



# CITY OF PHILOMATH

## Executive Session News Media Attendance Policy

### Policy #20-01

WHEREAS, Oregon public meetings law provides that representatives of the news media shall be allowed to attend certain executive sessions of public bodies, but may be required to not disclose specified information (ORS 192.60(4)); and

WHEREAS, because at the time state law relating to media attendance at executive session was adopted “news media” consisted of entities that were institutionalized and structured to support compliance with the requirements of ORS 192.660(4), the law includes no express mechanism for enforcing those requirements; and

WHEREAS, technological advances since the time the public meetings law was initially adopted have resulted in development of communication mechanisms allowing virtually any individual or entity to disseminate information widely; and

WHEREAS, the City Council finds that in that absence of a statutory definition of “news media” as that term is used in ORS 192.660(4) it is necessary to adopt a policy that implements the intent of the public meetings law relating to executive session attendance without precluding attendance by Internet-based or other “non-traditional” information disseminators that are institutionalized and committed to compliance with ORS 192.660(4); and

WHEREAS, the City Council recognizes that this policy is solely for the purpose of determining eligibility to attend executive sessions, which requires non-disclosure of specified information from executive sessions, and is not intended to otherwise define “news media” or to determine eligibility to report on City Council activities or to limit access to other City Council meetings by any person;

The City Council hereby adopts the following policy:

1. Currently Recognized News Media Organizations. The following entities are hereby recognized as news media organizations eligible to attend executive sessions because they have an established history of meeting the requirements of this policy:

Corvallis Gazette-Times

Philomath News

No other entity shall be permitted to attend an executive session unless it is recognized through the process described in Section 2 below.

2. Recognition of Other News Media Organizations.

- a. The following entities are recognized as news media organizations eligible to attend executive sessions:

- (1) A general or associate member newspaper of the Oregon Newspaper Publishers Association, a broadcast member of the Oregon Association of Broadcasters or a member of the Associated Press; or

- (2) A newspaper that the City of Philomath uses for publication of public notices and that meets the requirements of ORS 193.020; or
  - (3) An entity recognized by the City Council as being a news source that:
    - A. is organized and operated to regularly and continuously publish, broadcast, transmit via the Internet or otherwise disseminate news to the public, and that regularly reports on activities of the City of Philomath or matters of the nature under consideration by the City Council; and
    - B. is determined by the City Council to be a business entity that is institutionalized<sup>1</sup> and that is committed to, and is structured to support, the terms of ORS 192.660(4).<sup>2</sup> In making this determination, the City Council may consider and weigh any factors that it deems to be relevant, including, without limitation, the existence of any of the following factors:
      - i. the entity has multiple personnel with defined roles within its organizational structure;
      - ii. the names of news-reporting personnel, and responsible entity management personnel, together with addresses and contact telephone numbers, are readily available;
      - iii. the entity has an available process for correcting errors, including violations of executive session statutes, by a person with authority to take corrective measures.
  - b. It shall be the entity's burden to persuade the City Council by substantial evidence that it should be recognized as a news media organization meeting the criteria in Section 2(a) of this policy. Such evidence must be submitted two working days in advance of the first executive session that the entity desires to attend. The City Council shall make a determination of the entity's eligibility to attend the executive session at the meeting which is scheduled to consider the executive session in question. The City Council may elect to forgo this procedure in cases where the City Council, in its sole discretion, determines that it can immediately recognize that an entity qualifies under this policy, or in cases where the City Council, in its sole discretion, determines that other good cause exists for making an expedited determination. A determination that the entity is not recognized shall be based upon written findings addressing the criteria in Section 2(a).
3. Attendance at Executive Sessions. Representatives of news media organizations recognized pursuant to Sections 1 and 2 of this policy shall be allowed to attend executive sessions, except as described in ORS 192.660(4) and 192.660(5), pursuant to the following process:

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<sup>1</sup> For the purposes of this policy, "institutionalized" means long-established or well-established.

<sup>2</sup> ORS 192.660(4). Representatives of the news media shall be allowed to attend executive sessions other than those held under subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061(2) but the governing body may require that specified information be undisclosed.

- a. The representative must provide substantial evidence persuading the City Council, that he or she is a news reporter for the recognized media organization. In making its determination whether to recognize the person as a representative of the news media organization, the City Council shall require:
    - (1) A press badge or identification issued by the recognized news media organization, plus proof of identity (such as a driver's license); or
    - (2) A recently published news article in the recognized news media organization publication or broadcast, with the person's byline, or a masthead showing the person's name as a member of the news gathering staff of the news media organization, plus proof of identity; or
    - (3) A letter on letterhead from an editor of the recognized news media organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity.
  - b. Per ORS 192.660(4), representatives of the news media are not permitted to attend executive sessions involving deliberations with persons designated to carry on labor negotiations. Per ORS 192.660(5), if the executive session is being held for the purpose of conferring with counsel about current litigation or litigation likely to be filed, the City Council shall exclude any member of the news media from attending if the member is a party to the litigation to be discussed or is an employee, agent or contractor of a news media organization that is a party to the litigation.
  - c. The City Council may require that a request to attend an executive session be made in writing on a form provided by the City of Philomath. The form shall require disclosure of the person's name, and the entity for which he or she is a news reporter, and shall require submission of evidence described in Subsections 3(a) (1), (2) or (3) of this policy. The form shall also include a signature line whereby the person certifies that they are gathering news for a recognized news media organization, that the information given is true and that they agree to comply with ORS 192.660(4).
  - d. The City Council may consider any relevant evidence provided or gathered in making its decision as to whether a person shall be recognized as a representative of a recognized news media organization.
4. Recording Devices Prohibited. Cameras, tape recorders and other recording devices shall not be used in executive sessions, except for the official executive session tapes made by City of Philomath staff.
  5. Exclusion Based on a Direct Personal Interest. A representative of a news media organization that has a direct personal interest in the subject of the executive session that would frustrate the purpose of the executive session may be barred from attending.
  6. Application to Boards and Commissions. These policies and procedures shall apply to the City Council and all of its boards and commissions.

Adopted by the Philomath City Council this 9th day of November 2020.

Signed by the Mayor this 13th day of November 2020.

SIGNED:

ATTEST:

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Eric Niemann, Mayor

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Ruth Post, MMC, City Recorder