with specific questions are encouraged to contact their city attorney.

## I. FORMATION

Understanding the reason for the formation of board commissions is essential for ensuring compliance with the law. There are two reasons for establishing a board commission: (1) the commission is authorized or required by law, or (2) the governing body exercises its

---

<sup>1</sup>See, e.g., ORS 294.414, ORS 227.020

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

discretion to form a commission. Note that some city charters require a regularly convened charter review committee to recommend amendments to the city charter.<sup>5</sup>

## **A. Authorized or Required by Law**

### **i. Budget committees**

For purposes of approving a budget, state law requires that the governing body of each city “establish a budget committee.”<sup>6</sup> The “budget committee shall consist of the members of the governing body” and an equal number of members of the public.<sup>7</sup> The purpose of the budget committee is to receive the budget message and the budget document and to ask questions and make comment on the budget document.<sup>8</sup> The budget committee “approves” the budget, and it is sent to the governing body for final approval.<sup>9</sup>

Although the membership and duties of the budget committee are required by law, the governing body has discretion in all other things not specified by law. For example, the governing body may determine that at least one budget committee member should have financial experience or work for another governmental entity.

### **ii. Planning commissions**

Planning commissions are authorized by statute.<sup>10</sup> Although it is discretionary for the governing body to form a planning commission, once authorized, state law places restrictions on the membership.<sup>11</sup> The law limits the planning commission to two voting members engaged “principally in the buying, selling or developing of real estate” and no more than two members “shall be engaged in the same kind of occupation, business, trade or profession.”<sup>12</sup>

Similar to budget committees where state law is silent, governing bodies have discretion to determine their own internal procedures and scope of review for planning commissions. State law expressly gives discretion to the governing body to determine the duties of an authorized planning commission.<sup>13</sup> Such duties may include recommending actions to the council related to traffic, industrial lands, housing, sanitation or conducting land use hearings.<sup>14</sup> However, the

---

<sup>5</sup> See e.g., Portland City Charter, Chapter 13 Charter Revision and Interpretation, Section 13-301.

<sup>6</sup> ORS 294.414.

<sup>7</sup> *Id.*

<sup>8</sup> ORS 294.426.

<sup>9</sup> ORS 294.428; ORS 294.456.

<sup>10</sup> ORS 227.020.

<sup>11</sup> ORS 227.030(4).

<sup>12</sup> *Id.*

<sup>13</sup> ORS 227.090.

<sup>14</sup> *Id.*

scope of the planning commission's duties and review is established by its comprehensive land use plan and implementing ordinances and once established, the governing body would need to follow the proper statutory procedure to amend these documents. Governing bodies should consult with their city attorney before action is taken to amend a planning commission's responsibilities.

### **iii. Other Examples**

State law requires a commission on the issue of consolidation of cities if a petition is deemed legally sufficient by the affected cities.<sup>15</sup> Similarly, state law requires a charter commission on the issue of consolidation of a city and county if the issue is properly initiated either by a governing body or electors.<sup>16</sup>

## **B. Established by Governing Body**

The most common type of board commission is where the governing body exercises its discretion to form a commission. A governing body may establish a commission by intergovernmental agreement, ordinance or resolution.

Commissions formed by intergovernmental agreement are often for the purpose of overseeing the functions delegated by one or more public entities to a separate entity. More information about working with such commissions is contained in Chapter 11, Working with Other Governments.<sup>17</sup>

A governing body is most likely to create a commission through a resolution or an ordinance. The decision on whether to use a resolution or ordinance will be determined by the governing body. An ordinance is a local law, prescribing general, uniform, and permanent law. In contrast, resolutions are less permanent enactments than ordinances and often deal with matters of a special or temporary character. For those commissions of a more long-standing nature, the governing body will enact an ordinance, and for those commissions that deal with a short-term goal or purpose, the governing body will pass a resolution.

---

<sup>15</sup> ORS 222.240.

<sup>16</sup> ORS 199.725. *See generally* ORS chapter 199.

<sup>17</sup> *See generally* LEAGUE OF OREGON CITIES, OREGON MUNICIPAL HANDBOOK (2022), CHAPTER 11, WORKING WITH OTHER GOVERNMENTS.

## II. ELEMENTS OF BOARD COMMISSIONS

Most governing bodies find that for efficiency and productive citizen engagement, it is necessary to state certain things in the ordinance or resolution, also known as the enacting documents. Specifically, the enacting documents should state the purpose, the membership, and the procedure for accomplishing the purpose.

Other than those commissions authorized or required by law as discussed above, i.e., planning commissions and budget committees, there are no known cases or statutes requiring any specific element or function of a commission. Even for commissions required or authorized by statute, many of the best practices discussed below can be incorporated into the city's practices.

### A. Defining Purpose

The most important element to a successful commission is to define the purpose of the commission. The governing body should define the purpose through the enacting documents. Clear statements of purpose from the governing body at the outset will help to define goals and purpose and prevent scope creep. Scope creep is the uncontrolled, unmanageable, and often inevitable widening of a commission's scope. Specific, measurable outcomes reported back to the governing body is another way to clearly state a commission's purpose.

Depending on the purpose, commissions can be established to be perpetual advisors or to provide specific feedback for a short duration. Some commissions are used to support a specific city function such as parks, airport, library, police citizen oversight, historic commission, or urban renewal area. Other commissions have a specific, identifiable goal such as ensuring diversity and equity, increasing access to childcare, promoting tourism or reviewing a city charter. Lastly, commissions can be used to serve as a communication conduit between the governing board and certain categories of citizens such as youth or senior citizens.

The governing body should consider whether the commission's purpose is to make decisions or whether to advise the governing body. Lastly, the governing body should consider whether to provide some sort of financial support to achieve the commission's objectives.

### B. Membership

The second necessary element in the enacting documents is to define who will compose the members of the commission. Recruiting and engaging the *right* members is critical in accomplishing the purpose of the commission.

Specifically, the enacting documents should provide the following information:

- *Number of members.* Try to select an odd number of members such as three, five or seven members so there is less likely to be a tie vote. A commission with too many or too few members may find it difficult to accomplish its purpose.
- *Composition of membership.* Depending on the commission purpose, the governing body may benefit from professional expertise. For example, it is common to recruit or specify that at least one member of the budget committee has financial experience. Or, in the case of an architectural review commission, the governing board may specify that one or more should be architects, landscape architects or other design professionals.
- *Term.* How long do you expect that the members will hold their position? Two years is a common appointment term. Do you wish to have term limits?
- *Appointing authority.* Who will appoint the members? Some city charters state that the mayor will appoint certain commission members and the rest will be appointed by the governing body.
- *Other requirements.* Is there a requirement in the ordinance or charter that requires that commission members be residents of the city? Are there any other restrictions in the law or city ordinance that places any requirements on the members such as serving on only one commission?
- *Governing body liaison.* In some cases, the governing body chooses to select one of its own members to participate in a board commission. Depending on the relationships developed with the commission, such participation may further link the communication between the two bodies.

Although not official members of the commission, staff members often provide the link between the commission members and the governing body. The city manager may choose to assign a staff liaison to each commission to provide support coordination and guidance. For example, staff can ensure that the required meetings occur and assist the commission chair prepare the monthly meeting agendas.

### **C. Procedures for Conducting Meetings**

The third element to a successful commission is to establish the procedures for the commission. The governing body's enacting documents or a commission charter (as discussed below in Practice Tips) may address the following issues:

- *Quorum.* Unless stated otherwise, a majority of the commission members must be present to constitute a quorum.
- *Chair duties.* The chair is usually elected annually by the commission members. The duties include setting the agenda, conducting the meetings, and act as the

spokesperson for the commission. The chair is also responsible to encourage the input of ideas, set a positive tone and facilitate the decision-making process.

- *Parliamentary procedure.* Commissions generally adopt a modified Robert’s Rules of Order. It is not necessary to recite all the parliamentary rules such as “point of order.” Rather, it is sufficient to state that the commission will generally follow Modified Robert’s Rules of Order.
- *Vacancy.* The procedures may establish how a vacancy is declared. In addition to a voluntary resignation, vacancies can be established by procedure if a member has too many unexcused absences or no longer meets the membership qualifications.

Some of the basic commission meeting procedures may be contained in the governing body’s enacting documents. As discussed below, more detailed meeting procedures may be contained in a commission charter that is the product of the appointing commission and approved by the governing body.

### III. LAWS THAT IMPACT BOARD COMMISSIONS

Several laws that impact cities also impact board commissions. The laws discussed below are Oregon Public Meetings Law, Oregon Public Records Law, and Oregon Government Ethics Law.

#### A. Public Meetings

A commission that has the authority to make recommendations to a public body on policy or administration is a “governing body” under the Oregon Public Meetings Law (OPML).<sup>18</sup> As such, any public meeting of the board commission requires proper notice of the meeting and that the meeting is accessible to people with physical and communication disabilities.<sup>19</sup> OPML requires that the public meetings must also be recorded, or written minutes are taken.<sup>20</sup>

As a practical matter, staff members will coordinate with volunteer commissions to ensure that OPML requirements are met. For example, staff often coordinates with the commission chair to ensure that an agenda is drafted, adequate notice is provided to the public, the meeting is available to the public in person and virtually, and the meeting is either recorded or minutes are taken.

---

<sup>18</sup> ORS 192.610(3).

<sup>19</sup> See generally LEAGUE OF OREGON CITIES, OREGON MUNICIPAL HANDBOOK (2020), CHAPTER 9, PUBLIC MEETINGS LAW.

<sup>20</sup> ORS 192.650(1).



Since a commission is likely a “governing body” under the OPML, it is possible for commission members to convene a public meeting through “serial communications” on a topic.<sup>21</sup> As discussed below in Practice Tips, the LOC recommends training commission members on public meetings.

## **B. Public Records**

Oregon Public Records Law applies to any documents containing “information relating to the conduct of the public’s business \* \* \* regardless of physical form or characteristics.”<sup>22</sup> Public records include: (1) emails, (2) text messages, and (3) social media posts.<sup>23</sup>

Public records are not limited to those prepared by the city or public body.<sup>24</sup> Rather, those records can include information sent or posted by individual commission members if the record contains information relating to the public’s business.<sup>25</sup>

As a practical matter, staff will store, retain and dispose of all public records prepared by the city in accordance with state law. Staff will also respond to all public records requests. It is important for public bodies to train staff and commission members to avoid the unintentional creation of public records.

## **C. Government Ethics**

Oregon Government Ethics Law applies to “public officials.” A volunteer such as a commission member is a “public official” if the person is appointed by a governing body.<sup>26</sup> Commission members who are concerned about the applicability of the rules discussed below are encouraged to discuss their concerns with the city attorney or the Oregon Government Ethics Commission. This discussion is intended to give a brief overview. For more detailed information, please see the [League of Oregon Cities Oregon Municipal Handbook, Chapter 8: Ethics](#).

Public officials are prohibited from using or attempting to use their “official position or office to obtain financial gain or avoidance of financial detriment” if the benefit would not otherwise be available but for the public official’s holding of the official position.”<sup>27</sup>

A public official must declare any conflicts of interest when participating in official actions such as a discussion, deliberation or decisions that would or could result in a financial benefit to the official or the official’s family.<sup>28</sup> Potential conflicts of interest are those that *could*

---

<sup>21</sup> See *Handy v. Lane County*, 274 Or App 644, 664-65 (2015), *reversed on other grounds*, 360 Or 605 (2016).

<sup>22</sup> ORS 192.311(5)(a). See generally LEAGUE OF OREGON CITIES, OREGON MUNICIPAL HANDBOOK (2020), CHAPTER 14, PUBLIC RECORDS (2021).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See ODOJ, ATTORNEY GENERAL’S PUBLIC RECORDS AND MEETINGS MANUAL (2022).

<sup>26</sup> See generally LEAGUE OF OREGON CITIES, OREGON MUNICIPAL HANDBOOK (2020), CHAPTER 8, ETHICS.

<sup>27</sup> ORS 244.040(1).

<sup>28</sup> ORS 244.120.

result in a financial impact to the official or the official’s family.<sup>29</sup> Potential conflicts must be declared but the official can participate in the official action.<sup>30</sup> Actual conflicts of interest are those that *would* result in a financial impact to the official or the official’s family.<sup>31</sup> Actual conflicts must be declared and the official *cannot* participate in the official action.<sup>32</sup> A public official may be exempt from announcing the nature of the conflict of interest for specific circumstances.<sup>33</sup>

Except as allowed by law, a public official or relative may not solicit any gift exceeding \$50 from a single source having a legislative or administrative interest in a decision of the public official.<sup>34</sup>

A public official is prohibited from using their position to create the opportunity for additional personal income.<sup>35</sup>

Planning commission members must file a Statement of Economic Interest with the Oregon Government Ethics Commission by April 15 of each year.<sup>36</sup>

## IV. PRACTICE TIPS

### A. Commission Charter

Although a commission’s purpose is often stated in the enacting documents, the statement is short and lacks detail. Over time, with changes in commission membership or the governing body, this original purpose is often forgotten. Defining this purpose will keep the commission focused on the nature of the commission and prevent “scope creep.” Scope creep is the uncontrolled, unmanageable and often inevitable widening of a commission’s scope. The main reason for scope creep is the lack of clearly defined goals or purpose.

To combat scope creep, many cities require a commission to create a commission charter. The commission charter would be created (or amended) by the commission and approved by the governing body. The charter would state many of the considerations such as purpose, membership and procedures. The advantage of a commission charter is to provide more detail

---

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *See generally* LEAGUE OF OREGON CITIES, OREGON MUNICIPAL HANDBOOK (2020), CHAPTER 8, ETHICS.

<sup>34</sup> ORS 244.025.

<sup>35</sup> ORS 244.040.

<sup>36</sup> ORS 244.050.

than a resolution or ordinance. Further, a commission charter may be more easily amended than a resolution or ordinance to fit the particular needs of the commission or governing body.

## **B. Annual Workplan**

One practice tip is for each commission to prepare and submit an annual work plan to the governing body. The governing body reviews the work plan and provides feedback annually to the commission. The work plan can include the results of the prior year's plan and if applicable, metrics of community involvement and participation in meetings.

The governing body can refer additional items to the commission for inclusion in the annual work plan. This annual review creates a communication conduit between the governing body and the commission and ensures that the commission continues to follow the governing body's purpose.

## **C. Commission Handbook**

A commission handbook is a reference guide that applies to board commissions. It provides an overview of the basic laws and procedures during a member's term and clarifies the roles and responsibilities of the commission in relation to the governing body, staff and the public. Some items to consider include:

- Member-signed acknowledgement of receipt of the handbook. Can include acknowledgement of rules of conduct, responsibility to follow public meetings, public records and ethics laws.
- General information about the city, the type of government and the commissions.
- Restrictions on appointments to commissions such as term limits or city residence requirements.
- Statements of the commission's goals, purposes and responsibilities.
- Roles and responsibilities of each commission members such as preparation, collaboration, and respect for each other. State expectations for conduct during public meetings.
- Define any mandatory training such as parliamentary procedure or ethics.
- Elaborate the role of staff liaisons. Define acceptable conduct with staff.
- The commission charter and any adopted procedures.

Many Oregon cities have created their own board commission handbooks such as the cities of Florence, Hillsboro, and Oregon City.<sup>37 38 39</sup>

#### **D. Regular Trainings.**

Another practice tip is to provide regular trainings to all new committee members about topics such as parliamentary procedure, public meetings and public records. These trainings can be done virtually or taped for future use.

The LOC has trainings available online at:

<https://www.orcities.org/education/training/on-demand-trainings>

#### **E. Public Recruitment**

Ensuring that the commission represents a diverse and inclusive pool of candidates facilitates the community decision-making process and better serves as a conduit between citizens, city staff and the governing body. Fully engaged city volunteers are often future fully engaged elected officials.

Regularly advertising commission vacancies is one method of ensuring that the governing body has a diverse pool. Other recruitment methods, such as building relationships with community organizations, can be used to build a stronger pool of interested and qualified commission members.

Candidates for the open commission positions can be invited to interview with the governing body in a public meeting. This allows the governing body to have an open and transparent discussion about the goals and purpose of the commission and sets the stage for a productive relationship.

#### **F. Staff Liaison Handbook**

Creating a fully trained staff to support the needs of the governing body and commission is crucial to success. Staff liaisons will provide direction, guidance and clerical, organizational and administrative support. Creating a handbook outlining the staff expectations, will ensure

---

<sup>37</sup> See *Committee and Commission Manual*, CITY OF FLORENCE, [https://www.ci.florence.or.us/sites/default/files/fileattachments/commissions\\_and\\_committees/page/10801/committee\\_commission\\_manual.pdf](https://www.ci.florence.or.us/sites/default/files/fileattachments/commissions_and_committees/page/10801/committee_commission_manual.pdf) (last accessed Nov. 30, 2022).

<sup>38</sup> See *Advisory Groups, Member and Staff Handbook*, CITY OF HILLSBORO, <https://www.hillsboro-oregon.gov/home/showdocument?id=25660&t=637225437277930000> (last accessed Nov. 30, 2022).

<sup>39</sup> See *Boards and Commissions Orientation Manual*, OREGON CITY, [Boards and Commissions Orientation Manual | City of Oregon City \(orcity.org\)](https://www.orcity.org/boards-and-commissions-orientation-manual) (last accessed Nov. 30, 2022).

that staff is fully able to support board commissions. In addition to the topics discussed above for the commission handbook, some items to consider including in a handbook:

- Ensuring that the required commission meetings occur.
- Preparing meeting agendas in coordination with the commission chair.
- Properly noticing the public meetings. Recording or taking written minutes of the public meetings. Coordinating the in-person and virtual meetings.
- Researching and investigates the issues for the commission. Prepare alternatives and recommendations for the commission.
- Implements governing body decisions as they relate to the commission.
- Facilitating the communication of the commission interests, concerns, and recommendations to city staff.
- Support the creation of the commission charter and/or annual workplan.

In short, an effective and strong commission requires the coordination of staff, the commission and governing bodies.