



Community Development Department

315 Kennel Ave/PO Box 248

Molalla, OR 97038

Phone 503.759.0205

www.cityofmolalla.com

AGENDA

Molalla Planning Commission

6:30 PM, September 6, 2023

Commission Chair Doug Eaglebear
Commissioner Jennifer Satter
Commissioner Rick Deaton
Commissioner David Potts

Commission Vice-Chair Connie Sharp
Commissioner Clint Ancell
Commissioner Martin Ornelas

In accordance with House Bill 2560, the City of Molalla adheres to the following practices: Live-streaming of the Molalla Planning Commission Meetings are available on Facebook at "Molalla Planning Commission Meetings – LIVE" and "Molalla Planning Commission Meetings" on YouTube. Citizens can submit Public Comment in the following ways: attend the meeting, email support staff @ communityplanner@cityofmolalla.com by 4:00pm on the day of the meeting, or drop it off at the Civic Center, 315 Kennel Avenue.

I. CALL TO ORDER AND FLAG SALUTE

II. ROLL CALL

III. CONSENT AGENDA

A. Planning Commission Meeting minutes – 8/2/23

IV. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

V. PUBLIC COMMENT & WRITTEN COMMUNICATIONS

Citizens are allowed up to 3 minutes to present information relevant to the city but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the support staff. The Planning Commission does not generally engage in dialog with those making comments but may refer the issue to the Community Development Director. Complaints shall first be addressed at the department level prior to addressing the Planning Commission.

VI. PUBLIC HEARINGS

VII. GENERAL BUSINESS

A. Mural Code

B. Training – Conflict of Interest

VIII. STAFF COMMUNICATION

IX. COMMISSION COMMUNICATION

X. ADJOURN



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Planning Commission Meeting Minutes for August 2, 2023

The August 2, 2023, meeting of the Molalla Planning Commission was called to order by Chairperson Doug Eaglebear at 6:33 pm.

COMMISSIONER ATTENDANCE:

Commissioner Clint Ancell - Present
Commissioner Rick Deaton – Present
Commissioner David Potts – Present
Commissioner Connie Sharp – Present
Commissioner Martin Ornelas – Absent (excused)
Commissioner Jennifer Satter – Present (late 6:32)

STAFF IN ATTENDANCE:

Mac Corthell, Planning Director - Absent
Ronda Lee, Support Specialist - Present
Sam Miller, Senior Engineer - Present
Dan Zinder, Associate Planner – Present

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AGENDA:

I. CALL TO ORDER AND FLAG SALUTE

II. ROLL CALL

III. CONSENT AGENDA

- A. Planning Commission Meeting minutes – 08/02/2023
M-RD, 2nd-CA Vote: Passed 6-0-0

IV. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

V. PUBLIC COMMENT & WRITTEN COMMUNICATIONS

Citizens are allowed up to 3 minutes to present information relevant to the city but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the support staff. The Planning Commission does not generally engage in dialog with those making comments but may refer the issue to the Community

Development Director. Complaints shall first be addressed at the department level prior to addressing the Planning Commission.

VI. PUBLIC HEARINGS

SDR04-2023 & VAR02-2023. Motion to approve "as-is" M-CS, 2ND JS Passed 6-0-0

VII. GENERAL BUSINESS

VIII. STAFF COMMUNICATION

IX. COMMISSION COMMUNICATION

X. ADJOURN

M-JS, 2ND-CA Passed 6-0-0 @7:12pm

PLANNING COMMISSION MEETING CAN BE VIEWED IN ITS ENTIRIETY HERE:

https://www.youtube.com/watch?v=N1bT_AIZI_U

Chairperson Doug Eaglebear

Date

Attested by: _____
MCD Director, Mac Corthell

Date



CITY OF MOLALLA

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Staff Report

Agenda Category: Mural Code

DATE: 9/6/2023

From: Ronda Lockwood, Support Specialist

Approved by: Mac Corthell, Community Dev Dir

SUBJECT: Mural Code

FISCAL IMPACT: None

RECOMMENDATION/RECOMMEND MOTION: Planning Commission to review the 2022 draft of the Mural Code as we are re-initiating this Type IV procedure.

BACKGROUND: City staff submits this attached draft of the 2022 draft of the Mural Code to the Planning Commission for an extended review. Please review and provide any questions or comments to City Staff by 9/27 for discussion at the 10/4 PC meeting.

City of Molalla Proposed Mural Code

1 Chapter Art Murals

1.1 Purpose

The purpose of this title, and the policy of the City of Molalla, is to permit and encourage art murals under certain terms and conditions. Art murals comprise a unique medium of expression that serves the public interest. Art murals have purposes distinct from signs and confer different benefits. Such purposes and benefits include: improved aesthetics; avenues for original artistic expression; public access to original works of art; community participation in the creation of original works of art; community building through the presence of, and identification with, original works of art; and a reduction in the incidence of graffiti and other crime. Art murals can increase community identity and foster a sense of place and enclosure if they are located at heights and scales visible to pedestrians and are retained for periods of 5 years or more.

1.2 Definitions

Words used in this title have their normal dictionary meaning unless they are listed in this chapter or unless this title specifically refers to another title. Words listed in this chapter have the specific meaning stated or referenced unless the context clearly indicates another meaning.

"Applicant" means the party that is primarily responsible for the design and installation of an art mural.

"Original art mural" means a hand-painted image on the exterior wall of a building that may comprise up to 40% of the surface area of a building wall.

"Public art mural" means a hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building where the wall or surface is either on City-owned property or has a public art easement and is viewable from another property or right-of-way.

"Mural easement" means an easement granted to the City of Molalla by a property owner for purposes of installing and maintaining a public art mural on the surface of a structure or building.

"Compensation" means the exchange of something of value. It includes, without limitation, money, securities, real property interest, barter of goods or services, promise of future payment, or forbearance of debt. "Compensation" does not include goodwill, or an exchange of value, that a building owner (or leaseholder with a right to possession of the wall upon which the mural is to be placed) provides to an artist, muralist, or other entity, where the compensation is only for the creation and/or maintenance of the mural on behalf of the building owner or leaseholder, and where the building owner or leaseholder fully controls the content of the art mural.

"Owner" means the entity(ies) that own(s) the real property that contains the building or structure upon which a public art mural is installed. In the case where a public art mural

is installed in the right-of-way, the owner means the entity(ies) with jurisdiction over that right-of-way.

“Right-of-way” means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned.

1.3 Prohibition of Compensation

No compensation will be given or received for the display of art murals or for the right to place the mural on another’s property. The applicant shall certify in the permit application that no compensation will be given or received for the display of the mural or the right to place the mural on the property.

1.4 Mural Maintenance

Public art murals shall be maintained by the property owner for 5 years and per the terms outlined in the public art easement. **Original art murals?**

[Original art murals shall be maintained by the property owner.](#)

1.5 Violations and Enforcement

It is unlawful to violate any provision of this title; any administrative rules adopted by the City of Molalla pursuant to this title; or any representations made, or conditions or criteria agreed to, in an art mural permit application. This applies to any applicant for an art mural permit, the proprietor of a use or development on which a permitted art mural is located, or the owner of the land on which the permitted art mural is located.

1.5.1 Notice of Violations

The City Manager, or designee, must give written notice of any violation to the property owner as provided in the Clackamas County Tax Assessor’s Records. Failure of the property owner to receive the notice of the violation does not invalidate any enforcement actions taken by the City.

1.5.2 Responsibility for Enforcement

The regulations of this title, and the conditions of art mural permit approvals, shall be enforced by the City Manager, or designee.

1.6 Public Art Murals

1.6.1 Allowed Locations

Public art murals are only allowed on buildings or structures as described below:

a. Commercial Zones

Public art murals are allowed in areas zoned Central Commercial (C1) or General Commercial (C2).

b. Industrial Zones

Public art murals are allowed in areas zoned Light Industrial (M1) or Heavy Industrial (M2).

c. Community Service Uses

Public art murals are allowed on uses that have received approval as a community service use.

1.6.2 Specifically Prohibited Locations

Public Art Murals are prohibited on residential structures. [Historic Buildings?](#)

1.6.3 Public Ownership

The mural must be on the surface of a building or structure that is on property owned by the City of Molalla or for which a mural easement to the city has been granted.

1.6.4 Duration and Alteration

The public art mural shall remain in place, without alteration, for a minimum period of 5 years.

"Alterations" includes any change to a permitted mural, including, but not limited to, any change to the image(s), materials, colors, or size of the permitted mural.

"Alterations" do not include naturally occurring changes to the mural caused by exposure to the elements, the passage of time, or minor changes to the permitted mural that result from the maintenance or repair of the mural.

Minor changes may include slight and unintended deviations from the original image, colors, or materials that occur when the permitted mural is repaired due to the passage of time or as a result of damage.

Public art murals may be removed within the first 5 years of the date of registration under the following circumstances:

- a. Per the terms of the public art easement; or
- b. When the property on which the mural is located is sold; or
- c. When the structure or property is substantially remodeled or altered in a way that precludes continuance of the mural; or
- d. The property undergoes a change of use or occupancy in accordance with all applicable laws and rules.

[Existing murals shall not be altered without a permit.](#)

1.6.5 Physical Standards

1.6.5.1 Dimensions

A public art mural may wrap around a wall edge or corner and/or may extend above the wall height.

1.6.5.2 Materials

Public art mural materials may include the following: paint, painted wood or plastic surfaces affixed to a building or structure, mosaics of ceramic tile and/or glass, vinyl or pella, or similar materials. The City Manager, or designee, may consider other materials in their review of a proposed public art mural.

1.6.5.3 Placement

No new public art mural shall obstruct the functioning of any building opening, including, but not limited to, windows, doors, and vents.

1.6.5.4 Lighting

No new or existing public art mural may consist of, or contain, electrical or mechanical components or changing images; i.e., moving structural elements, flashing or sequential lights, lighting elements, or

other automated methods that result in movement, the appearance of movement, or change of mural image or message. Static illumination, which is turned off and back on not more than once every 24 hours, is permitted.

Lighting may be required for safety or crime deterrent purposes with consideration to impacts to surrounding ~~on~~ properties, as determined by the City Manager, or designee.

1.6.5.5 Structural Permit

Public art murals that are affixed to a building, or contain elements that extend above or around a wall, shall require structural permit approval as deemed necessary by the City Manager, or designee.

~~a. An original art mural may comprise up to 40% of the surface area of a building wall. The area allowed for an original art mural is considered in conjunction with the size regulations for other wall signs, as allowed by the sign districts in Chapter 14.16, so that the combination of the wall sign and original art mural shall not exceed 40% of the wall face.~~

~~b. An original art mural may wrap around the corner of a building, but the area of the mural on each wall shall be calculated separately.~~

~~c. The area of an original art mural includes the area within a rectangular shaped perimeter enclosing the limits of any lettering, writing, representation, emblem, symbol, figure, drawing, character, or large-scale pattern. If the mural consists of more than one section without a painted background, each section area will be calculated and all areas will be totaled. If the mural consists of more than one section with a painted image background, the area is calculated within a perimeter enclosing the entire limits of the mural. To simplify area calculation, the smallest dimension of any rectangular shaped perimeter enclosing a section of the mural shall measure 2 feet.~~

~~d. No compensation may be given or received for placement of an original art mural. Prior to issuance of a sign permit for an original art mural, the building owner shall provide an affidavit that no compensation was or will be received for placement of the original art mural.~~

~~e. Where compensation is involved, nothing in the mural code shall prohibit an original art mural from being permitted as a wall sign, as allowed per the sign district in which the property is located.~~

1.6.6 Application

An applicant shall initiate a proposal to place a public art mural by filing an application with the City. The application shall be made on forms provided by the City, include the application fee for review of a public art mural, and include any accompanying materials deemed necessary by the City for review of the public art mural proposal (such as proposed designs, site photos, and building or structure elevation drawings).

Fees shall be set by the City Council by resolution.

1.7.1 Administrative Review

- a. Upon submission of a complete application for a public art mural, the City Manager, or designee, shall review the proposal for conformance with the standards in section 1.6
- b. Upon finding that the proposed public art mural conforms with the standards in section 1.6 the City Manager, or designee, shall inform the applicant in writing that the proposed public art mural meets the standards in section 1.6 **Error! Reference source not found.** The City Manager, or designee, shall then provide the applicant with the materials necessary to complete the application requirements.
- c. Prior to the City Manager, or designee, review, the applicant shall provide documentation that they comply with the application requirements.

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1.7.1.1 Public Notice

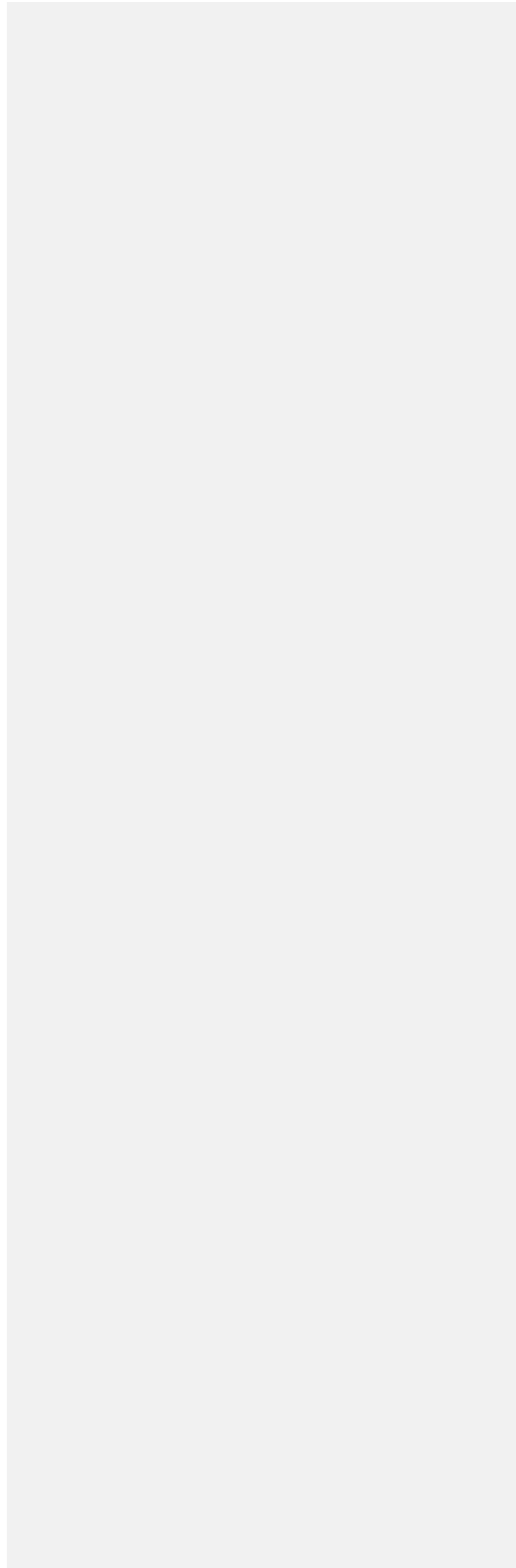
A public notice is intended as a courtesy and to provide the community a chance to review the application proposal.

- a. The City Manager, or designee, shall post a notice to the community (e.g. newspaper, online websites).
- b. The notice shall be posted at least 14 calendar days prior to the review of the proposed mural.
- c. The notice shall include instructions for submitting comments; the name and contact information for the applicant and owner; contact information for the City Manager, or designee.

1.7.1.2 Posted Notice

A notice shall be posted at the site of the proposed public art mural and shall conform to the following standards.

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- a. The notice shall be posted at least 14 calendar days prior to the ~~review~~review of the proposed mural. The City Manager, or designee, shall provide the applicant with materials to be posted. The applicant shall be responsible for ensuring that the notice is posted and remains posted. If the notice is damaged or removed, the applicant shall replace the notice as soon as practicable.
- b. The notice shall be durable and waterproof.
- c. The notice shall be clearly visible from the public right-of-way and be at least 11 x 17 in. The City Manager, or designee, may require more than one sign to be posted, depending on specific site characteristics.
- d. The notice shall include the name and contact information for the applicant and owner; contact information for the City Manager, or designee; and a ~~legibly-sized~~legibly sized color representation of the proposed public art mural.

1.7.2 Application Review Process

1.7.2.1 Authority

The City Manager, or designee, shall have the authority to determine if an application for an ~~public~~original art mural meets all of the applicable requirements and to issue a final approval, approval with conditions, or denial of the ~~public~~original art mural application.

The City Manager, or ~~designee, and designee~~, shall meet within 30 business days of the submitted mural application being deemed complete.

1.7.2.2 Review Criteria

- a. Scale: Appropriateness of scale to the wall upon which the mural will be painted/attached and to the surrounding physical features.
- b. Context: Architectural, geographical, sociocultural, and/or historical relevance to the site.
- c. Community Support: General support/advocacy from the building owner/user, surrounding neighborhood, adjacent businesses, and/or arts community.
- d. Feasibility: Demonstrated ability to complete the proposed mural on time and within budget. e. Media: Appropriate media proposed to ensure the mural's longevity and durability.
- f. Structural and Surface Stability: Commitment to repair the mural surface as necessary before painting and a plan for mitigating graffiti through design and/or graffiti coating.
- g. Signed Easement Form from Building Owner: Commitment to keep the mural in place as approved for a minimum period as specified in section 1.4 and to maintain the mural during that time.
- h. Public Accessibility, Safety and Lighting: Compliance with City codes for safety, accessibility, and lighting.

1.7.2.3 Notice of Decision

The City Manager, or designee, shall issue the notice of decision in writing. The decision shall include the following information:

- a. A brief summary of the proposal.
- b. A description of the subject property reasonably sufficient to inform the reader of its location, including street address, if available, map and tax lot number, and zoning designation.
- c. A statement of the facts that the review authority relied upon to determine whether the application satisfied, or failed to satisfy, each applicable approval criterion.
- d. The decision to approve or deny the application and, if approved, any conditions of approval necessary to ensure compliance with the applicable criteria. If the application is denied, written reasons for the denial will be ~~provide~~provided to the applicant.
- e. The date upon which the decision rendered shall become final, unless appealed. The decision shall state the date and time by which an appeal must be filed. The statement shall reference the requirements for filing an appeal of the decision.
- f. A statement that the complete public art mural application file is available for review, including findings, conclusions, and any conditions of approval. The decision shall list when and where the case file is available and the name and telephone number of the City representative to contact about reviewing the case file.

1.7.2.4 Appeals

A decision on the approval, approval with conditions, or denial of the public art mural application may be appealed by filing a written request to the City Manager within 14 calendar days of the date on the notice of decision. If the 15th day falls upon a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

1.8 Original Art Murals

Original Art Mural standards

Original Art Mural definitions, prohibitions, permitting process and other standards shall be consistent with those set forth in section 1.1 through 1.7 of this policy.

a. An original art mural may comprise up to 40% of the surface area of a building wall. The area allowed for an original art mural is considered in conjunction with the size regulations for other wall signs, as allowed by the sign districts in Chapter 14.16, so that the combination of the wall sign and original art mural shall not exceed 40% of the wall face.

b. An original art mural may wrap around the corner of a building, but the area of the mural on each wall shall be calculated separately.

c. The area of an original art mural includes the area within a rectangular-shaped perimeter enclosing the limits of any lettering, writing, representation, emblem, symbol, figure, drawing, character, or large-scale pattern. If the mural consists of more than one section without a painted background, each section area will be calculated and all areas will be totaled. If the mural consists of more than one section with a painted image background, the area is calculated within a perimeter enclosing the entire limits of the mural. To simplify area calculation, the smallest dimension of any rectangular-shaped perimeter enclosing a section of the mural shall measure 2 feet.

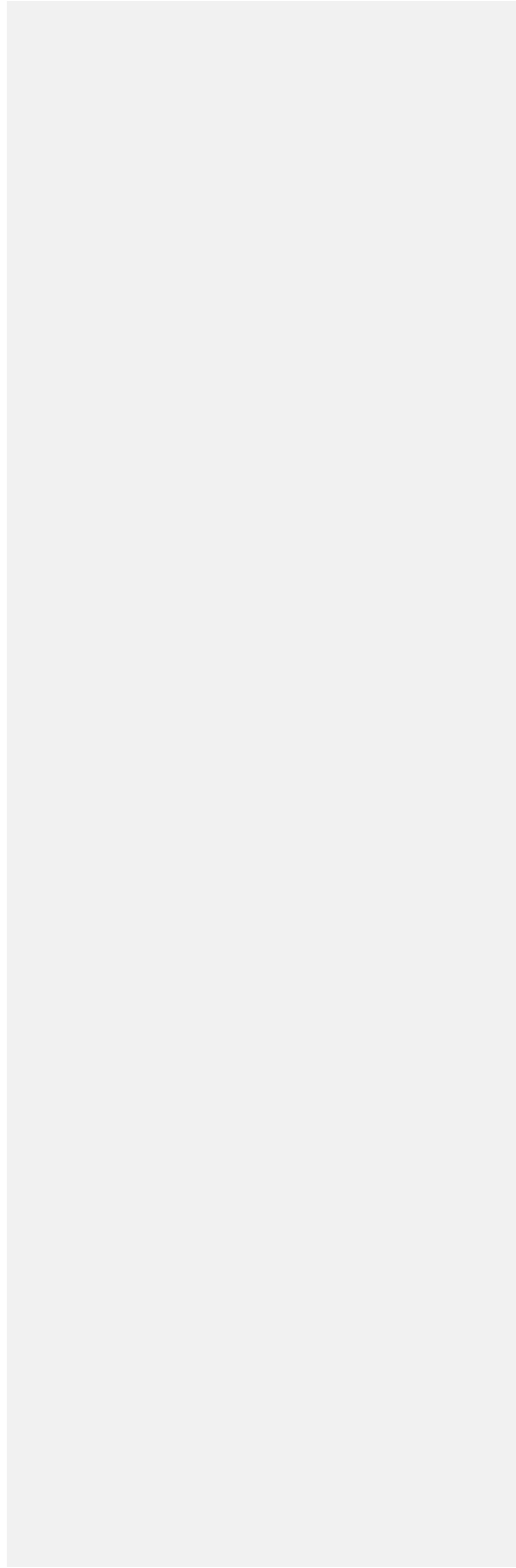
d. No compensation may be given or received for placement of an original art mural. Prior to issuance of a sign permit for an original art mural, the building owner shall provide an affidavit that no compensation was or will be received for placement of the original art mural.

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e. Where compensation is involved, nothing in the mural code shall prohibit an original art mural from being permitted as a wall sign, as allowed per the sign district in which the property is located.

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CITY OF MOLALLA

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Staff Report

Agenda Category: Training – Conflict of Interest

DATE: 9/6/2023

From: Ronda Lockwood, Support Specialist

Approved by: Mac Corthell, Community Dev Dir

SUBJECT: Training – Conflict of Interest

FISCAL IMPACT: None

RECOMMENDATION/RECOMMEND MOTION: Planning Commission to review and discuss the rules and ordinances regarding Conflict of Interest.

BACKGROUND: City staff submits this attached training synopsis regarding Conflict of Interest to the Planning Commission. The proposal is to renew the topic with veteran members and introduce it to newer members to help guide them through future situations where Conflict of Interests might present themselves.



Planning Department
315 Kennel
PO Box 248
Molalla, Oregon 97038
Phone: (503) 759-0205
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City of Molalla Planning Commission Training: Conflict of Interest

September 6, 2023

Overview:

Merriam-Webster Law Dictionary (2000, accessed online) defines the term "Conflict of Interest" as follows:

a conflict between the private interests and the official responsibilities of a person in a position of trust

Encountering situations where a conflict arises is not necessarily a bad thing as everyone has contacts and interests outside of public office. It becomes a bad thing if conflicts are not identified, declared, and managed before public officials engage where a conflict is present.

Conflict of interest is covered in Chapter 244 Government Ethics of ORS and applies to all public officials. This includes government employees, appointees, elected officials, or agents.

MMC Chapter 1.02.180 *Oregon Ethics Commission requirements and reporting* defers to ORS 244 but in section B reiterates:

Councilors must give public notice of any conflict of interest or potential conflict of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, Councilors will maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims and transactions coming before the Council.

Sources of Conflict:

- Direct benefits to Family as defined by ORS 244.020 (16)
 - o Includes direct family of spouse.
- Direct benefits to business as defined by 244.020 (2) and (3)
 - o Private business interests over \$1000 to the person or a relative
 - o Stock interest over \$100,000 to the person or a relative
 - o Public business in which the person or relative is a director.
 - o Any source of income listed as an economic interest.

Three Categories of Conflict:

1. Actual Conflict of Interest – ORS 244.020(1)

“Actual conflict of interest” means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person’s relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (13) of this section.”

Example of Actual Conflict of Interest

A Commissioner’s relative is the applicant for a quasi-judicial review that the Commissioner sits on OR a Commissioner has a financial interest in a company that is contracting/subcontracting for a proposed project.

2. Potential Conflict of Interest – ORS 244.020(13)

“Potential conflict of interest” means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person’s relative, or a business with which the person or the person’s relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation, or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person’s official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person’s relative or business with which the person or the person’s relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.” - ORS 244.020 (13)

Example of Potential Conflict of Interest:

A proposal is on the table for a new allowed use. A commissioner is involved with business that could directly benefit from the passing or failure of this proposal even if there isn't a direct financial benefit on the table. E.g., an owner of a brick-and-mortar food establishment presiding over a proposal for food carts.

3. Perceived Conflict of Interest

ORS includes these as either actual or potential conflicts but third category where there may not be an actual conflict of interest, but a reasonable person may assume that there is one. E.g., A city councilor votes to appoint a campaign supporter to a city commission over another candidate when both individuals are equally qualified.

How To Handle Conflict Situations:

1. Ensure you have filled out statement of economic interest forms pursuant to ORS 244 annually, prior to April 15th.
2. Report conflicts you know to your appointing body.
3. Announce any actual or potential conflicts of interests you may have prior to taking action on any matter and
4. In the case of actual conflicts of interest refrain from discussion or voting on the matter of conflict
 - a. Unless your vote is necessary to meet a minimum requirement of vote. In this case the Commissioner would refrain from discussion only

Big Takeaway:

If there is the potential for a conflict, disclose, disclose, disclose.

Resources:

ORS 244 Government Ethics

<https://www.oregonlaws.org/ors/chapter/244>

MMC Chapter 1.02.180 Oregon Ethics Commission requirements and reporting.

http://qcode.us/codes/molalla/view.php?topic=1-1_02-1_02_180&highlightWords=conflict

League of Oregon Cities provides a good summary resource here:

https://www.orcities.org/application/files/9715/9917/4963/Handbook_-_Chapter_8_Ethics.pdf