TITLE IV

LEGAL ISSUES AND REQUIREMENTS

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CHAPTER 4.02

LAWS AFFECTING CITIES

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4.02.010 Political Subdivisions of the State. Local governments, which are not mentioned in the United States Constitution, are basically creatures of the state and all are public municipal corporations. They are subject to federal restrictions on states, but the main sources of law governing them are the state constitution, statutes and state courts. The law grants local governments powers of various types to carry out their functions. Those powers differ in many respects from the powers of private corporations. City charters and ordinances are the sources of law that govern a city's actions and decisions on matters reserved exclusively for local control under "home rule." However, local laws may not conflict with the state constitution or certain state laws that are intended to preclude inconsistent local enactment.

Several provisions for local government and more numerous restrictions on it appear in the Oregon Constitution and a substantial portion of the Oregon Revised Statutes is devoted to local government -- ORS Chapters 221 to 227 deals with city government; Chapter 294 outlines the Local Budget Law; Chapters 295-297 deals with public funds and financial administration; and Chapter 250 contains the provisions for local initiative and referendum. Judicial decisions that interpret constitutions, statutes, charters and/or ordinances are also an important source of law affecting cities.

4.02.020 Municipal Power. Municipalities are empowered to acquire, manage and dispose of property (including eminent domain powers); to employ persons (although a higher standard of fairness and nondiscrimination is required than of private employers); to raise revenues; levy taxes; impose fees; levy assessments for improvements; impose service charges; sell goods and services and to borrow money through bond issues to pay for improvements; to enter into contracts, following the competitive bidding laws; and to preserve and promote "the order, safety, health, morals and general welfare of the public."

There are multiple types of powers exercised by local government. If a power is exercised to require or prohibit certain conduct -- independent of an existing legal requirement or prohibition -- the exercise is legislative or "lawmaking." If the purpose is to execute or administer a requirement or prohibition, the power is executive or administrative. If the purpose is to settle a dispute about a requirement or prohibition or how it is to be interpreted or applied, the power is judicial. For example, a zoning ordinance would be adopted through a legislative act; issuing a building permit would be an exercise of executive or administrative power; a decision regarding an alleged violation of a zoning ordinance would be a judicial decision.

Most local government powers are "intramural" meaning the powers can only be exercised inside the city limits. Extramural powers, those exercised outside the jurisdictional boundaries of the city, can only be granted by the constitution or by statute. Extramural power could be granted to a city to acquire land outside its boundaries for parks or to build and maintain a sewage or water facility outside of town.

Even though power is granted to cities through the constitution, the statutes, our charters and ordinances, we also have to remember that those same mechanisms restrict municipal power as well. Cities are subject to statutory, constitutional, judicial and charter limitations. As mentioned above -- the U.S. Constitution doesn't mention local government, but the limitations it places on states also affect local government because cities are considered a part of the state. The statutes limit expenditures in excess of the city's adopted budget; prohibit "secret" meetings of the Council; define unfair labor practices; etc. By judicial decision, city ordinances must be "reasonable" and two cities cannot exercise the same powers in the same territory at the same time. Our own charters typically have strict requirements on the process of adopting ordinances.

In general, grants of power to local government are strictly construed, and doubt is usually resolved against the local government and in favor of the individual. Therefore, Recorders should be knowledgeable of their city's limits and restrictions -- as well as the powers it has been afforded.

4.02.030 <u>Home Rule</u>. The term "home rule" refers to the extent to which a city may set policy and manage its own affairs. Without any home rule, state law would control every aspect of municipal government --- even the finances. Some states allow minimal home rule -- this is considered "statutory home rule." Oregon, however, allows a broad range of home rule powers to cities, called "constitutional home rule." The 1941 Incorporation Act says a city operating under the Act may "take all action necessary or convenient for the government of its local affairs." Under Oregon home rule provisions, the voters of cities have taken from the state legislature and reserved to themselves, the power to adopt and amend their own city charters.

Most city charters include a "general grant of powers" provision that permits the Council to decide on matters relating to its organization, powers, functions and finances without recourse to the state legislature. City charters not having this "general grant of powers" have "enumerated powers" -- specific authorizations for the city to exercise certain powers (issue bonds, acquire property, etc.) and perform certain functions (license and regulate businesses, construct facilities, etc.). A charter with enumerated powers limits a city's authority and must be amended when powers or functions are found lacking.

4.02.040 <u>Liability of Municipal Governments</u>. Municipal governments are subject to liabilities much like natural persons. Municipal governments act only through their agents, and as an agent's principal, the government is responsible for acts of an agent when the acts are within the agent's authority. As officers and employees are agents of municipal government, they too are generally subject to personal liability for acts they commit as government employees. The main exception to general liability of municipal government is a limitation on criminal liability -- since there is no actual "person" to incarcerate or punish.

4.02.050 <u>Crimes and Torts</u>. Although a municipal government cannot be "punished" for a crime committed by one of its agents, cities are sometimes made subject to fines and punitive or exemplary damages for such things as denial of civil rights or restraint of trade. Cities are bound by contractual rules and are also liable for a breach in a contract, a judgment for damages or an order to comply with their contractual duty by performance of the contract terms.

Torts are injuries or wrongs done to the person or property of another, in contrast to crimes -- which are considered wrongs to the public in general. The same conduct may constitute both a tort and a crime. The enactment of the 1967 Oregon Tort Claims Act (OTCA) generally made cities liable for torts of their officers, agents and employees if the torts are committed within the scope of their employment -- but it also made several exceptions that preserve or create certain immunities for cities. The OTCA also provided that public officials were to be defended and

held harmless by their public body for actions taken in their official capacity, except for malfeasance in office or willful or wanton neglect of duty. A public official tort may take any one of the three following forms:

- **Nonfeasance:** a tort committed when a public official forgets or otherwise omits doing a required act; for instance, failure of a City Recorder to record a document which the duties of the office obligate the Recorder to record and such failure to record the document results in some type of injury or damage to a person or property;

- **Misfeasance:** a tort committed when a public official performs a lawful act in an illegal or improper manner; for example, a firefighter who, although he is authorized to drive a fire truck, does so recklessly and causes injury to a person or property; or

- **Malfeasance:** a tort committed when a public official does something that should not be done at all; for example, a police officer arrests someone without any reason to do so and the person arrested claims injury due to the arrest.

In order for a tort to occur, there must be an injury to a person or property, as well as a wrongful act or omission; if no injury occurs as a result of the wrongful behavior or failure to act, no tort has been committed. A review of ORS 30.260 to 30.300 will acquaint you with the tort law.

CHAPTER 4.04

FORMS OF MUNICIPAL GOVERNMENT

Sections:

4.04.010 Generally
4.04.020 Major Variables in Governmental Form
4.04.030 Weak-Mayor Form
4.04.040 Strong-Mayor Form
4.04.050 Commission Form
4.04.060 Council-Manager Form
4.04.070 Hybrid Forms

4.04.010 Generally. A city's form of government defines its internal organizational structure -- the relations among its electorate, its legislative body and its executive officials, and the respective roles of each in the formal decision-making process. The form of government is often said to be less important to the quality of a city's performance than the personal qualities and abilities of its city officials and employees. Nonetheless, issues do arise on questions of governmental form, and a general understanding of alternative approaches is useful to City Recorders.

4.04.020 Major Variables in Governmental Form. Although there are four basic forms of city government, rarely does the organization of a city adhere completely to one form. A city's governmental form depends on the way its charter deals with several types of variables. In a few cities that have no charter, state statute provides the form of government.

- **Election vs. Appointment:** While all Councilors are elected, the Mayor may be either elected by the people or appointed by the Council from among its own members. Most city administrative officers and municipal judges are appointed, but about a dozen Oregon cities elect the municipal judge, and a very few elect the City Recorder and/or Treasurer. In Portland, the Mayor and other members of the Council also function as administrators of the city departments.

- **Territorial Representation:** Election of the Council can be either "at-large" (city-wide) or by district or ward. Some cities use a combination of these approaches: nomination from a district and election at-large. Cities that elect by district must comply with the "one-person, one-vote" requirement, which means that elected officials must represent roughly equal numbers of the population -- thus giving "equal representation."

- **Nonpartisanship:** In contrast to most Oregon county governments and to city governments in some other states, elective offices in Oregon cities are filled by nonpartisan elections. This is a matter of tradition and choice, since nothing in the state Constitution prevents a city from adopting a charter provision for partisan elections.

- **Council Size and Term:** Oregon cities have Councils of fewer than ten members, although there is a variation in Council size -- from five to nine members. Most Councilor terms are four years, but a few cities have two-year terms. Several cities have two-year terms for the Mayor, even though the Councilors serve for four years. A few city charters provide a limit for the number of terms that one individual may serve as Mayor or Councilor.

- **Separation of Powers and Functions:** Local government in the United States often does not operate under the separation of powers that is required for the federal government by the United States Constitution and for state governments by state constitutions. However, charters and statutes often require some type of separation of powers and functions in local government. In traditional Council-Manager government, for instance, the charter accords legislation and other basic policy making to the City Council, administration to the City Manager, and adjudication to the Municipal Judge.

- **Executive Authority:** The key variable that characterizes different forms of city government is the way executive authority is structured. A city's chief executive power may be vested in a single officer or it may be divided among several offices (in Oregon, only Portland has more than one chief executive [see 4.04.050]). The chief executive body or officer may be elective or appointive, and its powers may be extensive or limited in relation to the powers of the Council and other executive officers.

4.04.030 **Weak-Mayor Form.** In the Weak-Mayor form of city government, the elected Council is the legislative and basic policy-making body of the city. Council committees such as parks, public works, public safety, etc., are often responsible for day-to-day oversight of city activities, and may appoint or recommend the appointment of some or all administrative personnel of the city. Some administrative offices, boards and commissions may be elected. The Mayor, who in some instances is elected and in others is appointed by the Council from its own members, is the ceremonial head of the city and presiding officer of the Council. Often, the Mayor does not appoint administrative personnel, has no special administrative responsibility and has no power to veto ordinances adopted by the Council. For these reasons, this form of government is called the "Weak-Mayor Form." Most small cities in Oregon have this form of government.

4.04.040 **Strong-Mayor Form.** The other Mayor-Council form of government differs from the Weak-Mayor form mainly by making the Mayor the chief executive of the city. In addition to being ceremonial head of the city and presiding at Council meetings, the Mayor has the power to appoint all or most administrative personnel of the city and has general responsibility for proper administration of city affairs. The Mayor usually has the power to veto ordinances adopted by the Council. Because of the dominant role of the Mayor, this form of government is called the Strong-Mayor Form. Few cities in Oregon have this form.

4.04.050 **Commission Form.** Only Portland has the Commission Form of government in Oregon. (Note: Oregon City, Warrenton and Bend use the term "Commission" rather than "Council," but they do not have the Commission Form of government.) In this form, the voters directly elect the city's major department heads, who collectively function as the City Council. The Mayor's role is largely ceremonial in most Commission cities, although in Portland, the Mayor has the power to assign and reassign bureaus among the five City Commissioners -- a power that is used to strengthen the Mayor's leadership role in city government.

4.04.060 **Council-Manager Form.** All Oregon cities over 2,500 population have the Council-Manager or Council-Administrator Form except Portland (Commission-Form), Beaverton and Burns (Strong-Mayor Form), and Lakeview (Weak Mayor Form.) The chief characteristic of this form is that the Council appoints a qualified professional person as City Manager or Administrator to take charge of the daily supervision of city affairs. The Manager or Administrator serves at the pleasure of the Council. The theory underlying the Council-Manager plan is that the Council sets policy and the Manager carries it out.

An absolute separation between policy and administration does not really exist in city government. However, the Council-Manager plan works best when the Council exercises its responsibility for policy leadership and respects the Manager's leadership role and responsibility for administration.

Council-Manager charters commonly include specific provisions that prohibit individual Councilors from giving orders to city employees or from attempting to influence or coerce the Manager with respect to appointments, purchasing or other matters. However, the charters do not prohibit, and may affirmatively provide for, the Council discussing administrative matters with the Manager in open meetings.

Many small cities in Oregon have established a City Administrator position instead of a City Manager position. This is usually accomplished by ordinance rather than by charter, and occasionally a city sets up such a position merely by budgeting for it. The duties and responsibilities of City Administrators vary. In some cities, they are indistinguishable from those of a City Manager; in others, the Administrator may share administrative duties with the Council or its committees, including hiring and firing department heads.

4.04.070 Hybrid Forms. Certain city governments may possess some of the characteristics of two or more of these basic forms and may be considered "hybrid forms." A Weak-Mayor City, for example, may have few, if any, independently elected or appointed officers or boards, and a Council-Manager City may have a relatively strong Mayor who appoints most city board and commission members, has veto power over ordinances passed by the Council and exercises considerable power as presiding officer. Frequently, specific local circumstances require that actual city operations deviate somewhat from the formal structure, as sometimes happens when a City Administrator gradually assumes increased responsibility to the point where his/her functions become indistinguishable from those of a City Manager. Other circumstances, including the interest, capabilities and personalities of city officials and employees, may cause a city government to function differently than might be expected on the basis of its formal structure.

CHAPTER 4.06

LEGISLATIVE PROCEDURES

Sections:

4.06.010	**Legislative vs. Quasi-Judicial Procedures**
4.06.020	**Ordinances**
4.06.030	**Resolutions**
4.06.040	**Original Documents Retained**
4.06.050	**Motions**
4.06.060	**Public Hearings**
4.06.070	**Appeal Procedures**
4.06.080	**Separation of Powers and Functions**
4.06.090	**Ethics and Conflicts of Interest**

4.06.010 Legislative vs. Quasi-Judicial Procedures. Legislative acts affect a broad class of individuals and set general rules and/or public policy. In legislative matters, Council has discretion on whether or not to consider the matter. Quasi-judicial actions are narrower in scope and focus on specific situations where a process, once initiated, must be carried through to final resolution or decision. The distinction between the two processes determines the extent of procedural safeguards afforded members of the public who are affected by a proposed action.

In local government, quasi-judicial action must afford affected parties a wider range of procedural rights than is required for legislative action. The procedures for legislative actions are more simple than those followed in quasi-judicial actions, but legislative proceedings make it more difficult for an aggrieved member of the public to attack the validity of the action. The courts will uphold legislative action unless it was unauthorized, unconstitutional or the result of arbitrary and capricious action. There is no requirement for a governing body taking legislative action to be impartial in arriving at a decision. Recorders should be familiar with and sensitive to the distinction between the two types of actions because of the important differences in the procedures to be used.

The City Recorder is required by statute to perform certain legislative functions such as maintaining the official record of Council minutes, ordinances, resolutions, etc. and Recorders are typically very involved in the legislative proceedings of their city. This Chapter discusses various legislative areas where the City Recorder might desire clarification -- for instance, the methods by which Council may take action. The list is not all-inclusive, but is representative of the types of legislative areas in which the City Recorder may be expected to be knowledgeable.

4.06.020 Ordinances. Ordinances are the laws of a municipality and are the most binding form of action taken by the City Council. Existing ordinances may only be amended or repealed by another ordinance. Ordinances are always required when the law will impose a penalty by fine, imprisonment or forfeiture; and when state law expressly requires the action be taken or policy adopted by ordinance. Actions which have a general legislative purpose must be done by ordinance.

Ordinances typically contain a title which completely describes the content of the ordinance; recitals which outline the background and purpose for the ordinance (the "whereas" clauses); a statement which reads: "Now therefore, the City Council of the City of _____ hereby ordains as follows..." (this is known as the "ordaining clause"); and the sections, which actually state the legislation being enacted. Ordinances are signed by the Mayor and attested by the Recorder and include the date of passage. The City Recorder is typically responsible for assigning the

ordinance number. Most city charters prescribe the method in which ordinances are to be adopted; whether or not the Mayor can veto ordinances; the time required for an ordinance to become effective; and the requirements for an ordinance containing an emergency clause. Some charters also require that the vote include how each councilor voted.

A municipal code is a compilation of all legislative and penal ordinances of a city in one document. City Recorders are typically responsible for maintenance of the code and are expected to know the provisions of the code "practically by heart." They also usually have authority to administratively correct typographical or reference errors contained in the code or to any ordinance adding, amending or repealing any provision of the code. New ordinances should always refer to the code section they are creating, amending or repealing -- never to a prior ordinance -- this ensures proper maintenance of the code. Some cities have their code professionally published and maintained by a firm specializing in that field (for example: Lexis Nexis; Code Publishing, American Legal Publishing) and some cities do in-house codification, publication and updating. If your city does not have a municipal code, please contact OAMR for a reference to another Recorder who can help you get started on putting one together. The municipal code is probably the most important city document you will ever deal with....after all, it is a collection of the laws of your city. It is very important that the code be kept current and up-to-date at all times.

4.06.030 Resolutions. Resolutions, in contrast, are more "temporary" in nature than ordinances and are a less "formal" way Council can take action. A resolution can be an expression of Council consensus concerning temporary matters; a statement of policy; or a way of granting special privileges. Resolutions typically take effect immediately upon adoption and are always used to repeal or amend a prior resolution.

4.06.040 Original Documents Retained. The originals of all ordinances and resolutions are permanent records and should be treated with care. The Recorder should set up a system of tracking ordinances and resolutions, including an index by subject matter as well as a chronological list of the ordinances and resolutions. In addition, the Recorder should keep the originals in a hardback book designed specifically for official permanent records such as minutes, ordinances and resolutions. These are the "history books" of your city and should never be destroyed. Certified copies of ordinances and resolutions may be prepared by the Recorder to satisfy requests by the public; however, the original ordinances and resolutions should stay in the Recorder's possession and control at all times.

4.06.050 Motions. Motions are the least formal means by which Council takes action -- less formal than an ordinance or a resolution. Motions are used to approve minutes, adopt an ordinance or resolution, award a construction contract, etc. They are made orally and need only be seconded to be brought before the Council for discussion and a vote.

4.06.060 Public Hearings. With the exception of elections, public hearings are the most traditional and most prevalent way of getting citizens involved in local government decisions. Many Council's hold public hearings on certain topics, not because it is a required process of law, but because they want to strongly encourage public involvement. However, there are certain legislative actions that require public hearings prior to a Council decision being made. For example, a public hearing must be held prior to budget adoption; prior to submission of an application for certain types of grants; and prior to a decision on endorsement of a liquor license application for a new outlet. In general, a public hearing is an open consideration during a regular or special Council meeting for which special notice has been given. The notice requirements for mandatory public hearings are set by statute or ordinance.

During a specified portion of the hearing, concerned individuals are invited to present their opinions regarding the subject under consideration. A public hearing is open to everyone who wishes to speak. Depending on the subject of the public hearing, notice of the hearing may be required to be delivered only within the area directly involved in the subject of the public hearing. Public hearing notices may be required to be posted, published and mailed. Recorders should be careful to always refer to the municipal code, state statute, and/or the City Attorney to make sure notice requirements are met. Recorders should keep copies of the notices posted, published and/or mailed -- along with certificates attesting to their authenticity for proof that the public hearing was held, and that notice was given, in accordance to law.

4.06.070 **<u>Appeal Procedures</u>.** State law and/or city ordinances provide that many actions of the city's top administrative officer (City Manager or Administrator) and decisions of various city advisory boards and commissions are appealable to the City Council. The Recorder should be familiar with the applicable code provisions regulating the appeal. The Recorder sometimes determines the date for the hearing before Council; in some cities the hearing date must be set by Council; in others, the Mayor or City Manager sets the hearing date. In some cities, appeal forms may be provided by the Recorder and should include a space for the appellant's name, address and phone number, a description of the matter or decision being appealed and a space for the appellant to explain the grounds or basis for the appeal. Your City Attorney should be able to help you with the appeal process.

4.06.080 **<u>Separation of Powers and Functions</u>.** As noted in the previous Chapter, in most charters, legislative authority is typically granted to the Council; administrative authority to the City Manager; and judicial authority to the Municipal Judge. As the "legislators" of the city, Council clearly has the dominant voice in policy matters; they do not have a "corner" on setting policy, but they do serve as the highest authority within city government in resolving issues of policy. Only the Council may pass an ordinance, adopt a comprehensive plan, or otherwise put a plan into final form or direct a final course of action. The budget is the major vehicle for making city policy decisions -- and only the Council may adopt the budget.

4.06.090 **<u>Ethics and Conflicts of Interest</u>.** Public officials' ethics and conflicts of interest are covered by various constitutional provisions, common law, state statutes and, occasionally, charter or ordinance provisions. There is some question as to whether or not the constitutional provisions apply to local officials. However, state law (ORS 244.040) requires that public officials (including local officials) not use their official positions or offices to obtain financial gain other than official salary, honorariums or reimbursement of expenses. The law also limits the value of gifts that officials, candidates or members of their families may solicit or receive, or that any person may offer. It also prohibits public officials from soliciting or receiving offers of future employment in return for influence and from furthering their personal gain by use of official information.

In 2007, there were major changes to ethics laws. The new laws deal with gifts, travel restrictions, nepotism, personal bias, annual reporting, and conflicts of interest, among other items. The application of some aspects of the laws are still being evaluated by the state. For the most current application opinions refer to the website at ogec.state.or.us. The Oregon Government Ethics Commission can be contacted at 503.378.5105; email ogec@state.or.us; and address 3218 Pringle Road Suite 220, Salem, OR, 97302. Every Recorder should obtain a copy of their Guide for Public Officials. The League of Oregon Cities is also a resource.

While the law does not specify prohibited behavior, it does impose extensive reporting requirements. Most city officials and candidates are required to file annual verified statements of economic interest (called SEI's) which become a matter of public record. A few cities voted against the statewide referendum measure that enacted this requirement, and officials of those cities are exempt from it. City elected officials, City Manager, Municipal Judges, Justices of the Peace and members of some local boards and commissions (primarily Planning Commission), are required to file these statements by April 15 each year. Additionally, public officials must file a quarterly report. City Recorders, by statute, are responsible for supplying this information to local officials and updating the Oregon Government Ethics Commissions (on an annual basis) of the names of local officials subject to the reporting requirements.

All elected and some appointed officials serving on boards or commissions must state the nature of any potential conflict of interest by publicly announcing it before taking any action on the matter giving rise to the conflict. Appointed officials other than those serving on boards or commissions (City Manager and all Department Heads, etc.) are required to notify the Council or City Manager (as appropriate) in writing of any potential conflict, leaving disposition of the matter to the proper authority.

In addition to being subject to civil sanctions, some conflicts of interest may be subject to criminal penalties under the "bribe receiving" statute. When a public servant solicits or agrees to accept pecuniary benefit upon agreement that his/her vote, opinion, judgment or action will thereby be influenced, he/she commits a Class B felony (ORS 162.025).

Some city charters contain additional sanctions against conflicts of interest. This is an area City Recorders should strive to be familiar with. Every Recorder should obtain a copy of the manual called the Oregon Government Standards and Practices Law - A Guide for Public Officials from the Commission, which may be reached at 100 High Street, SE, Suite 220, Salem, OR 97301, Phone 503/378-5105, and email gspc@state.or.us.

CHAPTER 4.08

ELECTIONS

Sections:

4.08.010 **Overview of City Elections**
4.08.020 **Election of City Officials**
4.08.030 **Initiative, Referendum and Recall**
4.08.040 **Promotional Activities by City Employees Prohibited**
4.08.050 **Election Duties of the Recorder**

4.08.010 **<u>Overview of City Elections</u>.** Voters influence the policies and actions of government at its locally responsive level by electing city officials and voting on local measures. Mayor and Council positions are the elective offices most commonly found on a city ballot, but occasionally other officials (such as City Recorders and/or Utility Board members) are also elected. Measures that appear on city ballots are proposed by city officials or by citizens through the initiative and referendum process -- and the issues are of great variety.

The Secretary of State is the chief executive primarily responsible for elections in Oregon. Oregon laws applicable to city elections are found in ORS Chapters 221, 246, 249, 250, 251, 254 and 260. Many city charters and codes also prescribe election provisions. The City Recorder is typically the "City Elections Officer." The Secretary of State's Election's Division office provides manuals on local elections, initiative and referendum, recall and campaign finance regulations for use by City Recorders. County Clerks in Oregon have the responsibility for conducting city elections and City Recorders work with them to ensure city election laws are followed. The State Election's Division is located at 141 State Capitol, Salem, OR 97310-0722, phone 503/986-1518, email elections-division@sosinet.sos.state.or.us, and website is http://www.sos.state.or.us.

4.08.020 **<u>Election of City Officials</u>.** Cities are required to hold regular elections for city officials on the same dates that state and county primary and general biennial elections are held -- the third Tuesday in May and the first Tuesday after the first Monday in November in even-numbered years. The statutes do, however, allow for special elections for city officials on other than those dates if death, resignation or other events reduce the membership of the Council below that constituting a quorum. Most cities have code or charter provisions that provide for appointment to Council vacancies that occur mid-term.

Most city charters or codes also set forth the qualifications for elective city offices, but some qualification requirements are set by state law and the state constitution. Nominating petitions and declarations of candidacy for municipal office must be filed with the City Recorder. Procedures for securing nominations vary among city charters and codes.

4.08.030 **<u>Initiative, Referendum and Recall</u>.** The Oregon State Constitution was amended in 1906 to provide direct voter initiative and referendum rights to city electors. The initiative is the power to propose and enact or repeal laws independent of the Council. The referendum involves submitting measures already enacted by the Council to a vote of the electors. The power to recall city elected officials before expiration of their terms was added in 1908. The Constitution allows cities the authority to adopt, by charter or ordinance, local procedures by which the

powers of initiative and referendum are exercised, but cities may not require petition signatures of more than 15% of the qualified voters for initiatives or 10% for referendum. The constitution does not specify the number of signatures needed on a petition to put a referendum or initiative measure on the city ballot -- this is typically set by city charter or the municipal code.

Recall technically applies to "every" public officer, but has only been directed at elected officials. A petition to recall a public official must contain signatures equaling at least 15% of the votes cast for governor in the official's district during the last election. The petition must contain the reason for the recall and must be filed with the City Recorder. After a recall petition is successfully filed, the official subject to the recall has five days in which to resign. If there is no resignation, a special recall election is required to be held within 35 days. A public official may be subjected to only one recall election during his/her term in office, unless the sponsors of a later recall effort are willing to pay the entire cost of the previous, unsuccessful recall election. A city official may not be recalled during the first six months of a term. Vacancies resulting from a recall are treated the same as vacancies cause by death or resignation -- which is usually by Council appointment as prescribed in most charters or municipal codes.

4.08.040 Promotional Activities by City Employees Prohibited. It is important to remember that the law prohibits city employees from actively "campaigning" for or against a city measure approved for placement on the ballot. The law also, of course, prohibits the expenditure of city funds to promote a "yes" or "no" vote on a city measure. Cities may provide factual information on a measure, but must be sure that the facts are not presented in a way that could be considered "favoring" a particular vote. We strongly recommend that informational material prepared on a matter scheduled to be on the ballot be reviewed by the City Attorney to ensure that the material does not have a promotional bias. City officials may be personally liable for city funds expended if their activities are determined by a court to be promotional rather than merely informational.

4.08.050 Election Duties of the Recorder. By law, County Clerks are the only elections officer authorized to conduct an election in Oregon. The duties of the County Clerk basically consist of establishing precincts and polling places, preparing ballots and sample ballots, receiving and processing the votes and supervising local elections officials (typically the City Recorder).

As the City's Elections Officer, the Recorder is responsible for city election duties that are not performed by the County Clerk. Such duties include accepting and verifying filing materials for nominations or petitions; preparing and submitting proposed ballot titles to the County Clerk (often the City Attorney actually prepares the ballot title); preparing voters' pamphlets (if the County doesn't do it for you); and preparing, posting and publishing election notices.

Recorders keep all city election records, including petitions and the necessary forms filed by candidates for city elected office or citizens proposing city measures. Recorders also carry out any election procedures outlined by charter or code and deliver various election related documents to the County Clerk. Other Recorder election related duties include: filing certified statements of candidates and measures with the County Clerk at a specified time before an election; accepting, inspecting, verifying and preserving pre-election contribution and expenditure statements; providing candidates and citizens filing petitions, the information necessary to participate in the local election process; presenting election results to the Council and posting the same; and within 30 days after an election, preparing and delivering certificates of election to each city candidate who received the most votes.

Cities are authorized by law to adopt ordinances regulating certain areas of the election process. It is important, therefore, for Recorders to be well acquainted with not only the election related provisions of state law, but also those found in their charter or code.

Elections in the state legislature should be closely monitored. A good resource is the OAMR Legislative Committee.

CHAPTER 4.10

CITY BOUNDARY CHANGES

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4.10.010 **Introduction**
4.10.020 **City Incorporation**
4.10.030 **Merger and Consolidation**
4.10.040 **Annexation/Withdrawal from Special Districts**
4.10.050 **Disconnections**

4.10.010 Introduction. The establishment, dissolution or change in city boundaries is governed almost completely by the constitution and state law. Cities within Multnomah, Washington and Clackamas counties that fall within Metro's boundary, must comply with ORS 222 and Metro Chapter 3.09 "Local Government Boundary Changes." The cities in Lane County are served by a boundary commission so the procedures are different. Procedures also vary depending on the particular circumstances -- for instance, whether an election was requested by petition or whether a health hazard exists. To become acquainted with the provisions of state law, see ORS Chapters 199 (for cities served by boundary commissions) and 222 (for other cities).

Where a city boundary lies determines many conditions that affect the property and interests of persons who live on either side of it. Because of the importance of boundaries, and because of the controversy that often arises when a change in a city boundary is proposed, Oregon law provides several safeguards to prevent arbitrary boundary changes. The law prescribes a detailed process, with complicated requirements for petitions, hearings and elections. For those cities having a boundary commission, the process is different and requires a review of the proposed changes by the state-appointed commission. The Land Conservation and Development Commission (LCDC) makes boundary commissions responsible for ensuring that the annexation is in conformance with the statewide goals, even though the same rule permits the commission to use the findings of the city in making its determination.

4.10.020 City Incorporation. City incorporation occurs when residents of an area decide that the public services needed by the area can best be provided by an independent general purpose government. The decision to incorporate must come from the voters residing in the area. An area that has at least 150 residents and is not included in another city may be incorporated as a city. On receiving a petition signed by the required number of legal voters in the proposed city, the county governing body conducts a hearing to determine appropriate boundaries, calls an election in the area as originally proposed or as adjusted, and, if a majority of those voting approve the proposal, the city is incorporated. Incorporation is a land use decision and therefore involves application of the statewide planning goals as adopted by LCDC.

Note: A city that has no debt may surrender its charter and disincorporate by following the procedures for petition and election contained in ORS 221.610 to 221.650.

4.10.030 Merger and Consolidation. Two or more cities may unify and become one by merger or consolidation. In a merger, one city goes out of existence and its territory becomes part of another. In consolidation, both cities go out of existence and a new city is formed. In a consolidation, unincorporated areas may be included along with the city areas. A merger or

consolidation is achieved only with separate voter approval from each area involved. Under a boundary commission, merger and consolidation proposals must follow the same commission processes as those required for new incorporations.

4.10.040 **Annexation/Withdrawal from Special Districts.** Annexation extends the boundaries of a city by bringing unincorporated areas into the city. Usually, these areas are located adjacent to an incorporated city. Annexation generally must be sought by the residents or owners of the land in the area. It also must be acceptable to the city.

Through annexation, city services become available to residents previously outside of the city. Once an area is annexed, the city replaces the county as the primary provider of local government services. In the city, these services could include police; fire; water and sewer services; transit service, if applicable; residential refuse service; animal control; zoning and land use planning; building regulation and inspection; and improvement and maintenance of streets, parks and recreation services. Some cities contract for many of these services.

Under the general municipal annexation law, in order to be annexable to a city, territory must lie outside other cities or be contiguous to the city or separated by no more than a public right-of-way, stream, bay, lake or other body of water (except in areas served by a boundary commission).

City annexations must be consistent with goals developed by LCDC or with the city's acknowledged comprehensive plan. The comprehensive plan establishes the areas of potential annexation through its urban growth boundary. Before a City Council may proceed with an annexation, it must make findings demonstrating compliance with the comprehensive plan (this is often done on the planning commission level before the proposed annexation comes to the Council).

Contract annexation occurs when an owner of land outside of a city seeks a service but the city is unwilling, or unable, to annex the land at the time of the request. The city and the landowner enter into a written agreement stating that the city will provide the service before the land is annexed and that the landowner consents to the annexation later at the option of the city. This single-owner annexation is provided for in ORS 222.125. The area served must be within the urban growth boundary unless an amendment to the urban growth boundary is being made.

The County Assessor is required, "upon official request," to furnish the city a statement showing the current assessed value of the taxable property in the territory proposed to be annexed. Notice of boundary changes must be given to the County Assessor and the State Department of Revenue by March 31st of any year for the property to be taxed.

When a city annexes area that is part of a special district (for example: a rural fire district, water district, special road district, etc.), the city may cause that part (that being annexed) to be withdrawn from the district. The withdrawal may be done at the time of annexation (via the same ordinance) or at any later time. It is strongly recommended that the withdrawal be done at the same time the area is annexed because until that formal action is taken, the area annexed remains part of the district and the district receives taxes from those property owners. Once the property is withdrawn, the district from which the property was withdrawn and the city, to which the property was annexed, must agree upon an equitable division and disposal of assets of the district in order to compensate the city for the liabilities assumed upon withdrawal of the property. See ORS 222.510 - 222.580 to become familiar with the withdrawal of property from service districts and the subsequent division of assets process.

4.10.050 **Disconnections.** The opposite of annexation, disconnection, retracts city boundaries by removing territory from a city. The Oregon Supreme Court has held that cities have home rule power to disconnect territory and has upheld the right of cities to do so by charter amendment. ORS 222.460 provides the procedures for withdrawal of territory from a city if not prohibited by city charter.

4.10.060 **Notification to Franchises and Utilities.** After annexation of property or disconnection from a boundary, franchises and utilities within that boundary must be notified via certified mail within 10 days of adoption by the local government.

CHAPTER 4.12

PUBLIC CONTRACTING AND PURCHASING

Sections:

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4.12.030 State Registration/License Required
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4.12.090 Protest of Contractor Selection/Contract Award
4.12.100 Terms and Conditions Applicable to Public Contracts

4.12.010 **Introduction.** City Recorders and other city employees participating in the contracting or procurement process should be familiar with the Public Contracting Code. Among the areas covered by the Public Contracting Code are competitive bidding and proposals; exemptions from competitive bidding, e.g., cooperative purchasing, special procurements, sole source contracts and emergency contracts; affirmative action contracts for disadvantaged businesses or persons such as women, minorities, emerging small businesses, qualified rehabilitation facilities, contract preference requirements for Oregon suppliers and recycled materials; bid solicitation, award, protest and appeal procedures; and prevailing wage requirements (both state BOLI and federal Davis Bacon Act).

Many City Recorders are intimately involved in the public contracting and purchasing done by their cities -- others may only be responsible for advertising and/or receiving and opening bids/proposals. Public contracting laws are quite detailed and complex and this Chapter of our manual will only touch on some of the major highlights of those requirements. Therefore, regardless of the degree of involvement you have with the process, it is highly recommended that you obtain a copy of the booklet called Oregon Attorney General's Public Contract Manual -- it is an excellent resource tool and will help you become more familiar with public contracting requirements. City Recorders are urged to consult with their city attorneys regarding specific questions and when applying the Public Contracting Code to specific contracts.

City Recorders should also be familiar with the Public Records Law’s confidential submissions and public trade secrets exemptions, to avoid pitfalls in public purchasing of good, services, personal services and construction of public works and improvements.

Public contracts are defined as the purchase, sale or disposal, rental, lease, or other acquisition of personal property, public improvements, services, including personal services, public works, or ordinary repair or maintenance necessary to preserve a public improvement by cities. ORS Chapters 279A, 279B and 279C (collectively “Public Contracting Code,” regulate public contracts by cities.

> Note: Frequently, the public contracting rules are thought to apply merely to the *acquisition* of personal property, but they also apply to the *rental* or disposal of property.

The Public Contracting Code is organized as follows:

- ORS Chapter 279A: applies to all public contracts.
- ORS Chapter 279B: applies to good and services and personal services not subject to ORS 279C.
- ORS Chapter 279C: applies to public improvements and selection of architects, engineers, land surveyors and related services.

"Public Contracts" do not include "grants," although it would include the city's *purchase* of goods or services with grant funds. [See ORS 279A.010(1)(i), (x)]. Intergovernmental agreements also do not fall within the scope of "public contracts" [ORS 279A.025(2)(a)], although ORS 279A.190 does authorizes transfer of fire fighting equipment to other "regularly organized fire departments," subject to certain limitations. See ORS 279A.025 for a listing of other types of transactions that are not "public contracts", e.g., sale or disposition of real property.

The Public Contracting Code was adopted in 2005 to simplify, clarify and modernize purchasing practices so that they reflect the marketplace and industry standards; to instill public confidence through ethical and fair dealing; to promote efficient use of state and local government resources; to identify rules and policies that implement state mandated socioeconomic programs; to allow impartial and open competition and to evaluate goods and services based on methods other than price to arrive at the "best value"; and to take advantage of evolving industry purchasing methods while preserving competitive bidding on public improvement projects. (ORS 279A.015)

Public contracts are, unless exempted, procured through written solicitation, public advertisement and the submission of written, sealed offers which are opened and read aloud at a publicly announced (through the advertisement) date, time and place. The resulting contract is typically awarded to the lowest responsive, responsible bidder, unless a different methodology is specified. Although alternative selection methods may be used in certain circumstances, many of the same competition-enhancing elements of the process (for example: public advertisement, a written solicitation and sealed, written offers or proposals) are still used.

Common exceptions to the competitive bidding requirement are:

- Purchase of goods or services with a value of less than $5,000 – select vendor in a manner determined to be "practical or convenient" (see ORS 279B.065)
- Purchase of goods or services with a value greater than $5,000 and less than $150,000 – select vendor following three competitive quotes (See ORS 279B.070);
- Sole-source procurement (See ORS 279B.075);
- Emergency procurements (See ORS 279B.080);
- Cooperative Procurements (See ORS 279A.200 – 279A.225).
- Qualified Rehabilitation Facility services (See ORS 279A.025(4)).
- Class Special Procurements - allows additional exemptions to be made by a local contract review board (often the City Council) See ORS 279B.085(1); and
- Contract-Specific Special Procurements (See ORS 279B.085(2).

Cities typically adopt ordinances outlining their individual purchasing and contracting policies, rather than utilizing the AG Model Public Contracting Rules (OAR 137-046, -047 and -050), based on authority granted by statute.

4.12.015 **<u>Cooperative Purchase / State Surplus Program</u>**. Oregon law permits cities to purchase items through the Oregon Cooperative Purchasing Program (ORCPP) without compliance with the competitive bidding requirements since the state has essentially already

performed this function for the city. Purchases through the state may include vehicles, office equipment and supplies. See http://www.oregon.gov/DAS/SSD/SPO/coop-menu.shtml.

The State Surplus Property Program exists to provide a central distribution point for surplus and seized or recovered public property for State Agencies and cities with emphasis on reutilization of property within the public sector. The state also auctions surplus equipment and furniture. See http://www.oregon.gov/DAS/SSD/SURPLS/index.shtml.

4.12.020 **Pre-qualification.** "Pre-qualification" refers to a decision made prior to the procurement process to determine a prospective bidder's or proposer's eligibility to submit a bid or proposal. Goods and Services: ORS 279B.120; Public Improvements: ORS 279C.430. Cities may require pre-qualification of persons or firms wishing to submit bids or proposals. When pre-qualification is required, cities should not consider a bid or proposal from any prospective person or firm who was not properly pre-qualified. Among other things, pre-qualification enables a city to determine whether a bidder or proposer has adequate financial, technical, personnel and facilities resources to perform the contracted work and also whether they have a positive record of integrity and satisfactory performance.

4.12.030 **State Registration/License Required for Public Improvement Contracts.** Competition for public improvement contract bidding is primarily limited to persons or firms registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board. Bids or proposals received from persons who fail to comply with this requirement are typically deemed non-responsive and are rejected and returned [ORS 279A.010(1)(p)], unless contrary to federal law (this limitation may not be allowed on certain projects if federal funds are involved). All advertisements for bids for public improvement contracts should require that the contractor's state registration/license number be clearly identified on the outside of the sealed envelope containing the bid or proposal. ORS 279C.365.

4.12.040 **Brand Name Products.** Specifications for public contracts cannot expressly or implicitly require any product by brand name or mark, or the product of any particular manufacturer or seller unless exempted by law. Cities may, however, identify products by brand names so long as "approved equal," "or equal," "approved equivalent," "or equivalent" or similar language is included in the solicitation for bids or proposals. ORS 279B.215.

4.12.050 **Use of Electronic Data Interchange (EDI).** If authorized by the City's public contracting rules, Cities may receive bids/proposals by use of electronic data interchange (for example: fax) but before doing so, several issues should be considered and a rule on the way bids/proposals received in this manner will be handled should be developed (for example: the issue of security and confidentiality). See OAR 137-47-0320, -0330. After development of such a rule, bids may be received by facsimile or EDI if the city has the equipment necessary and the prospective bidder who wishes to submit by EDI has entered into an agreement with the city which expresses the EDI standard by which data will be exchanged, as well as the rights and obligations of both parties in making the interchange. Cities should not accept bid or proposal security instruments (bonds) by telephonic facsimile or EDI. Electronic transmission may provide convenience for both cities and their prospective bidders and proposers, but if sent by EDI, bids/proposals must still be received by the city at the specified place, date and time as noted in the solicitation advertisement.

4.12.060 Solicitation of Bids/Proposals. The "call for bids/proposals" or "advertisement for bids/proposals" should be made available to a sufficient number of prospective bidders or proposers to foster and promote competition. A fee may be charged for the plans and specifications that contractors must obtain in order to submit bids for public improvements.

Unless exempted by law, all advertisements for bids/proposals must be published at least once in a newspaper of general circulation in the city requesting the bid or in as many additional issues and publications as the city may determine. ORS 279B.055; 279C.335. If the contract is for a public improvement with an estimated cost in excess of $125,000, the Model Public Contracts would require the advertisement for bids or proposals to also be published in at least one trade newspaper of general statewide circulation. See OAR 137-049-0210.

All advertisements for bids must state (ORS 279B.055; 279C.335):

- A description of the good, service, or public improvement project;
- The office where the specifications/scope of work for the project, good or service may be reviewed;
- The time, date and place that pre-qualification applications must be filed if pre-qualification is required;
- The date and time after which bids will not be received (the days differ depending on whether it is a good/service procurement or public improvement project). See ORS 279B.055 and ORS 279C.360.
- The name, title and address of the person designated to receive the bids/proposals and the contact person for the procurement, if different;
- The date, time and place that the public contracting agency will publicly open the bids; and
- If the contract is for a public works subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a).

In addition, the following language is required in the solicitation documents:

- A statement that the contracting agency may cancel the procurement or reject any or all bids, when the cancellation or rejection is in the best interest of the contracting agency as determined by the contracting agency. [See ORS 279B.100];
- A statement that each bid must identify whether the bidder is a "resident bidder" as defined in ORS 279A.120;
- Information addressing whether the contractor or subcontractor must possess an asbestos abatement license, if required under ORS 468A.720;
- All contractual terms and conditions applicable to the procurement;
- A statement that no bid for a Public Improvement construction contract shall be received or considered by the city unless the bidder is registered with the Construction Contractors

Board, as required by ORS 701.055, or licensed by the State Landscape Contractors Board, as required by ORS 671.530;

- A statement that, if the contract is for a public works subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), no bid will be received or considered by the contracting agency unless the bid contains a statement by the bidder that ORS 279C.840 or 40 U.S.C.276a (prevailing wage requirements) will be complied with.

4.12.070 Receipt and Opening of Bids/Proposals. Bids/Proposals should be submitted in sealed envelopes, appropriately marked indicating that the contents contain a bid/proposal for the specified project/supplies, the date and time of opening and the contractor's name, address and registration/license number. If a city allows electronically submitted bids/proposals, the bidder or proposer must identify and submit the bid or proposal documents exactly as required in the city's advertisement/solicitation of the bid/proposal. Cities are not held responsible for proper identification and handling of bids or proposals not submitted in the designated manner or format to the required delivery point -- that is solely the bidder's/proposer's responsibility. This means the contractor/bidder/proposer bears the risk of delay or misdelivery of bids and proposals -- not the city.

Just prior to bid opening time, a bid/proposal tally sheet should be prepared listing the names and addresses of each person/firm submitting a bid/proposal. Bid opening should be conducted by the Recorder or authorized staff on the date and at the exact time specified in the advertisement. A witness, typically the Recorder's Deputy, assistant or secretary, should be present at the bid opening to record the information from the bids as the Recorder opens and publicly reads each one. Both the Recorder and the witness should sign the bid tally sheet, the original of which should be appropriately filed with the other bid documents. Bidders present for the opening are typically given a copy of the bid tally sheet for their records. After having been opened, the bids must be made available for public inspection.

4.12.075 Additional Public Improvement Contract "First Tier Subcontractor" Requirements. For public improvement projects competitively bid, with a bid total of $100,000 or more and is not a public improvement project for maintenance or construction of highways, bridges, or other transportation facilities, within two working hours after the advertised bid closing time, a bidder shall submit to the public contracting agency a disclosure of any first-tier subcontractor that will be furnishing labor or labor and materials in connection with the public improvement and whose contract value is greater than or equal to: (A) Five percent of the total project bid or $15,000 whichever is greater; or (B) $350,000 regardless of the percentage of the total project bid. (ORS 279C.370). Failure to submit a disclosure by the required deadline will result in a nonresponsive bid.

4.12.080 Public Improvement Contract Bid Security and Performance Bonds. Bid security (typically in form of a bid bond, cashier's check or certified check) in an amount not to exceed 10 percent of the base bid is required to be attached to all bids for public improvement contracts exceeding $100,000, unless the contract has been exempted. The bid security is forfeited if the bidder fails to execute the contract if awarded to him/her. Bid security can be required for other types of contracts in order to guarantee acceptance of the award, but the requirement must be stipulated in the advertisement for bids and the amount required cannot exceed 10 percent of the bid. The bid security from all unsuccessful bidders is returned after a contract is executed and a

performance and payment bond, has been provided for the improvement project. Bid bonds are returned also if all bids are rejected. ORS 279C.375 - .390.

Except in emergencies, when the requirement for a performance bond and payment bond may be waived pursuant to ORS 279C.380 or unless the requirement is exempted under ORS 279C.390, a performance bond and payment bond in a sum equal to the contract price is required for all public improvement contracts in excess of $100,000. Cities may require performance bonds for other type of public contracts, but the requirement should be stated in the advertisement for bids. A surety bond furnished by a surety company or companies holding a certificate of authority to transact surety business in this state is the only acceptable form of performance security. The successful bidder must furnish the required performance bond and payment bond within the contract agency's required time line; failure to do so may result in rejection of the bid and award of the contract to the next lowest responsive and responsible bidder.

Cities may, in their contracting rules and regulations, exempt certain contracts or classes of contracts from the requirement for bid security and from all or a portion of the requirement to submit a performance and payment bond. See ORS 279C.380(4) and OAR 137-049-0150 (Emergency Contracts); 137-049-0290 (Public Improvement Contracts). Caution should be used when improperly waiving the requirement for a payment bond because it creates joint liability on the part of the officers of the city which authorized the contract (which would be the Council members, if the Council awarded the contract) and the City itself for payment of any liens which may be filed. ORS 279C.625.

4.12.090 Protest/Appeal of Contractor Selection/Contract Award/Contractor Disqualification.

ORS 279C.430-.470 defines the process to appeal prequalification and disqualification of bidders/proposers for public improvements and related contracts.

Once the bid/proposal review is done and a contractor selected, the City must send all the bidders/proposers on the project a Notice of Intent to award the bid/proposal at least seven days before the award of a public contract, unless the contracting agency determines that seven days is impractical (see ORS 279A.065 and ORS 279B.135). A bidder/proposer who submitted a bid/proposal and wishes to protest the award has a designated time period (based on the type of procurement being awarded) after the issuance of the Notice of Intent to submit a written protest of the award. The protest is submitted to the City and must state the grounds on which the protest is based. ORS 279B.410-415 fully outlines the basis on which a protest can be submitted and how it will be handled for procurements of goods and services.

4.12.100 Terms and Conditions Applicable to Public Contracts. There are many terms and conditions applicable to public contracts. The law requires specific language dealing with these terms and conditions that must be clearly stated in the solicitation document and contract documents. Many of these are covered by ORS 279B.220 and 279C.505 to 515 such as those relating to payment of laborer, disallowing any lien or claim to be filed against a municipality on account of any labor or materials furnished, contributions to the Industrial Accident Fund; the requirement that a contractor demonstrate that he has an Employee Drug Testing Program in place (ORS 279C.505); hours of labor (ORS 279B.235, 279C.520 and 279C.540 to 545); payment for medical care to employees (ORS 279B.230 and 279C.530); prevailing wage rate

(ORS 279C.800 to 279C.870 and 40 U.S.C. 276a); retainage (ORS 279C.550 to 279C.570 -and 279C.845); compliance with Oregon tax laws (ORS 305.380 to 385); nondiscrimination regarding subcontractors (ORS 279C.580 to 279C.590); Oregon Workers' Compensation Law (ORS 656.017 and 279C.530); bid compliance (ORS 279C.365); contractor registration/licensing (ORS 701.035 to 701.055 and 468A.720 to 730); and compliance with federal and/or state law (ORS 279A.020 to 70, 279A.120 and 279C.335 to 400,). Again, to learn more about all these requirements, please refer to the Oregon Attorney General's Public Contracts Manual. The manual may be obtained from the Department of Justice, 100 Justice Building, 1162 Court Street, NE, Salem, Oregon 97301-4096, Phone: (503) 378-2992, Ext. 325.