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## **Chapter 55 – UNMANNED AIRCRAFT SYSTEMS (DRONES)**

### **55.100 – GENERALLY**

#### **55.100.010 – Purpose.**

The purpose of this chapter is to establish policies for the County’s use of Unmanned Aircraft Systems and for use and protection of the data received by the County from the use of Unmanned Aircraft Systems. Use of Unmanned Aircraft Systems is also regulated by both Federal and Oregon law.

(Order 22-03-08-02, 03.08.22)

#### **55.100.020 – Definitions.**

As used in this chapter, the following terms have the meaning given in this section:

“Authorized Operator” means a pilot who possesses a valid Remote Pilot Airman Certificate.

“Certificate of Waiver or Authorization” (“COA”) means an authorization issued by the FAA to a public operator for a specific UAS activity.

“Critical Infrastructure Facility” means any facility so defined in ORS 837.372.

“Data” means recorded information gathered from operation of a UAS including, but not limited to, audio, photographic, and video recordings.

“Drone” means an Unmanned Aircraft System (UAS).

“Federal Aviation Administration” (“FAA”) means the Federal agency responsible for regulation of civil aviation and aeronautics.

“Law Enforcement Agency”, as used in this chapter, means the Lane County Sheriff’s Office.

“Law Enforcement Purposes” means the use of a UAS by or for the purpose of acquiring information for the Sheriff’s Office or District Attorney’s Office.

“Personally Identifiable Information” (“PII”) means information that can be used to distinguish or trace an individual’s identity or, when combined with other personal or identifying information, is linked to or may be linked to a specific individual.

“Small UAS Rule” means the Federal regulations contained in 14 CFR Pt. 107 pertaining to the operation of a UAS.

“State of Oregon Department of Aviation” (“ODAV”) means the State agency responsible for the safe operation of aviation in Oregon.

“Remote Pilot Airman Certificate” means the FAA-issued certificate that grants an individual authority to pilot a UAS.

“Search and Rescue Activities”, as defined in ORS 404.200(2), means:

- A. Searching for, rescuing or recovering any person who is missing, injured, or deceased; and
- B. Training to perform the activities described in A. that is either conducted or approved by a public body.

“Unmanned Aircraft System” (“UAS”), as defined in ORS 378.300(4), means an unmanned flying machine, commonly known as a drone, and its associated elements, including communication links and the components that control the machine.

(Order 22-03-08-02, 03.08.22)

## **55.200 – USE AND OPERATION**

### **55.200.010 - Authorized Use.**

- A. Only an Authorized Operator is permitted to operate a UAS for any County business or purpose.
- B. County employees as Authorized Operators:
  - 1. Except for Law Enforcement Purposes, authority for a County employee to operate a UAS on behalf of the County must be granted by the County Administrator.
  - 2. Authority for a County employee to operate a UAS for Law Enforcement Purposes must be granted by the Sheriff.
- C. UAS services provided by others:
  - 1. A County Department may contract for UAS services to be provided by an Authorized Operator, with the written approval of the Department Director.
  - 2. A County Department may enter into an intergovernmental agreement for UAS services performed by an Authorized Operator, either by or for another Oregon or Federal public agency.
  - 3. The contract or agreement for UAS services provided for or by a contractor or agency must require compliance with the policies contained in this chapter.

(Order 22-03-08-02, 03.08.22)

### **55.200.020 - Prohibited Operations of Unmanned Aircraft Systems.**

- A. An Authorized Operator may not fly a UAS over the boundaries of privately owned premises in a manner so as to intentionally, knowingly, or recklessly harass or annoy the owner or occupant of premises, except for Law Enforcement Purposes permitted under LM 55.200.050.
- B. An Authorized Operator may not operate a UAS over a Critical Infrastructure Facility at an altitude higher than four hundred feet (400') above ground level, pursuant to ORS 837.372.
- C. An Authorized Operator may not operate a UAS that is capable of firing a bullet or other projectile, directing a laser, or otherwise being used as a weapon.

(Order 22-03-08-02, 03.08.22)

### **55.200.030 - Operation, Notice, and Reporting.**

- A. Operation of a UAS by the County must abide by all requirements of the Small UAS Rule. When appropriate, the Authorized Operator of the UAS may seek a blanket public Certificate of Waiver or Authorization (COA) to allow for deviation from the Small UAS Rule as permitted by the FAA.
- B. Notice required for UAS operation over private-owned property:

1. If an Authorized Operator intends to operate a UAS over privately-owned property, the County Department must provide written notice to the owner of the property at least twenty-four (24) hours in advance of the scheduled flight. The notice must include a summary of the intended use, a description of the type of data to be collected, and an explanation of the measures that will be taken to prevent the disclosure of PII, if any.
  2. Notwithstanding the notice requirement contained in this subsection, operation of a UAS over private property for Law Enforcement Purposes permitted under LM 55.200.050 does not require notice under this section.
- C. Reporting to County's Risk Manager. A County Department intending to operate a UAS must provide County's Risk Manager with a copy of the Authorized Operator's Remote Pilot Airman Certificate.
- D. Pursuant to ORS 837.360(7)(a) and OAR 738-080-0050, each Department utilizing a UAS must submit an annual report to ODAV. The report must be submitted not later than January 31 following the end of each calendar year. For each UAS, the report must:
1. Summarize the use of each UAS by the County,
  2. Summarize the purposes for which the UAS was used,
  3. Indicate how the public may access the policies and procedures contained in this chapter,
  4. Be submitted to the ODAV by mail or by email to the ODAV general email address at [mail.aviation@odav.oregon.gov](mailto:mail.aviation@odav.oregon.gov).

(Order 22-03-08-02, 03.08.22)

**55.200.040 – Prohibited Uses of Unmanned Aircraft Systems for Law Enforcement Purposes.**

- A. Except in the manner expressly permitted under ORS 837.320, ORS 837.330, ORS 837.340, or ORS 837.345, a UAS may not be operated or used to acquire information for Law Enforcement Purposes, as provided in ORS 837.310.
- B. Any image or information acquired from operation of a UAS that is not permitted under the exceptions contained in ORS 837.320, ORS 837.330, ORS 837.340, or ORS 837.345, and any evidence derived from such image or information:
  1. Is not admissible in, and may not be disclosed in, a judicial proceeding, arbitration proceeding, or other adjudicatory proceeding, and
  2. May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

(Order 22-03-08-02, 03.08.22)

**55.200.050 - Allowed Uses of Unmanned Aircraft Systems for Law Enforcement Purposes.**

- A. UAS operation under Authority of a Warrant. In accordance with ORS 837.320:
  1. The Sheriff may not operate or acquire information through use of a UAS, or disclose such information unless:
    - a. A warrant is issued authorizing use of an unmanned aircraft system; or

- b. The Sheriff has probable cause to believe that a person has committed a crime, is committing a crime or is about to commit a crime, and exigent circumstances exist that make it unreasonable for the law enforcement agency to obtain a warrant authorizing use of an unmanned aircraft system.
- 2. A warrant authorizing the use of an unmanned aircraft system by the Sheriff must specify the period for which operation of the unmanned aircraft system is authorized. In no event may a warrant provide for the operation of an unmanned aircraft system for a period of more than thirty (30) days. Upon motion and good cause shown, a court may renew a warrant after the expiration of the thirty (30) day period.
- B. UAS Operation with Written Permission of the Individual. In accordance with ORS 837.330, the Sheriff may operate a UAS for Law Enforcement Purposes for the purpose of acquiring information about an individual, or about the individual's property, if the individual has given written consent to the use of an unmanned aircraft system for those purposes.
- C. UAS Operation for Search and Rescue Activities. In accordance with ORS 837.335(1), the Sheriff may operate and acquire information through use of a UAS, and disclose such information, for Search and Rescue Activities.
- D. UAS Operation for Imminent Threat to Life or Safety. In accordance with ORS 837.335(2), the Sheriff may operate and acquire information through use of a UAS, and disclose such information, when:
  - 1. The County reasonably believes that there is an imminent threat to the life or safety of the individual, and documents the factual basis for that belief; and
  - 2. Not more than forty-eight (48) hours after the emergency operation begins, an official of the law enforcement agency files a sworn statement with the circuit court that describes the nature of the emergency and the need for use of an unmanned aircraft system.
- E. UAS Operation during Declared State of Emergency. In accordance with ORS 837.335(3), the Sheriff may operate and acquire information through use of a UAS, and disclose such information, during a state of emergency that is declared by the Governor under ORS chapter 401 if:
  - 1. The unmanned aircraft system is used only for the purposes of preserving public safety, protecting property or conducting surveillance for the assessment and evaluation of environmental or weather related damage, erosion or contamination; and
  - 2. The unmanned aircraft system is operated only in the geographical area specified in a proclamation pursuant to ORS 401.165(5).
- F. UAS Operation for Investigation of Crimes and Accidents. In accordance with ORS 837.340, the Sheriff may operate and acquire information through use of a UAS, and disclose such information, for the purpose of reconstruction of a specific crime or accident scene, or similar physical assessment, related to a specific investigation. The period that the UAS may be operated under this subsection may not exceed five (5) days for the specific reconstruction or assessment.
- G. UAS Operation for Training. In accordance with ORS 837.340, the Sheriff may operate a UAS for the purpose of training in the use of UASs, and the acquisition of information through the operation of a UAS. Any image or information acquired from training under this subsection, and any evidence derived from such image or information:
  - 1. Is not admissible in, and may not be disclosed in, a judicial proceeding, arbitration proceeding, or other adjudicatory proceeding, and

2. May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.
- H. The use of a UAS for Law Enforcement Purposes is subject to the Sheriff's General Orders.  
(Order 22-03-08-02, 03.08.22)

## **55.300 – DATA AND RECORDS**

### **55.300.010 - Use of Data, Protection of Information, and Record Retention.**

- A. Use, Storage, Access, and Sharing of Data.
1. Data may be used in any manner consistent with local, state, and federal law. Any use of data for Law Enforcement Purposes must comply with the requirements of ORS 837.300 to ORS 837.345.
  2. Data must be stored consistent with the requirements of the County's Technology Services Department. Any data stored with a third party, including on a "cloud" computing platform, must be in accordance with County policy.
  3. Only those personnel with a business need for data are authorized to access Data. Such access must be in accordance with the requirements of the County's Technology Services Department.
  4. Data may be shared or disclosed (including by means of an intergovernmental agreement) in a manner consistent with state public records laws and in accordance with the requirements of this chapter. Any sharing of data for Law Enforcement Purposes must comply with the requirements of ORS 837.300 to ORS 837.345.
- B. Protection of Personally Identifiable Information.
1. The County Department utilizing a UAS must take adequate measures to prevent the disclosure of PII. These measures may include, but are not limited to:
    - a. Blurring the faces of individuals who are recognizable in images or video recorded by the UAS.
    - b. Capturing images and video of individuals only in large groups at a distance and resolution where individual recognition is not easily accomplished.
    - c. Obtaining signed consent from the individual that permits the public release of the photo and/or video.
  2. All UAS-captured images or video that do not adequately protect PII, and for which no signed consent was obtained, must be maintained securely and confidentially by the Department for the duration of the record's required retention period.
- C. Record retention:
1. The County Department utilizing a UAS is responsible for maintaining all public records created by or in association with the UAS.
  2. Data collected through the use of a UAS must be retained in accordance with the requirements of ORS 192.501. At minimum, the following retention schedules are applicable to public records created by or in association with a UAS:

- a. OAR 166-150-0105(7): equipment calibration records; minimum retention: the life of the UAS.
  - b. OAR 166-150-0105(8): equipment maintenance records; minimum retention: one (1) year after disposition of UAS.
  - c. OAR 166-150-0105(10): property disposition records; minimum retention: three (3) years after disposition of UAS.
  - d. OAR 166-150-0105(13): technical manuals, specifications, and warranties; minimum retention: for manuals, until disposition of UAS; for warranties, until expiration.
3. The following retention schedules are applicable to public records created by or in association with a UAS operated in emergency circumstances or for Law Enforcement Purposes:
- a. OAR 166-150-0100(5): emergency and disaster incident records; minimum retention: for declared emergencies, permanent; for non-declared emergencies, five (5) years after emergency.
  - b. OAR 166-150-0135(37): law enforcement incident case files; minimum retention: for cases involving crimes with no statute of limitations, seventy-five (75) years after case closed; for all other cases, until statute of limitations expires.
4. The annual report required by LM 55.200.030 must be retained in accordance with OAR 166-150-0005(34): reports and studies; minimum retention: five (5) years.

(Order 22-03-08-02, 03.08.22)

#### **55.300.020 - Data Obtained from Others.**

Data obtained by a Department from contractors or other agencies must be used, protected, and retained in accordance with the requirements of LM 55.200.030.

(Order 22-03-08-02, 03.08.22)

#### **55.300.030 - Public Records Conditionally Exempt from Disclosure (ORS 192.345).**

As required by ORS 837.362(2)(b), the text of ORS 192.345 relating to public records is reproduced here in its entirety.

**192.345 Public records conditionally exempt from disclosure.** The following public records are exempt from disclosure under ORS 192.311 to 192.478 unless the public interest requires disclosure in the particular instance:

(1) Records of a public body pertaining to litigation to which the public body is a party if the complaint has been filed, or if the complaint has not been filed, if the public body shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.

(2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within an organization and which is used in a business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(3) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit

any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

- (a) The arrested person's name, age, residence, employment, marital status and similar biographical information;
  - (b) The offense with which the arrested person is charged;
  - (c) The conditions of release pursuant to ORS 135.230 to 135.290;
  - (d) The identity of and biographical information concerning both complaining party and victim;
  - (e) The identity of the investigating and arresting agency and the length of the investigation;
  - (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
  - (g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.
- (4) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.
- (5) Information consisting of production records, sale or purchase records or catch records, or similar business records of a private concern or enterprise, required by law to be submitted to or inspected by a governmental body to allow it to determine fees or assessments payable or to establish production quotas, and the amounts of such fees or assessments payable or paid, to the extent that such information is in a form that would permit identification of the individual concern or enterprise. This exemption does not include records submitted by long term care facilities as defined in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for patient care. Nothing in this subsection shall limit the use that can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.
- (6) Information relating to the appraisal of real estate prior to its acquisition.
- (7) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections.
- (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850.
- (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and 663.180.
- (10) Records, reports and other information received or compiled by the Director of the Department of Consumer and Business Services under ORS 697.732.
- (11) Information concerning the location of archaeological sites or objects as those terms are defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist facility or attraction.
- (12) A personnel discipline action, or materials or documents supporting that action.
- (13) Fish and wildlife information:
- (a) Developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and 564.100, regarding the habitat, location or population of any threatened species or endangered species; or
  - (b) Described in section 2, chapter 532, Oregon Laws 2019.
- (14) Writings prepared by or under the direction of faculty of public educational institutions, in connection with research, until publicly released, copyrighted or patented.
- (15) Computer programs developed or purchased by or for any public body for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. "Computer program" does not include:
- (a) The original data, including but not limited to numbers, text, voice, graphics and images;
  - (b) Analyses, compilations and other manipulated forms of the original data produced by use of the program; or
  - (c) The mathematical and statistical formulas which would be used if the manipulated forms of the original data were to be produced manually.
- (16) Data and information provided by participants to mediation under ORS 36.256.
- (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.
- (18) Specific operational plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment, prepared or used by a public body, if public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a law enforcement activity.



(19)(a) Audits or audit reports required of a telecommunications carrier. As used in this paragraph, “audit or audit report” means any external or internal audit or audit report pertaining to a telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to make the operations of the entity more efficient, accurate or compliant with applicable rules, procedures or standards, that may include self-criticism and that has been filed by the telecommunications carrier or affiliate under compulsion of state law. “Audit or audit report” does not mean an audit of a cost study that would be discoverable in a contested case proceeding and that is not subject to a protective order; and

(b) Financial statements. As used in this paragraph, “financial statement” means a financial statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier, as defined in ORS 133.721.

(20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS 247.967.

(21) The following records, communications and information submitted to a housing authority as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants for and recipients of loans, grants and tax credits:

(a) Personal and corporate financial statements and information, including tax returns;

(b) Credit reports;

(c) Project appraisals, excluding appraisals obtained in the course of transactions involving an interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed of as part of the project, but only after the transactions have closed and are concluded;

(d) Market studies and analyses;

(e) Articles of incorporation, partnership agreements and operating agreements;

(f) Commitment letters;

(g) Project pro forma statements;

(h) Project cost certifications and cost data;

(i) Audits;

(j) Project tenant correspondence requested to be confidential;

(k) Tenant files relating to certification; and

(L) Housing assistance payment requests.

(22) Records or information that, if disclosed, would allow a person to:

(a) Gain unauthorized access to buildings or other property;

(b) Identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, services; or

(c) Disrupt, interfere with or gain unauthorized access to public funds or to information processing, communication or telecommunication systems, including the information contained in the systems, that are used or operated by a public body.

(23) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:

(a) An individual;

(b) Buildings or other property;

(c) Information processing, communication or telecommunication systems, including the information contained in the systems; or

(d) Those operations of the Oregon State Lottery the security of which are subject to study and evaluation under ORS 461.180 (6).

(24) Personal information held by or under the direction of officials of the Oregon Health and Science University or a public university listed in ORS 352.002 about a person who has or who is interested in donating money or property to the Oregon Health and Science University or a public university, if the information is related to the family of the person, personal assets of the person or is incidental information not related to the donation.

(25) The home address, professional address and telephone number of a person who has or who is interested in donating money or property to a public university listed in ORS 352.002.

(26) Records of the name and address of a person who files a report with or pays an assessment to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

(27) Information provided to, obtained by or used by a public body to authorize, originate, receive or authenticate a transfer of funds, including but not limited to a credit card number, payment card expiration date, password, financial institution account number and financial institution routing number.

(28) Social Security numbers as provided in ORS 107.840.

(29) The electronic mail address of a student who attends a public university listed in ORS 352.002 or Oregon Health and Science University.

(30) The name, home address, professional address or location of a person that is engaged in, or that provides goods or services for, medical research at Oregon Health and Science University that is conducted using animals other than rodents. This subsection does not apply to Oregon Health and Science University press releases, websites or other publications circulated to the general public.

(31) If requested by a public safety officer, as defined in ORS 181A.355, or a county juvenile department employee who is charged with and primarily performs duties related to the custody, control or supervision of youth offenders confined in a detention facility, as defined in ORS 419A.004:

(a) The home address and home telephone number of the public safety officer or county juvenile department employee contained in the voter registration records for the officer or employee.

(b) The home address and home telephone number of the public safety officer or county juvenile department employee contained in records of the Department of Public Safety Standards and Training.

(c) The name of the public safety officer or county juvenile department employee contained in county real property assessment or taxation records. This exemption:

(A) Applies only to the name of the officer or employee and any other owner of the property in connection with a specific property identified by the officer or employee in a request for exemption from disclosure;

(B) Applies only to records that may be made immediately available to the public upon request in person, by telephone or using the Internet;

(C) Applies until the officer or employee requests termination of the exemption;

(D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for governmental purposes; and

(E) May not result in liability for the county if the name of the officer or employee is disclosed after a request for exemption from disclosure is made under this subsection.

(32) Unless the public records request is made by a financial institution, as defined in ORS 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records described in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought by an individual described in paragraph (b) of this subsection using the procedure described in paragraph (c) of this subsection:

(a) The home address, home or cellular telephone number or personal electronic mail address contained in the records of any public body that has received the request that is set forth in:

(A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction, substitution of trustee, easement, dog license, marriage license or military discharge record that is in the possession of the county clerk; or

(B) Any public record of a public body other than the county clerk.

(b) The individual claiming the exemption from disclosure must be a district attorney, a deputy district attorney, the Attorney General or an assistant attorney general, the United States Attorney for the District of Oregon or an assistant United States attorney for the District of Oregon, a city attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages in the prosecution of criminal matters.

(c) The individual claiming the exemption from disclosure must do so by filing the claim in writing with the public body for which the exemption from disclosure is being claimed on a form prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall list the public records in the possession of the public body to which the exemption applies. The exemption applies until the individual claiming the exemption requests termination of the exemption or ceases to qualify for the exemption.

(33) The following voluntary conservation agreements and reports:

(a) Land management plans required for voluntary stewardship agreements entered into under ORS 541.973; and

(b) Written agreements relating to the conservation of greater sage grouse entered into voluntarily by owners or occupiers of land with a soil and water conservation district under ORS 568.550.

(34) Sensitive business records or financial or commercial information of the State Accident Insurance Fund Corporation that is not customarily provided to business competitors. This exemption does not:

(a) Apply to the formulas for determining dividends to be paid to employers insured by the State Accident Insurance Fund Corporation;

(b) Apply to contracts for advertising, public relations or lobbying services or to documents related to the formation of such contracts;

(c) Apply to group insurance contracts or to documents relating to the formation of such contracts, except that employer account records shall remain exempt from disclosure as provided in ORS 192.355 (35); or

(d) Provide the basis for opposing the discovery of documents in litigation pursuant to the applicable rules of civil procedure.

(35) Records of the Department of Public Safety Standards and Training relating to investigations conducted under ORS 181A.640 or 181A.870 (6), until the department issues the report described in ORS 181A.640 or 181A.870.

(36) A medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

(37) Any document or other information related to an audit of a public body, as defined in ORS 174.109, that is in the custody of an auditor or audit organization operating under nationally recognized government auditing standards, until the auditor or audit organization issues a final audit report in accordance with those standards or the audit is abandoned. This exemption does not prohibit disclosure of a draft audit report that is provided to the audited entity for the entity's response to the audit findings.

(38)(a) Personally identifiable information collected as part of an electronic fare collection system of a mass transit system.

(b) The exemption from disclosure in paragraph (a) of this subsection does not apply to public records that have attributes of anonymity that are sufficient, or that are aggregated into groupings that are broad enough, to ensure that persons cannot be identified by disclosure of the public records.

(c) As used in this subsection:

(A) "Electronic fare collection system" means the software and hardware used for, associated with or relating to the collection of transit fares for a mass transit system, including but not limited to computers, radio communication systems, personal mobile devices, wearable technology, fare instruments, information technology, data storage or collection equipment, or other equipment or improvements.

(B) "Mass transit system" has the meaning given that term in ORS 267.010.

(C) "Personally identifiable information" means all information relating to a person that acquires or uses a transit pass or other fare payment medium in connection with an electronic fare collection system, including but not limited to:

(i) Customer account information, date of birth, telephone number, physical address, electronic mail address, credit or debit card information, bank account information, Social Security or taxpayer identification number or other identification number, transit pass or fare payment medium balances or history, or similar personal information; or

(ii) Travel dates, travel times, frequency of use, travel locations, service types or vehicle use, or similar travel information.

(39)(a) If requested by a civil code enforcement officer:

(A) The home address and home telephone number of the civil code enforcement officer contained in the voter registration records for the officer.

(B) The name of the civil code enforcement officer contained in county real property assessment or taxation records. This exemption:

(i) Applies only to the name of the civil code enforcement officer and any other owner of the property in connection with a specific property identified by the officer in a request for exemption from disclosure;

(ii) Applies only to records that may be made immediately available to the public upon request in person, by telephone or using the Internet;

(iii) Applies until the civil code enforcement officer requests termination of the exemption;

(iv) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for governmental purposes; and

(v) May not result in liability for the county if the name of the civil code enforcement officer is disclosed after a request for exemption from disclosure is made under this subsection.

(b) As used in this subsection, "civil code enforcement officer" means an employee of a public body, as defined in ORS 174.109, who is charged with enforcing laws or ordinances relating to land use, zoning, use of rights-of-way, solid waste, hazardous waste, sewage treatment and disposal or the state building code.

(40) Audio or video recordings, whether digital or analog, resulting from a law enforcement officer's operation of a video camera worn upon the officer's person that records the officer's interactions with members of the public while the officer is on duty. When a recording described in this subsection is subject to disclosure, the following apply:

(a) Recordings that have been sealed in a court's record of a court proceeding or otherwise ordered by a court not to be disclosed may not be disclosed.

(b) A request for disclosure under this subsection must identify the approximate date and time of an incident for which the recordings are requested and be reasonably tailored to include only that material for which a public interest requires disclosure.

(c) A video recording disclosed under this subsection must, prior to disclosure, be edited in a manner as to render the faces of all persons within the recording unidentifiable.

(41) The contents of tips reported to a tip line, as defined in ORS 339.329. However, personally identifiable information, as defined in ORS 339.329, is not subject to public interest balancing under this section and remains exempt from disclosure except as provided in ORS 339.329.

(Order 22-03-08-02, 03.08.22)