

# HERITAGE BULLETIN

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Tips, Ideas & More to Help Preserve Oregon's Heritage

**COPYRIGHT, PUBLIC DOMAIN AND CREATIVE COMMONS**

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If you have used Historic Oregon Newspapers online or the Library of Congress' Chronicling America website, you might have noticed that most of the newspapers that are freely available for keyword searching and browsing were published before 1923. Why this seemingly arbitrary cutoff date, you might wonder? The answer is both simple and complex, and can be summarized in one word: copyright.

## Public Domain

In the United States, anything published on or before December 31, 1922 is considered to be in the Public Domain, which means that it is not protected under copyright, and no copyright permission is needed to copy, digitize, or use the publication in any way. With the wealth of newspapers published before 1923, the Oregon Digital Newspaper Program focused its digitization efforts primarily on Public Domain content first, making as much of this content available as possible while avoiding the extensive research that's often needed to determine the copyright status of post-1922 publications.



Traditionally, works fall into the Public Domain 75 years from the first date of publication. However, the Sonny Bono Copyright Term Extension Act of 1998 essentially froze the Public Domain cutoff date at December 31, 1922 until 2019, at which point works published in 1923 and beyond will start to fall into the Public Domain on a rolling basis. So, newspapers published in 1923 will be in the Public Domain in 2019, papers published in 1924 will join the Public Domain in 2020, and so on. Of course, this could change if Congress passes another Act that freezes the cutoff date.

## Creative Commons

Any content that you might find on [Historic Oregon Newspapers](#) that was published after 1922, has been made available to the public via a Creative Commons Attribution-Non Commercial 3.0 United States License (<http://creativecommons.org/licenses/by-nc/3.0/us/>). For example, for Ashland High School's Rogue News, which is available online from 1929-1973, we obtained permission from the publisher to digitize and make these pages available through Creative Commons. Under the Attribution-Non Commercial 3.0. license, users can "share, copy, re-distribute, remix, transform, and build upon the material, but appropriate credit must be given with a link to the license, and users must indicate if changes were made, but not in any way that suggests the licensor endorses you or your use" ([www.creativecommons.org](http://www.creativecommons.org)). Any post-1922 content on the Historic Oregon Newspapers website may not be used for commercial purposes.



### Copyright Status Research

Copyright status becomes a bit more complicated for materials published after 1922. Luckily there are several online resources available to help guide and assist this process, such as the [American Library Association's Digital Copyright Slider](#) or the [U.S. Copyright Office's Circular 22: How to Investigate the Copyright Status of a Work](#), which will help you figure out where to start. [Cornell University's Copyright Term and the Public Domain in the United States](#) web page also provides a very clearly defined guide for identifying general copyright status based on year of publication and other factors.

- **Published between 1923 and 1963**

An investigation will need to take place to determine the copyright status of works published between 1923 and 1963, since these publications may or may not be protected under copyright. During this time period, all publications containing a copyright notice were required to renew their copyright 28 years from the date of publication in order to protect all past issues and guarantee copyright protection for the following 67 years (for a total of 95 years from date of publication). For example, a newspaper first published in 1920 would have to renew copyright in 1948 in order to keep all past issues protected and to remain protected until 2015. However, if the paper did not renew copyright in 1948, all past and future issues would fall into the Public Domain. If a publication was printed without a copyright notice during this time, it is also now in the Public Domain.

Luckily, the U.S. Copyright Office's *Catalog of Copyright Entries* books have been digitized and are available for viewing online. These books can be viewed by year, from 1891-1978, and by type of publication (newspapers are classified as periodicals), and reveal whether or not - and when - copyrights were registered and renewed. Some of the books are keyword searchable, and others are currently being indexed. The University of Pennsylvania has put together a guide with links to each of the digitized books by year.

- **Published between 1964 and 1977**

Anything published during this time period without a copyright notice is in the Public Domain. If a copyright notice is present, the publication is protected for a flat rate of 95 years, with no action needed for renewal. A paper published in 1964 with a copyright notice will not move into the Public Domain until 2059, so if you want to use or digitize material published during this time period containing a copyright notice, copyright permission will definitely be needed.

- **Published between 1978 and present**

According to the U.S. Copyright Office, "A work that is created and fixed in tangible form for the first time on or after January 1, 1978, is automatically protected from the moment of its creation and is ordinarily given a term enduring for the author's life plus an additional 70 years after the author's death." If the author is unknown, works published during this time period are guaranteed protection for 95 years. From 1978 to present, the Catalog of Copyright Entries can be accessed as an online database.



### Additional Resources

Mannapperuma, Menesha A., Bailey, Lila, Brianna L. Schofield and Jennifer M. Urban and Andrea K. Yankovsky. *Is It In the Public Domain? A Handbook for Evaluating the Copyright Status of a Work Created in the United States Between Jan. 1, 1923 and Dec. 31, 1977 and Accompanying Flowchart Visuals* ([https://www.law.berkeley.edu/files/FINAL\\_PublicDomain\\_Flowcharts\\_FINAL\(1\).pdf](https://www.law.berkeley.edu/files/FINAL_PublicDomain_Flowcharts_FINAL(1).pdf)). Berkley, California, University of California, Samuelson Law, Technology, and Public Policy Clinic. Bailey,

Karjala, Dennis S. *How to Determine Whether a Work is in the Public Domain* (<http://homepages.law.asu.edu/~dkarjala/opposingcopyrightextension/publicdomain/searchc-r.html>) Arizona State University, Jan. 15, 2014.

*Public Domain* ([http://wiki.creativecommons.org/Public\\_domain](http://wiki.creativecommons.org/Public_domain)). Creative Commons Wiki, Dec. 2, 2013.

Minow, Mary. *Library Digitization Projects and Copyright – Part 1 (Introduction and Overview)* (<http://www.llrx.com/features/digitization.htm>) LLRX.com, June 28, 2002.

Minow, Mary. *Library Digitization Projects and Copyright – Part 2 (Expiration of Works into the Public Domain)* (<http://www.llrx.com/features/digitization2.htm>) LLRX.com, June 28 2002.

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