

December 26, 2001

Bob Nipper
City Manager
City of Jefferson
P.O. Box 83
Jefferson, Oregon 97352-0083

Dear Mr. Nipper:

This letter is in response to your correspondence dated December 13, 2001 requesting an opinion concerning your use of your personal recreational vehicle while engaged in city work.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION NO. 01S-025**

STATED FACTS: A city official wishes to use his personal recreational vehicle for additional office space while doing city business that requires greater work area than provided by the official's city office. The official is seeking this staff opinion on the official's own initiative.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(15) Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

244.040 **Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

244.040(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

QUESTION: Would a public official violate Oregon Government Standards and Practices laws by using the official's personal recreational vehicle for additional workspace for the conduct of official city business?

OPINION: ORS 244.040(1)(a) specifically prohibits all public officials in the State of Oregon from using their official position or office to obtain financial benefit or avoid financial detriment if the opportunity to do so arises only because of the holding of the official position or office.

If, as indicated in the stated facts, a public official wishes to bring a personal recreational vehicle to work and park the vehicle on the property of the government entity in order to use the vehicle to conduct official government business it appears that no violation of Oregon Government Standards and Practices laws would occur.

However, Oregon Government Standards and Practices laws would prohibit a public official from using a personal recreational vehicle parked on government entity property for the purpose of living in the vehicle or for the purpose of storing the vehicle to avoid the financial detriment of paying for living quarters and/or utilities or to avoid the financial detriment of paying for rented storage space for the vehicle.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN

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ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Please don't hesitate to call or write again if you have additional questions or desire further clarification.

Sincerely,

L. Patrick Hearn
Executive Director

01S-025-JP